

12 May 2023

Dear CEO

Portfolio letter for SIPP operators

Under our [Approach to Supervision](#), we allocate and supervise most firms as members of a portfolio, based on their primary business model. We are writing to you because your firm is allocated to our Self-Invested Personal Pension (SIPP) Operator portfolio. It is an important supervisory portfolio given firms in it hold over £205 billion of pension assets, for 1.7m consumers. Average pot sizes within SIPPs are often higher than other types of personal pension. As such this portfolio is one that we want to ensure delivers the highest of standards for its consumers. We want consumers to invest with confidence, understand the risks they are taking, and the regulatory protections provided.

Developments since our last letter

Our previous [portfolio letter](#) sent in December 2020 set out our key concerns and expectations for firms in this portfolio relating to financial resources, complaints handling, pension scams, product governance and international SIPPs. Since this letter we have published (i) our [Consumer Investment Strategy](#) (September 2021), which outlined four areas of focus, including scams and fraud, and consumer redress, and (ii) [our Strategy for 2022-25](#) and [2023-24 Business Plan](#) that includes commitments to reduce and prevent serious harm and set and test higher standards. In addition, the new [Consumer Duty](#) which will come into force on 31 July 2023 introduces a more outcomes-focused approach to consumer protection and sets higher expectations¹.

From a supervisory perspective, since 2020 we have seen firms working hard in this portfolio, with customers at the heart of their business, but we also continue to see a number of problems, often relating to historic issues. Our concerns have been heightened by more firm failures, often after Financial Ombudsman Service decisions have identified failings, and we are now seeing more complex SIPP operator administrations. There is therefore an even greater need for you and your firm to ensure standards of conduct are high, including ensuring appropriate systems and controls, and operational and financial resilience are in place – as well as preparing for the additional requirements that the Consumer Duty will bring.

¹ In January 2023 we sent a [letter](#) to firms in the Consumer Investment sector to help them implement and embed the Consumer Duty effectively, which references areas of specific focus in the SIPP sector. We sent a separate [letter](#) to those in the Life Insurance sector on 3 February 2023 which is also of relevance.

To help you achieve this we set out in this letter our view of the key harms in the SIPP operator portfolio, our expectations as to how you should mitigate these harms, and how our expectations in these areas will be enhanced by the Consumer Duty.²

Key harms

Our concerns about harm in this portfolio are long-standing and include the following:

- Firm failures causing disruption of service for consumers or transferring additional costs to them (including potentially unauthorised payment charges if a scheme is wound up and assets given to members).
- Consumers not receiving fair redress when it is due (or not receiving it in a timely manner), particularly when firms have failed to conduct adequate due diligence.
- Pension scams and fraud, as well as consumers being allowed to make investments which should not be accepted in their SIPP, including non-standard assets which fail or become illiquid and lose all or most value.

Related to these key harms, as set out above, our last portfolio letter set out several priorities, including financial resources, complaints handling, due diligence, and product governance. We remain focused on these areas as the primary means of mitigating these key harms, with an additional area of focus on systems and data.

Redress liabilities

SIPP due diligence complaints have been an issue within the portfolio for many years, and in our last letter, we reminded firms of their obligations under [Principle 6](#) and [DISP 1.3.6G](#). However, we still see examples of consumers having to wait too long to receive redress with some firms seeking to delay, challenge or refuse to fulfil their obligations. Where you identify recurring or systemic problems (from complaints or otherwise), you should proactively and promptly consider whether it is appropriate to give redress – or a proper opportunity to obtain it – to customers who may have suffered detriment as a result of these problems but have not yet complained, or have unresolved complaints either with your firm or the Financial Ombudsman Service.

There remains a significant number of consumers with outstanding due diligence complaints at the Financial Ombudsman Service.

The Consumer Duty, Principle 12 and the cross-cutting obligation to act in good faith will introduce a requirement to take appropriate action (including providing redress) where firms identify that they have caused foreseeable harm to a retail customer (PRIN 2A.2.5R). We expect to see a significant change in firms' behaviour towards upheld complaints as a result to meet the requirement to act in good faith.

What we expect of you

- To proactively identify consumers who are due redress and ensure that they receive it promptly.

² From 31 July 2023, the Consumer Duty introduces Principle 12. To the extent that Principle 12 applies, Principles 6 and 7 will no longer apply. This is relevant because our previous communications on expectations have referenced Principles 6 and 7 – in these cases, Principle 12 will apply. As PRIN 2A.1.17 G (1) sets out, "in general terms, Principle 12 imposes a higher and more exacting standard of conduct in relation to a firm's retail market business relative to what Principles 6 and 7 would have otherwise required".

