

complaint

Mrs H, on behalf of the estate of her late mother, Mrs M, complains that Santander UK Plc mis-sold an investment plan.

background

The late Mrs M met with an advisor from the bank in May 2002. The fact find shows she was in her mid 70s and divorced. She had no debts or mortgage and had some savings on deposit, including some in a cash Individual Savings Account (ISA). It adds that she was risk averse and wanted to invest some of her money in something that would provide a higher rate of interest and instant access, and the rest in a secure product that would protect her capital. She was recommended to invest £10,000 into a Safety Plus Growth Plan Issue 7 (SPG7) split between £7,000 into an Investment ISA and £3,000 into a Direct Share.

The SPG7 plan matured in 2007 for some £12,900, a 28.9% increase over five years. Mrs M then met with another advisor from the bank and decided to invest the proceeds of the Investment ISA plus another £4,000 in the Guaranteed Growth Plan Issue 9 which matured in February 2013. Around the time it matured Santander sent her an application form to allow her to reinvest her money, which had increased to some £16,100, into a Safety Plus Growth Plan Issue 57 (SPG 57). Mrs M invested her money in the SPG 57. Santander didn't provide financial advice for this last investment and Mrs M signed to confirm she had not received advice from the bank. The plan matures in 2019.

Unfortunately Mrs M died in May 2014 and I would extend my condolences to Mrs H. She is the executor of her late mother's estate and discovered that the SPG 57 didn't mature on her mother's death and will not do so until 2019. She complained to the bank that it had sold an unsuitable product to her elderly mother. She asked a number of questions about the various plans that had been sold to her mother.

Santander responded and rejected her complaint on the basis the advice given in 2002 and 2007 had been suitable and that the final investment had been made without advice. It also explained that on the death of the investor each of *"the investments remain in force until instructed otherwise by a personal representative. This therefore offers a choice of the investment to stay in force until a time they see fit to withdraw the investment or until maturity to benefit from the guarantees offered by the investment. On death there is no guarantee to pay out the original investment and/or any growth."*

Mrs H brought her complaint to this service and said that, in short, the product wasn't suitable because of her mother's age, health, the term of the bond and there being no guaranteed maturity on death. The adjudicator who investigated it didn't recommend that it be upheld. He considered the original advice fitted with Mrs M's aims and objectives of low risk growth and she had other money set aside for any emergencies. The original plan had delivered 28.9% return and Mrs M had chosen to take the advice given by the bank and reinvest her money with a similar product. In 2013 the bank didn't provide advice to Mrs M and sent her a form to complete if she wished to reinvest her money. She chose to do so and the adjudicator didn't consider Santander to have done anything wrong. He noted that Santander doesn't permit the reinvestment of a maturing investment for a customer who was over the age of 75 at the time of maturity unless the maturing investment was wrapped as an ISA. He also noted that this exception was in place to allow the customer to retain tax efficient wrapping of the investment.

Mrs H didn't agree with the adjudicator and said that it was wrong of Santander to allow her mother to invest in an unsuitable product. She also said it was wrong to allow her mother, who was in her 80s, to reinvest simply because the product had a tax wrapper. She said her mother's health was failing in 2008 and no account was taken of that by the advisor, nor did the bank check if she was in good health in 2013. Finally, she didn't consider her mother to have been an experienced investor in 2002 as had been suggested.

my findings

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

Firstly I should make it clear that the role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not perform the role of the industry regulator and I do not have the power to make rules for financial businesses or to punish them.

I have sympathy with Mrs H, but I find myself in agreement with the adjudicator. Dealing firstly the final investment made by Mrs M, this was done without advice from Santander so it can't be held responsible for the decision to reinvest the money. I appreciate Mrs H considers Santander should have intervened to stop her mother making the investment, but I don't consider it was obliged to so. It wasn't unreasonable for Santander to have sent out an application form to allow Mrs M to reinvest since her existing plan was reaching maturity.

It didn't recommend that she reinvest her money and I gather there was an option for a four year plan, albeit that plan didn't have the tax wrapper. It made it clear that it wasn't providing advice and it was open to Mrs H to seek advice elsewhere. I appreciate there were 18 pages of information and a time limit for reinvestment which Mrs H says was not helpful for her mother and put her under pressure to make a decision. However, I consider the bank has a duty to explain the product it is offering and it is not obliged to keep investment opportunities open indefinitely.

If the bank had refused to allow elderly customers to retain their investments with the tax wrappers I could see that it would be exposed to complaints that it had denied those tax advantages purely on the grounds of age. On that basis I consider it reasonable for the bank to allow customers to exercise their discretion as to which investment they wish to make.

Looking at the two earlier investments I don't consider the advice Mrs M received was unsuitable. She made a reasonable return on her investment and they met with her requirements as set out in the fact find. I understand that her health was failing at the time she made the second investment, but again I don't consider the advice to have been unreasonable. It provided her with the growth she desired and she had the benefit of the return when it matured. Mrs M may not have been a widely experienced investor, but looking at the various investments she held back in 2002 I don't consider she was financially naïve. I appreciate that Mrs H doesn't consider it appropriate that the bank made the recommendations it did in 2002 and 2007, but they seemed to have generated a reasonable return for her mother while ensuring her money was protected.

Mrs H can access the final investment now if she wishes, although the level of return is likely to be minimal, or she can leave the money invested until maturity and receive the promised return.

my final decision

My final decision is that I do not uphold this complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 30 December 2015.

Ivor Graham
ombudsman