

The complaint

Mr and Mrs D, represented by a claims management company (CMC), complain that they were mis-sold a Guaranteed Stock Market Bond (GSMB) by Lloyds Bank PLC.

What happened

In 1997 Mr and Mrs D were advised to invest £5,000 in the GSMB. It was for a five-year term and provided a return based on the performance of the FTSE 100 Index. 95% of the sum committed was invested (so in this case £4750) and the return calculated as 100% of any increase in the index over the term, with averaging in the final year. In the event the index didn't rise, or fell, the original amount committed was guaranteed to be returned, provided the bond was held for the full term.

At the time of the advice Mr and Mrs D were in their 50s. Mr D was retired, and Mrs D was still working. Their total income from Mr D's pension, Mrs D's employment and from renting out an inherited property gave them a disposable monthly income of just under £1,500. They had a £30,000 mortgage covered by two endowment policies, and around £48,000 in savings and with profits bonds. They were categorised as cautious investors, seeking to achieve potential capital growth without risk to their capital.

Lloyds didn't uphold the complaint. It felt the recommendation of the GSMB had been generally suitable. It said there appeared to have been no issue regarding affordability as the bond was held for the full term and it was satisfied Mr and Mrs D would've understood the risks involved – that the bond could make no return.

The complaint was referred to this service, but our investigator reached broadly the same conclusion as Lloyds. He said, in brief:

- The GSMB was consistent with Mr and Mrs D's investment objective.
- They would've benefitted from any returns being tax-free for basic rate tax payers.
- They were clearly warned about the risks involved.
- They had previous investment experience and held their capital in several different deposit accounts, indicating that they had awareness of different ways in which they could hold their capital.
- The investment in the GSMB represented a relatively small proportion of their capital, around 15%.
- He noted the CMC's point regarding the potential returns possible from fixed-rate bonds at the time, but felt the recommendation was nevertheless generally suitable – in line with their objectives, at a level of risk they were willing and able to take, and affordable.

Mr and Mrs D's CMC didn't accept the investigator's view. This was primarily because it felt that returns available from fixed-rate bonds were such at the time that it was very unlikely Mr and Mrs D would've been willing to gamble on the performance of the FTSE 100 Index – particularly as the highest potential return shown on the illustration for the GSMB – 8% - was around what could be achieved risk-free with fixed-rate bonds.

The investigator wasn't persuaded to change his opinion, so as no agreement could be reached, the matter was referred to me to review.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've come to the same conclusions as the investigator and for broadly the same reasons.

I'm satisfied that Mr and Mrs D were in a position to take a degree of risk with the £5,000 they committed to the GSMB. Albeit Mr D was retired, they had a relatively healthy income and the investment left them with sufficient on deposit. They had some experience of investing with a low level of risk by way of their with profits bonds and there doesn't appear to have been any issue with affordability.

The key point their CMC has made in support of the argument that the recommendation was unsuitable is that they could've achieved healthy, risk-free returns using fixed-rate bonds, which were paying annual rates of around 7% at the time.

This argument appears to be based upon the rates used in the illustration provided to Mr and Mrs D, which showed what the GSMB might return if the FTSE rose annually by 4% and 8% over the term. Clearly these rates didn't compare particularly favourably with the alternative of fixed-rate bonds. The CMC feels that Mr and Mrs D wouldn't have been prepared to gamble on the FTSE rising far in excess of the Financial Services Authority's (as the regulator was called at that time) highest growth illustration – that being what the regulator considered to a reasonable and likely level of return.

But I think it's important to note that at the time, in 1997, the rates used in the illustration could actually have been regarded as quite modest estimations. In the five years prior to 1997 the FTSE had in several years achieved growth of over 20%, meaning that the average annual growth for the previous five years was around 14%.

I point this background out with some caution, as I don't intend it to suggest that it would've been appropriate for the GSMB to have been sold with an undue emphasis on this record. It was important that the risk of the GSMB possibly returning much less than this, or maybe nothing at all was clearly explained, as it was in the illustration. But I nevertheless think it is importance context and shows that the *potential* for achieving a return greater that available from fixed-rate bonds, and one that would've been tax-free for Mr and Mrs D, wasn't quite as unlikely as the CMC has suggested.

The GSMB was a relatively straightforward version of this type of product, with the return simply calculated as 100% of any FTSE rise. So, I don't think Mr and Mrs D would've had any difficulty in understanding how it worked. They were already invested in with profits bonds, so it's reasonable to conclude that that they'd have some knowledge of how cautious, market-linked investments worked. And the investment represented a relatively small proportion of their capital.

In all the circumstances, I think, on balance, that this was a suitable way for Mr and Mrs D to potentially benefit from the higher levels of return that could be achieved through investing in the stock market, but without any risk to their capital.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D and Mrs D to accept or reject my decision before 8 April 2021.

James Harris
Ombudsman