- When your firm handles due diligence complaints, we expect you to take into consideration guidance and recent decisions from the Financial Ombudsman Service in determining your approach.
- Where complaints or other root cause analysis highlights systemic issues or that the acts or omissions of the firm have caused foreseeable harm to consumers, you take whatever steps are necessary and (from 31 July 2023) meet the requirement to act in good faith towards those consumers.

Financial resources and firm failures

Many firms in the portfolio hold capital under IPRU-INV 5.9. Principle 4 also requires firms to hold adequate financial resources. We published guidance in [FG 20/1](#) on how firms should assess their financial resources, which includes looking proportionately at the risks to which a firm is exposed. This means that under Principle 4, firms may conclude the financial resources they need exceeds their liquid capital requirement.

Where firms have complaints made to them about their due diligence on intermediaries or assets, prompt and accurate liability modelling is a key tool to determine the potential risk to which the firm is exposed. We have seen firms refuse to model liabilities in an objective way when faced with this scenario, only for complaints to be upheld later with the result that the firm has less time to prepare and hold adequate financial resources to exit the market in an orderly manner.

We have also seen firms use unrealistic assumptions when producing liability modelling, such as assuming entire cohorts of complaints will be time-barred, or that no liability can be apportioned to them because other authorised firms were involved in the distribution chain.

Because of the outstanding complaints at the Financial Ombudsman Service, we remain concerned about the possibility of further firm failures over the next 12 months.

What we expect of you

- To ensure your firm accurately calculates its liquid capital requirement and holds liquid capital to meet it (ensuring the correct amount of illiquid assets are deducted per IPRU-INV 5.8.2R).
- To have proportionately considered the risks to which your firm is exposed and the amount of risk it poses when assessing the adequacy of its financial resources, and regularly update these considerations on an ongoing basis. This is especially important in light of final decisions from the Financial Ombudsman Service.
- To use that assessment to ensure your firm holds adequate financial resources – so that you can increase the chances that the firm can put things right when they go wrong (such as by paying redress) and minimise harm if it fails and exits the market.
- To ensure your firm’s wind down plan is kept up to date (including by considering our [Wind Down Planning Guide](#)).
- To notify the FCA immediately if you conclude that you are not holding adequate financial resources or are concerned about your firm’s ability to meet its debts as they fall due.
- To notify the FCA if you are considering acquiring another SIPP business.

Where firms have significant contingent redress liabilities, our supervisory approach is, where appropriate in the circumstances and to protect consumers, to seek an asset retention requirement.

Due diligence

SIPP operators must conduct their business with due skill, care, and diligence (Principle 2) and pay due regard to the interests of their customers and treat them fairly (Principle 6). SIPP operators must also act honestly, fairly and professionally in accordance with the best interests of their customers as required under [COBS 2.1.1R](#).

Our [2013 guidance for SIPP operators \(FG13/8\)](#) sets out that under Principle 2, firms should ensure that they conduct and retain appropriate and sufficient due diligence. SIPP operators should check and monitor introducers, as well as assessing that investments are appropriate for personal pension schemes to help them justify their business decisions. Failing to conduct appropriate, robust due diligence on those introducing business to their firm or on the assets being accepted into the pension scheme can lead to significant harm to consumers.

Under the Consumer Duty, SIPP operators must act to deliver good outcomes for retail customers **and** avoid causing foreseeable harm to them – this goes further than paying due regard to their interests and treating them fairly as required by Principle 6. As such, continuing to undertake appropriate, robust due diligence to achieve good consumer outcomes will, therefore, be key for SIPP operators when complying with the Duty.

If you identify issues through performing initial or ongoing due diligence, you need to consider how to meet your obligations to consumers (under Principle 7 and, from July 2023, Principle 12) which may include contacting clients to inform them of any issues identified. This is so consumers can take appropriate action (such as reviewing their pension arrangements, seeking guidance, appointing a new adviser, or making a complaint).

