

**John Tiner**  
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Mr John Howard  
Chairman, Financial Services Consumer Panel  
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16 November 2005

Dear John

Thank you for your letter of the 14 November outlining the Panel's concerns about the lack of regulation of self-invested personal pension schemes (SIPPs) up until April 2007 and the potential consequences during this interim period.

At the Treasury Select Committee hearing on 8 November I mentioned a number of steps I thought the FSA could take to mitigate, to some extent, the risks to consumers during this period, including the role of Treating Customers Fairly (TCF). It might be useful if I start by repeating what I actually said.

“...we are trying, within our current powers, to mitigate the risk of that gap [the interim period] as much as possible. ...The first [of three responses we can take] is that a lot of people offering SIPPs are already regulated by the FSA. We have a broad principle of treating customers fairly. We will be expecting those firms to treat their customers who set up SIPPs fairly.”

You have particularly asked whether my comments can be taken as assurance that the FSA will be able to apply the TCF principle to the SIPPs business of currently regulated firms before April 2007, including the content of financial promotions. You also ask about consumers' possible access to FOS and FSCS.

For the avoidance of doubt I should emphasise that unless and until the Treasury bring SIPPs under direct FSA regulation SIPPs as a wrapper, and unregulated assets held within a SIPP, will remain unregulated, irrespective of whether the firms offering them are currently FSA authorised.

There are two ways in which the FSA's Treating Customers Fairly principle may apply to the unregulated business of an authorised firm, including SIPPs. First, it has long been our view

that, while this Principle does *not* apply directly to such business, where we discover behaviour in relation to a firm's unregulated business which arouses our concerns, that may in turn cause us to doubt the fitness and propriety of the senior management and/or the prudential soundness of the firm. You will see that this is a very high hurdle and, moreover that our permissible actions involve addressing high level systems/controls and management quality issues rather than regulating the sale of SIPPs themselves.

Second, the Treating Customers Fairly principle goes to the heart of a firm's culture. . In our dialogue with firms on TCF we have stated that it is difficult to foresee that they could successfully introduce a culture in one part of their business (the regulated part) without simultaneously expecting the same approach elsewhere (the unregulated part). We emphasise this comment in the context of SIPP during the interim period, with the rider that where we see a firm attempting to make such a distinction, our available tools in a *formal* sense relate to the implications for the regulated business.

Turning to the question of promotional material. Such material for SIPPs which mentions designated investments (such as life policies or stocks and shares) will be subject to regulation during the interim period. We will not, however, regulate the promotion of unregulated assets (such as property and other non financial assets) within a SIPP. There are other steps we can take in relation to financial promotions and sales practices more broadly which I outline below:

- monitoring SIPPs promotional material on a risk-based approach during this interim period and referring any that we believe to be misleading advertisements to the ASA or OFT as necessary;
- liaising with relevant trade associations to encourage members to behave in an appropriate manner by embracing the TCF principle for their SIPP business, for example by producing good practice guides;
- publishing our draft rules for consultation in April 2006 so that our view of appropriate standards is clear early;
- encouraging firms to adopt regulatory standards now in anticipation of regulation; and
- making clear to regulated and unregulated firms that their behaviour, and the behaviour of their senior management, in relation to the provision/marketing of SIPPs may be taken into account when we consider applications for new or extended permissions to conduct SIPP business after March 2007.

Access to the Financial Ombudsman Scheme (FOS) and Financial Services Compensation Scheme (FSCS) generally follows our own regulatory scope, as set out in FSMA and supporting regulations. During the interim period, advice on and the promotion of designated investments will continue to be regulated, whether or not they are held inside or outside a SIPP wrapper, and will have the associated protections of the FOS and FSCS. Other assets in a SIPP wrapper will not attract the protection of FOS or FSCS.

Finally, you may be interested to know that we plan to communicate directly with consumers in two ways – through Q&A on our website on SIPPs (already published) and a pensions campaign in the New Year covering A-Day changes including SIPPs.

I hope you find this helpful.

Yours

A handwritten signature in black ink that reads "John Tiner" with a horizontal line underneath.

John Tiner