

2 December 2020

Dear CEO

## **Portfolio letter for SIPP operators**

Under our Approach to Supervision, the FCA assigns firms to a portfolio based on their primary business model. Your firm is part of our SIPP operators' portfolio. These firms hold the permission to operate a personal pension scheme – many do so by offering a self-invested personal pension (SIPP). This letter sets out our key concerns and expectations for firms in the portfolio.

### **Background and key issues**

When SIPPs were originally launched, many operators designed their product offerings for higher net worth individuals looking to manage their own investments. Since then, SIPPs have become marketed and distributed to a much wider group of consumers. We are concerned some consumers now have SIPPs that do not match their needs. Consumers with simpler investment needs, for example, are not likely to require the full scope of flexibility permitted by some SIPPs. That flexibility – particularly for those with smaller pots - can result in higher relative charges, which may not represent good value (see [FS19/05](#)).

Some of the investments made available within SIPPs have also turned out to be pension scams or fraud, or have involved unregulated introducers. In recent years, several SIPP operators have entered insolvency because redress liabilities have crystallised, or because the costs of defending such claims exceeded their financial resources. Below, we set out the actions we expect SIPP operators to take to reduce the harm associated with these issues.

### **Our expectations**

#### **1. Financial resources**

SIPP operators who have become insolvent have often had substantial unpaid redress liabilities. This has resulted in a significant and growing burden on the Financial Services Compensation Scheme (FSCS). For many firms in the portfolio, [IPRU-INV 5.9](#) sets out a detailed minimum capital requirement. In addition to any minimum requirement, firms must also, under [Principle 4](#), maintain adequate financial resources. In June 2020, we published final

guidance ([FG20/1](#)) on how firms should do this. Principle 4 means you may need to hold more capital than your detailed requirement.

We expect you to take potential financial liabilities into account when you assess how much capital you need. This includes potential liabilities arising, for example, from complaints to the Financial Ombudsman Service, disputed HM Revenue & Customs (HMRC) tax assessments, or legal claims. The calculations you make should take appropriate account of adverse but plausible scenarios. This may include providing redress to consumers in similar circumstances to those who have not yet complained, but may be affected by a root cause issue identified by other upheld complaints or claims (see below). You should regularly re-assess the adequacy of your financial resources when you receive information which may change your expectations.

For those subject to IPRU-INV 5.9, you should also regularly review the assets held within your SIPPs (including those held through third parties, such as a platform or a discretionary investment manager) to determine whether they are standard or non-standard for the purposes of calculating your detailed requirement.

If at any time you conclude you do not have adequate financial resources, you should notify us immediately.

## **2. Complaints handling**

We continue to see complaints made to firms about the adequacy of their due diligence prior to accepting an investment or when establishing relationships with introducers. You must have appropriate management controls and take reasonable steps when handling complaints to identify and remedy any recurring or systemic problems. Where identified – and if you have not done so already – [DISP 1.3.3R](#) requires you to correct root causes where it is reasonable to do so.

[Principle 6](#) says you must pay due regard to the interests of your clients and treat them fairly. Guidance on this obligation in context of complaints handling is set out in [DISP 1.3.6G](#). Where you identify root cause issues, you should consider whether it is appropriate for your firm to give redress – or a proper opportunity to obtain it – to customers in similar circumstances who have not yet complained to the firm.

As per our [recent statement](#) with the Information Commissioner's Office and FSCS, selling personal data to claims management companies may give rise to issues around the fair treatment of customers and compliance with privacy laws. In particular, firms seeking to rely on legitimate interest grounds for processing such data are highly unlikely to meet the requirements of the GDPR.

## **3. Pension scams**

Significant numbers of consumers are still targeted by scammers. Our previous communications to the sector, including [final guidance](#) in 2013, set out non-exhaustive factors SIPP operators should consider before accepting investments or new business into their SIPPs.