SIPPs due diligence review

During 2022, we reviewed approximately 30 firms to assess their due diligence procedures in relation to investments, introducers, and discretionary investment managers (DIMs). Whilst most firms in the portfolio no longer willingly accept non-standard assets, we remain concerned that some firms still do not conduct adequate due diligence on those who introduce business to their firm or on the investments they allow within their pension schemes. We were also concerned that many firms were not:

- storing and updating written procedures, demonstrating a lack of systems and controls. A lack of written procedures may also lead to problems with business resilience, consistency of approach, training staff and complaints handling;
- carrying out adequate checks on investments made in the SIPP through DIMs and on an ongoing basis to ensure appropriate oversight throughout the investment process;
- reviewing assets managed by DIMs on a sufficiently frequent basis, including to determine whether the investment portfolio held a non-standard asset, to ensure their liquid capital requirement was being accurately calculated under IPRU-INV 5.9. Instead, some firms were reliant on waiting for the DIM to notify them if an asset became non-standard, which is not sufficient;

- putting in place appropriate contractual arrangements with DIMs, which set out sufficiently detailed expectations for the respective parties that would, for example, deal with liability if investments were made in the DIM portfolio that the scheme operator had prohibited.

What we expect of you

- You should consider your firm's systems and controls against these findings and undertake remedial actions if similar shortcomings are identified.
- To ensure that your firm undertakes robust due diligence on intermediaries, assets, and third parties involved in the distribution chain. This includes ongoing monitoring. We expect firms to consider the Consumer Duty, as part of its due diligence processes.
- To have effective oversight of introducers, with additional scrutiny of any unregulated introducers to avoid foreseeable harm to consumers.
- To inform clients about any issues that are identified so they can take appropriate action.

Product governance

Over time, SIPPs have been used as a vehicle of choice by bad actors to facilitate access to consumers' wealth, often those with smaller pot sizes who may be vulnerable or lack financial understanding. SIPP operators have responsibilities under our Principles as product providers.³ Under those obligations, we expect SIPP operators to operate robust product governance processes to identify and prevent those individuals who are not suited to their product from accessing it. The Consumer Duty adds further relevant rules and guidance, some of which we set out below.

Under the Consumer Duty, there are different requirements around product governance that apply to manufacturers and distributors. We consider SIPP operators are likely to be both manufacturers and distributors for these purposes.

This is because SIPP operators manufacture a **product**, which the Consumer Duty defines as any specified investment distributed or to be distributed to a retail client. Rights under a personal pension scheme are a specified investment. Distributors (for Consumer Duty purposes) are defined as firms which offer, sell, recommend, advise on, arrange, deal, propose or provide a product. Whilst SIPP operators may not undertake all these activities, the operator will be selling rights when it grants them to a member and so is a distributor.⁴ The combination of manufacturer and distributor responsibilities is analogous to the one set out in the platform example below paragraph 2.20 of our Consumer Duty final guidance ([FG22/5](#)).

Products and services outcome

Under the products and services outcome, firms must specify the target market for their products and services at a sufficiently granular level. This is particularly important for a product like a SIPP, which can potentially have a wide target market due to the greater flexibility of investment choice available, but which typically comes with higher and/or fixed administration fees (often alongside a range of other fixed transactional costs).

³ The [Responsibilities of Providers and Distributors for the Fair Treatment of Customers \(RPPD\)](#) provides guidance on how our Principles combine to shape these responsibilities.

⁴ See Q17 of [PERG 12.3](#) for further information.

SIPP operators should consider if their target market(s) include people who may suffer foreseeable harm or not receive fair value, for example, because they do not need the full flexibility their SIPP might offer. Firms should consider whether it would be more in accordance with the Duty requirements to exclude these customers from the target market.

Having clearly defined their target markets, SIPP operators also need to ensure the intended distribution strategy is appropriate for that target market, so that their SIPP is not distributed to those clients.

Price and value outcome

To receive fair value within a SIPP that offers a high level of flexibility, customers will likely have a particular investment need that can be met by such a product. This is to ensure a positive interaction between the (potentially higher) price paid by the customer for the SIPP and the extent of the services provided.

However, the assessment of fair value within a SIPP does not relate only to the administration fees charged by the SIPP operator.

For the fair value assessment, manufacturers need to consider the total expected price to be paid by a retail customer. But as a distributor, SIPP operators will need to consider whether their distribution arrangements might result in their product ceasing to provide fair value. The total expected price and distribution arrangements for a SIPP are significantly influenced by SIPP operators' decisions about who they accept business from, and the investments they allow within their pension scheme. SIPP operators should not assess their distribution arrangements as providing fair value if there is no prospect of the pension providing fair value when adviser and investment charges are added.

In these scenarios, for example where aggregate charges from the distribution arrangements appear excessive or create a risk that the product is unlikely to meet the needs or objectives of the target market, firms should consider whether distributing their pension product is consistent with PRIN 2A.4.16R.

