LONDON & COLONIAL
INNOVATION IN PENSIONS

Press Release

Feature for Financial Planner - “Permitted Investment List”

Once upon a time SIPPs were about giving small business owners the tools to invest in business premises they understood better than anybody else. Somewhere along the way however the flexibility that made SIPPs such attractive vehicles has somehow offered an open door to opportunistic middlemen pushing dubious esoteric investments to gullible unsophisticated investors.

The SIPP market has always made much of the choice it offers to investors, who have responded in their hundreds of thousands by placing billions of pounds into plans. Of course choice is good, but some of the investments at the margins of what is clearly permitted by the rules risk inflicting yet more damaging scandals on a pension sector that has, over the years, already been beset by more than enough bad press.

There are risks at every turn in today’s investment markets, whether undeveloped overseas property or other types of esoteric investments which in hindsight were accidents waiting to happen, so let’s not prioritize blind pursuit of investment freedom at the expense of consumer detriment.

We need to go back to basics and reflect upon what SIPPs are supposed to be about. There was a time when ‘self-investment’ meant the ability for SME business owners to invest in themselves. Today the concept of ‘self-investment’ has been co-opted by the main providers into meaning controlling and selecting investments yourself. There is a subtle but very substantial difference in these interpretations. This may work for the online comparison supermarket sector or for the insured pension space, but this is not what the ‘true’ SIPP was ever meant to be.

I would like to see two things – the first being a clearly defined permitted investment list radically reducing the scope of acceptable investments; and secondly a leveling of the regulatory playing field, between SIPPs, SSASs and even QROPS, so that the same rules would apply, no matter which investment vehicle was chosen.

As a SIPP provider we get numerous requests from investment firms to sign off on their investments and it is fair to say that we do not like everything that we see. Some investments are quite clearly so far outside of the rules for Non-Mainstream Pooled Investments (NMPIs); - usually Pooled Investments; or funds with unusual, speculative, or complex asset structures, that it is easy to reject them out of hand. But there are others that are not so clear cut, and with the onus being upon us to carry out due diligence on the investment getting rid of this grey area should be a priority for the regulator. In fact, why would they not want greater clarity when it comes to protecting consumers?

Time and time again we have seen situations where we have rejected an investment submitted for consideration because it is clearly a UCIS, only to have the very same investment submitted again four or five months later, held within a different legal structure and backed up with a barrister’s opinion that it is now not in breach of the UCIS regulatory rules and can therefore be marketed to retail clients. The underlying investments and parties involved have not changed at all but a new investment structure will have been put in place with the sole intent of getting round the regulatory controls.

Scam investments always sound better to the public if they are presented as being tax-advantaged and paid for out of some intangible pot of money that cannot be accessed until some time in the dim and distant future.
If sophisticated investors want to put their money into complex, risky, opaque investments then that is their business. If you really feel that strongly about an investment, by all means do it with your ready cash, but certainly not with your pension savings.

The efforts to which some investment schemes will go to get their products accepted into SIPPs reflect a desperate desire to get a stamp of approval to help persuade the punter to sign on the dotted line.

Doubtlessly many an investor will have mistakenly thought, "At first I wasn't sure about the person trying to persuade me to go with this exotic investment, but if this respectable SIPP provider is happy to handle it then it must be OK" – and such people deserve to be protected.

The Financial Conduct Authority is all too aware that many of these schemes are a risk to the public, and gives details on its website of many of the examples of poor conduct it has identified within this part of the market; whilst its predecessor, the Financial Services Authority, issued over 250 letters to retail intermediary and provider firms, in June of 2012, voicing its concerns. The regulator has also said that it will take strong action to protect consumers, yet when it comes to what can or cannot actually be invested in a SIPP, it is essentially leaving the policing of the situation up to providers (such as London & Colonial).

That is why I believe it makes sense to create a clearly defined, and restricted, list of permitted investments. What benefit is there to the public at large for some of these investments that are borderline cases to slip through, simply because of an individual's interpretation of a set of laws?

And if we are honest, how often do we actually see any of these borderline cases make investors a lot of money? Or are certain advisers, NMPI providers and SIPP, SSAS and QROPS providers putting their own commercial interests ahead of those of their clients?

London & Colonial has already put in place its own permitted investment list for SIPPS, which clearly outlines what we will and won't permit, and I believe our list should be taken up by the regulator and used as a 'blue print' for the industry as a whole.

When creating it we used as our starting point the permitted investment list that existed pre-A Day, which we have updated to reflect upon those areas proven to have been contentious.

