DRN-4856292

The complaint

Mr M complains through a Claims Management Company that National Westminster Bank Plc ('NatWest') gave him unsuitable advice to invest in 2003.

What happened

In June 2003, a NatWest advisor met with Mr M in his home and recommended he invest £50,000 in the Guaranteed Capital Bond III ('GCB') and £7,000 in a Corporate Bond Fund through an ISA.

The GCB in return for a lump sum investment for three and a half years aimed to provide a return which would be based on the performance of the FTSE 100 index. It included a guarantee – subject to certain conditions – that it would return at least the capital sum invested and depending on performance, a maximum return on that amount of 17%.

Mr M invested £50,000 in the GCB which matured in 2007 after the minimum investment period. His total return was £58,500, which was the maximum amount the GCB could've returned.

The Corporate Bond Fund Mr M was also advised to take in that meeting wasn't specifically raised by Mr M's representatives when referring this complaint to our service. But as both products are an integral part of the advice and a separate complaint has been made to NatWest about it, I find it necessary to consider the suitability of the GCB and Corporate Bond Fund together when deciding whether NatWest gave Mr M suitable advice. The available information shows the Corporate Bond Fund was intended to provide income though investing in UK and European fixed interest securities and aimed to do that taking a low level of risk.

In August 2023 Mr M complained through his representatives that the advice NatWest gave him to invest in the GCB was unsuitable. It said:

- Mr M was an inexperienced investor having only recent experience with corporate bond funds.
- The money being invested was from his pension and life savings and that NatWest failed to properly consider this.
- Future needs for capital and the risks of a poor return weren't considered.
- Mr M could've received the same return from a fixed rate savings account without the risk of no return.

NatWest considered the complaint but didn't think it should be upheld. In summary, it said the advice was suitable because:

- It considered Mr M to be an inexperienced investor and advised him as such.
- The GCB was a suitable product for inexperienced investors looking to take the first step in lump sum investments.
- The investment was affordable for him.
- Mr M had previously invested in similar products.

- Other products were considered and discounted by Mr M.
- Mr M received the maximum return.

As Mr M remained unhappy with NatWest's answer, he referred his complaint to our service.

Mr M complained to NatWest more than six years from when it gave him this advice, which could mean his complaint was made out of time. As NatWest has consented to our service considering the complaint regardless of the applicable time limits to make a complaint, our Investigator moved to consider the merits of the complaint.

And in doing so, she didn't think the complaint should be upheld. In summary her findings were the advice was suitable because:

- It met Mr M's objectives and needs, and was affordable for him.
- There was no risk to the amount invested and Mr M was able to invest for the minimum term.
- Sufficient emergency cash reserves were considered and in place.
- Mr M had sufficient experience to invest in a product like the GCB.
- The product had been set out clearly and fairly.

Our Investigator also explained that she didn't agree the product was 'bad value' as described by Mr M's representatives. And that her key consideration was whether the GCB was a suitable recommendation, not the most suitable.

Mr M through his representatives didn't agree. They said:

- Mr M didn't seek out this investment and that NatWest led Mr M to invest in the GCB unfairly.
- There was no logical or reasonable reasons for the length of the investment, which was only justified by the adviser to encourage the sale.
- They disagreed with our Investigator's description that the GCB involved no risk, as it involved the risk of returns below that of fixed rate savings accounts and the impact of inflation.
- Mr M would've been better invested in a fixed rate savings account.

As agreement couldn't be reached, the complaint has been passed to me to decide.

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.

At the time NatWest advised Mr M, the relevant rules it needed to follow when giving investment advice were those in *COB 5*. Those rules are less prescriptive than the modern equivalent in *COBS 9/9A* which, as they weren't in force at the time, don't apply in this case.

In summary, *COB 5* required NatWest to ensure following taking sufficient information about Mr M's personal and financial circumstances, it made a suitable recommendation for him based on what he told the firm.

When Mr M met with NatWest it completed a 'fact-find' with him. This recorded the questions NatWest asked Mr M and the answers he gave during the advice. This evidence shows Mr M was 55 years old, had £100,000 in cash and £8,000 in existing investments. His investment aims were to, in taking very low levels of risk, invest for growth over a short to medium term in a way he could protect his capital for £50,000 of the cash being invested – leaving at least £43,000 in cash for emergencies. NatWest recorded that Mr M had an annual disposable income of £7,965 and had no foreseeable changes in circumstances – such as health, employment or moving home. NatWest had discussed other investment and pension products with him including at least other bonds, portfolio services and a stakeholder pension.

NatWest wrote to Mr M on 11 June 2003, six days after the advice, to set out its final recommendations in writing to Mr M. This letter fairly reflected the information recorded in the fact-find but did expand further on Mr M's investment objectives, including a comment that Mr M was dissatisfied with interest rates available.

I've carefully considered the information NatWest took about Mr M and whether the recommendation it gave him was suitable. It is important to mention here that the rules didn't require NatWest to recommend the most suitable product, only that what it recommended was suitable in itself. And having done so, on balance, I'm persuaded the advice NatWest gave Mr M to invest £50,000 in the GCB and £7,000 in the Corporate Bond fund was suitable.

I say this because Mr M was looking for a short to medium term investment which offered capital growth, the lowest available risk exposure and to provide assurance around protecting the amount invested for £50,000 of his money. The GCB NatWest recommended could meet those needs so long as Mr M could invest for the term of 3.5 years, which considering he would be retaining £43,000 in reserve and had nearly £8,000 per year disposable income, I'm satisfied would have been affordable for him. He could both afford to make the investment and be without the cash during the minimum investment term. And I think then Mr M was willing to invest for this period with hope of the returns the GCB offered.

