

complaint

Mr M complains Sun Life Assurance Company of Canada (U.K.) Limited mis-sold him three saving endowment plans, of variable length, in 1992, 1993 and 1994.

background

Mr M's representatives claimed that 10 year renewable savings plans would have been more suitable than the two 15 year ones, and that other options weren't discussed and his attitude to risk was not established. They also said the 1994 plan involved greater risk than Mr M was prepared to take, and the tax consequences weren't considered.

Sun Life said these plans were suitable for his objectives and he was given sufficient information to decide whether he wished to go ahead with recommendations. It also said Mr M could've chosen to invest in less aggressive funds, but chose the allocation himself.

An adjudicator at this service didn't feel this complaint should be upheld.

She said the advisor was expected to make suitable recommendations but wasn't required to offer a range of options. She was satisfied the 15 year plans were suitable as Mr M's objective was to build up a retirement pot. It was recorded that he intended to retire in 15 years' time.

She noted Mr M's representatives' argument that charges would have been lower on a 10 year plan, but didn't necessarily accept this. She said this assumed Mr M had surrendered his year 15 plan early, but he hadn't.

She said Mr K had a large number of existing savings plans, and felt he'd been given sufficient information to decide whether to invest in these new plans.

Considering the 1994 plan, she noted Mr M was recorded as a 'balanced to speculative' investor. She said the advisor wasn't authorised to make the fund selections and the evidence suggested Mr M had chosen the funds in question, knowing they represented a higher risk than the default, balanced risk 'Managed Fund 3' option.

Finally, she said the life cover made this a qualifying policy for tax purposes and didn't believe it was unsuitable for Mr M's circumstances.

Mr M's representatives didn't agree and said:

- A 10 year policy with a charge-free extension would have given Mr M a far superior return over any length of time
- The real difference between the 10 and 15 year savings' plans is that an advisor earns far more commission on the latter
- Many of Mr M's pre-existing savings' plans have been the subject of successful complaints, so these cannot be used as evidence of his financial knowledge or appetite for risk

As no agreement has been reached, this complaint has been passed to me for review.

my findings

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

In this case, I agree with the adjudicator and for substantially the same reasons.

I've seen no evidence to suggest these three policies were not suitable for Mr M's objectives. From what I've read he was looking for medium term savings plans designed to mature around the time he retired, and that he had sufficient general financial understanding to make an informed decision as to whether he wished to go ahead with these.

Businesses at the time weren't required to complete and retain detailed accounts of discussions with advisors. So I cannot safely say whether other possible savings' vehicles such as a 10 year plan were discussed. But, as the adjudicator said, an advisor is required to make a suitable recommendation for a customer's circumstances but isn't required to present a range of options.

I've seen no evidence to suggest these plans were unsuitable from a tax perspective.

Finally, Mr M's representatives say there was no discussion of Mr M's attitude to risk in 1994, and therefore no justification for labelling him a 'balanced to speculative' investor.

I accept there is very little evidence on this issue, and I note his representatives' claim that many of his existing investments have been the subject of successful complaints.

However, given Mr M's senior position in the banking sector, I think it's most likely he was aware of the significance of being recorded as a 'balanced to speculative' investor, and if he didn't feel this was accurate, he wouldn't have signed to confirm his agreement with this.

It also seems most likely he took the decision as to which funds to select for this investment, and so the advisor cannot reasonably be held responsible for this.

my final decision

For these reasons, I do not uphold this complaint or make any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 April 2016.

Tony Moss
ombudsman