TISAtalks…Sipps

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REGULATED OR UNREGULATED, THAT IS THE QUESTION?

Sipps (Self-Invested Pension Plans), already under the spotlight regarding capital adequacy pressures and compliance with 'suitability', are due to cause further stress for advisers.

It emerged last week that the Financial Services Authority (FSA) is investigating advisers over unsuitable advice to clients to transfer assets into unregulated collective investment schemes (Ucis) held in a Sipp. These pension vehicles have a wide scope of investment options generating flexibility of choice for clients, however, in a warning email sent to advisers, the FSA expressed concerns that some advisers were advising on pension transfers and switches without assessing the investments.

The regulator stated the cases it had seen operated under a similar advice model, where an introducer markets an Ucis before the potential investor is then introduced to an adviser. The adviser claims they are not giving advice on the investment, but rather on the Sipp that will hold it, and in some cases assist the client in accessing their other investments to fund the Ucis purchase.

It would appear the FSA is currently investigating a number of firms and has secured a variation of their Part IV permission, to prevent them operating in this way in future. The FSA is also considering taking enforcement action against these firms.

Sipps can be complex to advise on, especially in the current regulatory environment. Advisers using this advice model are under the mistaken impression that this process means they do not have to consider the unregulated investment as part of their advice to invest in the Sipp, and only need to consider the suitability of the Sipp in the abstract. This is clearly not the case, and potentially damaging for expected customer outcomes as well as compliance risk breaches for the advisory firm.

Evidently, advisers dealing with such cases should consider the suitability of both the investment and the wrapper, and the investments the client is looking to transfer from. The conundrum is created because giving regulated advice when the recommendation will enable investment in unregulated items, the unregulated and regulated elements cannot be separated.

In a further move, the FSA has also urged advisers and Sipp operators to 'whistleblow' on those breaching FSA requirements over Ucis investments in Sipps. A case in point recently has seen the regulator warn advisers over their responsibilities when investing in Harlequin Property, a UK-based overseas property sales agent currently unregulated by the FSA.

"The FSA expects advisers to have undertaken thorough due diligence on the various developments being sold through Harlequin Property to fully satisfy themselves that it is a suitable investment taking into account all relevant factors" it said. The FSA recommends advisers should consider how building work was progressing, how client funds would be used during the construction phase, and assess all publicly available information about the overseas property investments through Harlequin Property, in addition to all parties involved in the investments. Harlequin said it endorsed the guidance.

This is a clear indication that this issue is on the FSA's radar and Sipp advisers need to ensure their processes and risk control mechanisms recognise regulated and unregulated investment scenarios, and be able to demonstrate clarity around the separation issue.

In addition, Sipp operators will see capital adequacy requirements rise from a minimum of £5,000 to £20,000 with a surcharge for holding non-standard type assets, reflecting the additional costs of transferring these assets. The FSA also proposes linking capital requirements to each Sipp provider's assets under administration, therefore those administering the most assets will need to hold the highest amount of capital. Some firms will therefore be required to hold four times as much capital as they do currently, adding further pressure and cost to those running and advising on Sipps.

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