When thinking about the risks involved with the GCB, including the specific concerns Mr M's representatives have raised around low growth and inflation, I'm not persuaded this meant the GCB was an unsuitable way to invest this £50,000. I say this because the GCB wouldn't expose Mr M directly to the investment risks of the stock market. It allowed him to benefit from the growth of the FTSE 100 index – albeit to a maximum limit of 17% growth on the invested amount – without the risk of losing his money if the FTSE 100 performed poorly. The maximum potential return then was equivalent to a net return of 4.59% per year. The GCB was aimed at less experienced investors looking to take little or no risk. Which would be suitable for Mr M given what he told NatWest about his objectives and low risk appetite as I've set out above.

I've thought carefully about what Mr M's representatives have said about the risk of inflation outstripping Mr M's total return and the impact it says that had on the suitability of NatWest's advice. But I'm not persuaded those issues made the advice unsuitable. While inflation could reduce the spending power of the amount invested should the GCB fail to provide a return above inflation, I'm satisfied Mr M understood and was willing to take that risk.

I say this because, I'm satisfied he wanted the chance of improved returns compared to fixed rate savings, but without exposing this money to capital risk. Given much of his wealth remained in cash savings, overall, I'm persuaded he would have been willing to risk a below inflation return with this portion of his money to be able to benefit from the potential of improved returns. I'm satisfied this objective of potentially higher growth rates was important enough to have made Mr M comfortable with the risk of a below inflation return. In turn I'm satisfied that the GCB provided the opportunity for such a return with capital protection and so was suitable for Mr M's objectives.

Turning to Mr M's investment experience, it's unclear exactly what that was at the time. NatWest say he had previous fixed term and capital protection investments, while Mr M says he had corporate bond fund investments. On balance from the information available, Mr M was likely an investor with a small amount of experience and regardless of his investment history, even if it were none, the GCB would likely be suitable for a first time investor with little or no experience given the capital protection and link to the FTSE 100 it provided. As Mr M was fairly considered by NatWest as such, would be a suitable investment from him based on the experience he likely had.

The fund Mr M was also recommended for similar reasons would be suitable as it would be exposing him to a suitable level of risk in order to benefit from improved returns than that of savings accounts. This amount was being invested through an ISA and so would also provide Mr M with tax free returns. Considering Mr M's overall wealth, the £7,000 being invested in this fund would be suitable as while the risk exposure of this investment was higher, it was diversified against the GCB and his cash savings. I've also not seen it wouldn't have met his objectives or that he lacked experience given his submissions that he had some investment experience which, as he says, involved corporate bond funds.

Mr M's representatives say NatWest hadn't fairly considered that the invested money came from early retirement, or Mr M's future needs where he was retired. And that these factors would've meant the advice was unsuitable.

The evidence from the advice doesn't show whether Mr M was retired or whether the money came from early retirement. But even if I were to accept what his representatives have said here, I'm not persuaded that meant the advice would've been unsuitable. I say this because it wasn't an unreasonable pool of money or amount to recommend Mr M invest given his short to medium term objectives and the capital reserve he would be left with. I've seen pensions were discussed and discounted as an option due to market conditions, the need for capital protection and Mr M wanting to retain control of his capital. Factors which a pension likely couldn't have met given the long term nature and the risk exposure required to grow a sufficient retirement fund.

On Mr M's future needs, I'm satisfied NatWest fairly considered those as evidenced in the fact-find under both the section around potential future changes and also what Mr M told the firm about his disposable income. On the section around potential changes, Mr M is recorded as answering 'No' to each of the categories fairly set out to him. This clearly evidences NatWest explored these aspects with him and he didn't identify that he had any future needs during the term of the investment the firm needed to include when making its recommendation. Mr M also had sufficient disposable income as well as the £43,000 cash retained for emergencies, which likely would be sufficient to cater for his reasonably foreseeable needs. It follows then neither of those concerns cause me to think the advice was unsuitable.

Mr M's representatives say NatWest should've advised Mr M to have instead invested in a fixed term savings account. It says this would've given Mr M a similar return as the maximum available from GCB without the uncertainty of whether those potential returns would be realised on maturity. As mentioned above, NatWest didn't need to recommend the most suitable product, only that what it did recommend was suitable.

In my opinion, the evidence from the advice importantly shows Mr M told NatWest he was unhappy with what he considered to be low interest rates. Given that comment doesn't appear to have been challenged following the advice and as the suitability letter reflects the other contents of the fact-find it refers to, I think it's likely a fair reflection of Mr M's feelings at the time and that he was looking for something else that would be more compatible with his needs, which he sought professional advice to address.

Further to that, I've seen the potential 4.59% net return of the GCB had potential to exceed the fixed term savings rates which were likely on offer at the time. The rates available on such savings ranged from around 3% to 4.85% – which doesn't include tax deductions whereas the 4.59% for the GCB did. There was then a greater potential return from investing in GCB than the fixed rate offerings at the time. It follows then it wasn't unreasonable fixed rate savings accounts weren't considered more than they were given Mr M wanted to invest to the potential to grow his investment above the available rates at the time, which the GCB did.

The quality of the GCB as a product was challenged by Mr M's representatives. But I'm not persuaded anything it has said around that means Mr M's complaint should be upheld. The product literature, if the adviser didn't, explained how the investment works and the risks involved in a clear, fair and not misleading manner. It therefore was a reasonable product for NatWest to offer Mr M given that and its suitability for him.

It follows then the investment recommendation NatWest gave Mr M to invest in GCB and the corporate bond fund was suitable as the recommendation met Mr M's needs, risk tolerance and was affordable for him.

My final decision

For the reasons given above, I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 12 December 2024.

Ken Roberts
Ombudsman