What we expect of you

- To clearly identify and define your target markets for your existing products, including those for whom your product is not suitable.
- To consider how your distribution strategy is appropriate for your target markets.
- To establish when your distribution arrangements will (or will not) provide fair value to retail customers and your intended target markets, including by reference to those who you accept business from and the investments you allow within the SIPP, and understand the circumstances or triggers when you will not distribute your product.

Systems and data

Since 2015, the FCA has regularly surveyed SIPP operators on their holdings of non-standard assets. In 2022, we expanded the scope of our data request to include standard assets. This was because of concerns, following the failure of several firms, that non-standard assets were being miscategorised as standard. This meant the firms were not completing previous information requests accurately and not holding adequate financial resources.

Whilst the 2022 data request was significantly broader in scope than previous data requests, we have been concerned at the quality of the data and information received from some firms. Key issues included incomplete or inconsistent returns, with in excess of £4.1bn of unclassified assets, as well as several thousand entries where the asset classification appears to be incorrect. These quality issues make it difficult for us to fully determine the inherent risks associated with the dataset.

Whilst we acknowledge that SIPP operators are often reliant on third parties for data, the FCA's regulatory strategy is becoming increasingly data led. We are concerned that some firms have not invested sufficiently in their systems to keep pace with the ongoing shift to a data-led environment. Our data requests to SIPP operators are a key part of our supervisory strategy for the portfolio and will continue. We will work with firms and trade bodies on these requests, but for firms, receiving and analysing high-quality data is an important way of demonstrating that a SIPP business is being controlled effectively. It will also help to meet the requirements of the Consumer Duty.

What we expect of you

- To consider the fitness of your systems and make investments where necessary.
- To enhance, where possible, the data you gather from existing relationships (which could include, for example, automated data feeds).
- To consider third parties' ability to meet any data needs in an accurate and reliable manner when deciding whether to onboard new investment providers.

Consumer Duty

We have set out above how the Consumer Duty strengthens the obligations on firms in several of our key areas of focus for SIPP operators.

We wrote to firms on 30 January 2023 about implementing the Consumer Duty in the Consumer Investments sector and on 3 February 2023 we [wrote](#) to the Life Insurance sector (see in particular the section in the annex of that letter on "Supporting pensions and retirement consumer decision-making"). Since then, we have reviewed implementation plans from firms across the SIPP operator portfolio.

Whilst the plans we reviewed showed that firms understand the shift to consumer outcomes, the plans have often been very high level. As mentioned, our January 2023 letter highlighted the importance of firms engaging with the substantive requirements of the Duty. Our review of SIPP operators' plans suggests some firms may have been slow to do this. This brings a risk that they may not be ready in time, or they may struggle to embed the Duty effectively throughout their business. We found that in some firms:

- efforts to prepare for the Duty appeared superficial, while other firms were over-confident that their existing systems or approaches would be sufficient;
- there was a belief that they were an administrator only, and not a manufacturer and distributor of a product (to whom specific rules under the Duty apply). Some firms thought that customer responsibilities under the Duty could be passed to intermediaries. As we say above, SIPP operators are both manufacturers and distributors of products under the Consumer Duty.

What we expect of you

- We urge you carefully to consider the substantive elements of the Duty now to identify and make the changes needed to meet the new standards.
- You should contact us as soon as possible if you will not be ready by the July 2023 deadline.
- If you consider that specific rules do not apply to your business we will expect you to provide clear evidence of the reason for this.

The [Consumer Duty](#) section of our webpage provides a range of information, from FCA publications, speeches, and podcasts, to enable firms to engage with the substantive requirements.

Next Steps

You are responsible for ensuring that your firm meets FCA requirements including the obligations and expectations set out above. You should take all necessary action to ensure these are met and that you are prepared for the additional requirements that the Consumer Duty will bring to these areas of priority. We will use the Senior Managers & Certification Regime to engage directly with accountable individuals on areas of concern.

We will target our supervisory focus over the next year and going forward on firms where there are indicators and/or evidence of failings relating to the obligations and expectations above. You can expect to be asked to demonstrate how you have taken this letter into account in your firm's work plan. We also expect to be informed proactively by you if work done on the above points result in remedial action or identification of harm. The SIPPs Supervision team is also available at: SIPPSupervision@fca.org.uk, or via the Supervision Hub on 0300 500 0597.

Yours sincerely

Lucy Castledine

Interim Director of Consumer Investments