If, as a result of performing due diligence, you become aware of problems with an investment or with those introducing business to the firm, you must take appropriate action to act in the

best interests of your clients ([COBS 2.1.1R](#)). This may include declining to proceed with the investment or new business.

If you think a firm or an individual that you are working with is involved in wrongdoing, you can report it to our Supervision Hub ([firm.queries@fca.org.uk](mailto:firm.queries@fca.org.uk) or 0300 500 0597). Any information you provide will be treated in confidence.

#### **4. Product governance**

Under our [Principles](#), SIPP operators have responsibilities as the 'provider' of a financial product or service. In our Handbook, [RPPD](#) sets out ways to meet these provider responsibilities. Firms should also ensure they have considered the needs of vulnerable consumers at all stages of the product cycle as outlined in [GC20-3](#).

You should satisfy yourself that your firm has robust product governance in place, with clearly and appropriately defined target markets that are specified in information to distributors. Your products should be reviewed on an ongoing basis to ensure they are reaching their target market, and the needs of vulnerable consumers are met appropriately.

#### **5. International SIPPs**

We have received enquiries from expatriate consumers who were advised by overseas advisory firms to transfer or switch their UK pension into an 'international SIPP'. These consumers may pay significant fees for these arrangements - particularly where a SIPP operator allowed investment through an offshore investment bond. Our view is that the tax benefits accessed by investing this way are largely redundant to someone investing in a UK personal pension scheme.

If your firm operates an international SIPP that includes acceptance of offshore investment bonds, you should consider whether this delivers appropriate outcomes for your customers. You should ensure:

- any business accepted is in your clients' best interests ([COBS 2.1.1R](#))
- product governance is robust
- charges disclosures meet the requirements of COBS 13 (and include appropriate information on **all** charges within the pension, including the offshore bond and underlying investments – per [COBS 13 Annex 4 1.1R \(1\) \(a\)](#))
- adequate due diligence is performed on all overseas advisory firms and investments introduced by them
- you appropriately manage any conflicts of interest you have ([SYSC 10](#))

#### **Issues affecting all firms**

All firms authorised by the FCA are currently facing challenges from the impacts of coronavirus and EU withdrawal.

Coronavirus has brought unprecedented disruption to life in the UK. Overall, SIPP operators have responded to the operational challenges and demonstrated resilient business models. We expect you to continue managing operational resilience risks so you deliver appropriate outcomes for your clients. If you experience issues that you believe need to be notified to the FCA, please make a [SUP 15](#) notification or contact [SIPP\\_Supervision@fca.org.uk](mailto:SIPP_Supervision@fca.org.uk).

The UK is currently negotiating its future relationship with the EU. The implementation period is due to operate until 31 December 2020. We expect you to consider how the end of the implementation period will affect you and your customers, and what action you may need to take to be ready for 1 January 2021. For information, visit our [Brexit webpage](#).

### **Next steps**

You are responsible for ensuring that your firm meets FCA requirements including the obligations and expectations set out above, and should take all necessary action to ensure these are met. We will use the Senior Managers & Certification Regime to engage directly with accountable individuals on areas of concern. We will maintain a focus on these areas - for example, when assessing Change in Control notifications or authorisations applications made by existing firms.

We will target our supervisory focus on firms where there is evidence of failings on the obligations and expectations above. If you have any questions please contact your named supervisor, or James Shafe, Manager of the SIPPs supervision team at [James.Shafe@fca.org.uk](mailto:James.Shafe@fca.org.uk). The team is also available at: [SIPP\\_Supervision@fca.org.uk](mailto:SIPP_Supervision@fca.org.uk), or via the Supervision Hub on 0300 500 0597.

We also recognise that there may be times when your firm faces urgent issues of strategic importance. In such significant circumstances, please contact the Head of Department for Investment Platforms and SIPP Operators, Andrea Konrath on 0207 066 0840 or at [Andrea.Konrath@fca.org.uk](mailto:Andrea.Konrath@fca.org.uk).

Yours sincerely

**Debbie Gupta**  
**Director of Supervision – Consumer Investments**