I believe the list contains most, if not all, of the main regulated asset classes, as well as non-standard investments, such as UK commercial property and loans. In fact when it comes to commercial property we have created a deliberately tight definition.

This may sound radical, but I believe commercial property investment in SIPPSs should only be permitted in respect of fully developed business premises which are used for the purposes of a business carrying out a trade. There should also be a requirement that the property should be situated in the UK. This latter requirement would at a stroke put a stop to the so called professional investment companies targeting SIPP investors with questionable hotel investment opportunities in glamorous locations, armed with a QC's opinion arguing that they are not Unregulated / Non-Mainstream Pooled Investments (NMPIs).

Investments in unquoted shares should also be excluded from this next generation of permitted investment list. This may look like a bold step for us to take, but we think this level of caution is, in the long run, completely justified.

There is not only a concern that unquoted shares can be used for pension liberation, but are trustees' interests really being protected where such investments are made? Unquoted shares are notoriously difficult to value accurately, and how many schemes owned by controlling directors are already breaching HMRC rules by investing more than the permitted £6,000 in movable property? Add up the value of furniture, computers and anything else that isn't nailed

down and I would hazard a guess that the number of schemes already in breach is not insignificant.

If owners of small enterprises want to invest money from their pension into their business, then a better way of doing so would be through a secured loan, paying a competitive rate of interest.

Unfortunately because you cannot do this through a SIPP, we would have to switch you into a SSAS, and charge you for the privilege. This is why we need to remove the potential for regulatory arbitrage currently inherent within the existing system, and in this case by bringing SIPP rules in line with those for SSAS arrangements.

What is the point of stopping an investment solution under one regime, when an investor can speak to someone else and get the very same investment through another product? Surely this is precisely the sort of issue that the memorandum of understanding between the Financial Conduct Authority and The Pensions Regulator is meant to address?

Unless we pare down the list of permitted investments, and enforce it across SSAS and QROPS arrangements as well as SIPPS, we are likely to see more investors falling prey to dubious advisers who are more interested in shifting product than properly advising their clients.

Calls for a single regulator that sits across both the contract based and trust based regimes have grown louder as the years have gone by, and the SIPPS/SSAS market is a case In point. Pensions are meant to be simple – the complexity we have at present serves nobody except those who are being paid to navigate their way around the rules, and which is ultimately a drain on the retirement income of the people of this country.

And we also need to be bringing QROPS investment rules into this debate. When the lifetime allowance is reduced to £1.25m in April, the number of people who will be thinking about moving their money into one fund can only increase. There is nothing wrong with people using QROPS arrangements, in fact there are very good reasons for doing so. However, investors should be using wrappers for the right reasons, and not incurring unnecessary costs by switching from one structure to another, simply because it allows slightly more flexibility around investment choices.

We within the industry have a moral duty to protect the public from any murky financial products, not just because those individuals stand to lose large amounts of money but also because of the wider ramifications of tarnishing the pension brand.

SIPPS, SSASs and QROPS are all important tools in the pensions' toolkit and the regulators should be doing more to manage the reputational risks they present. Pensions are, in the mind of the public at large, meant to be reliable investments that will deliver the goods in decades to come when they will need to rely on them. Pensions are, and always have been, long term savings instruments and should not be presented as vehicles for risky aggressive investment propositions looking to make a quick buck.

The last thing the UK public needs is more scandal relating to pensions. We have millions of people finally waking up to the fact that they will need to save considerably more if they want to enjoy a standard of living in retirement anywhere near to that which they have enjoyed throughout their working life. By putting clearer, stricter rules around what can and cannot be invested in through a SIPP, SSAS or QROPS, the regulators would be making a significant step towards building a regulatory framework that would improve the public's confidence when it comes to trusting financial services companies to look after their retirement savings.

-ENDS-

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Notes to Editors

About London & Colonial

London & Colonial specialises in self-invested products for both UK residents and persons resident overseas.

The London & Colonial Group includes

(1) London & Colonial Holdings Limited – UK parent company
(2) London & Colonial Services Limited which is regulated by the UK Financial Services Authority and operates SIPPs and SSASs
(3) London & Colonial Assurance PLC which is regulated by the Gibraltar Financial Services Commission (matching UK standards) and which offers Open Annuities, QROP Annuities and Open Offshore Bonds
(4) L&C (Administration Services 2) Limited and London & Colonial (Trustee Services) Limited which are both based in Gibraltar and offer the EU SIPP.

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