Maintaining SIPP Investment “Standards”

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Advisers are well aware of their regulatory responsibilities when it comes to ensuring that investments recommended are appropriate for their client’s financial needs and goals. For example, any investment portfolio constructed should be established in such a way as to avoid excessive exposure to any single asset, sector, or region.

The recent judgment in the Adams v Carey Pensions legal case brings this sharply into focus.
https://international-adviser.com/carey-pensions-wins-sipp-court-case/

The judgment was handed down on 18th May and related to a claim by Adams against Carey Pensions for loss of value on an investment in a self-invested personal pension (SIPP). By way of background, in July 2012 Adams invested £50,000 into Store First unit pods on the recommendation of an unregulated introducer who was also offering the client an up-front cash inducement to do so. Over subsequent years, the funds depleted in value and are now virtually worthless. During the original 2018 trial, Adams' legal representatives argued that the pension administrator breached Financial Conduct Authority COBS rules that dictate a firm must act in a client's best interest and further claimed that, if the firm had been doing so, it would have declined to give business to this sort of "high-risk and highly speculative investment’’.

Finding in Carey Pensions favor, it is a judgment that has been long awaited by the SIPP industry and now gives clarity to what is expected of a SIPP provider under English law and the FCA Conduct of Business Principles when acting upon the instructions of an execution-only client. Additionally, it has also now given a much better understanding of the legal relationship between an introducer and the service provider which will provide valuable guidance for both consumers and industry professionals alike.

However, since the introduction by the UK Financial Conduct Authority (FCA) of Capital Adequacy provisions in September 2016 on SIPP scheme trustees and administrators, it is unlikely that an esoteric investment of this nature would be allowed to happen now. Especially given that in this particular instance, it was an execution only transaction generated by a non-regulated introducer which no mainstream SIPP trustee would now accept.

Under Capital Adequacy provisions, financial advisers must factor in rules and conditions on what constitutes a ‘standard asset’. In order for a SIPP investment to be classified as such, it must be regulated appropriately and capable of being accurately and fairly valued on an ongoing basis and able to be realised within a period not exceeding 30 days. If it cannot meet these criteria, then it will be viewed as a non-standard asset and will not be acceptable for the vast majority of SIPP scheme investment guidelines in the retail market (except for specialist ‘full SIPP’ schemes that are usually accompanied by a higher schedule of fees than those of standard schemes).

Typically, this means mainstream assets such as Cash, ETFs, OEICS and UCITS Funds are acceptable. However, on the flip-side, assets generally not permitted typically include esoteric investments like Non-UK unquoted shares, Hotel rooms, Student accommodation, Storage pods, Forestry and unregulated investments – as usually there are liquidity issues with all of these whereby the 30 day realisation rule cannot be guaranteed.

Retirement planning is an important focus for many clients as they increasingly face taking more responsibility for themselves in order to ensure that they have the necessary provisions in place for a long and comfortable retirement. These FCA Capital Adequacy rules, together with a tightening of SIPP investment guidelines plus recent high profile legal cases such as that above, has resulted in pension providers now deciding to focus on what they are good at and are prepared to accept, rather than trying to be all things to all people.

As a result, such a position taken by the pensions industry rightly now acts as a good defense for vulnerable clients in order to protect them from the potential scammers and unregulated investments out there that are only too willing to relieve them of their hard earned pension savings.