complaint

Mrs A has complained through a third party representative that advice she received from Barclays Bank Plc in 2003 to invest part of a recent inheritance in a stocks and shares ISA and a unit trust was unsuitable for her.

Specifically, her representative has said that:

- Mrs A was retired and an inexperienced investor who had previously only held deposit-based savings;
- Her attitude to investment risk of 'cautious' did not match her personal and financial circumstances at the point of sale. There was no explanation of what an "attitude to risk" truly meant and little discussion on asset classes, tax efficiency and capacity for loss or known future expenditure;
- Other, more suitable, products were not discussed than this investment with its high charges and substantial risks;
- The proportion of assets in the same investment fund was too great and did not meet diversification requirements;
- The adviser failed accurately to assess the level of risk Mrs A was willing and able to take. The products recommended were linked to funds with exposure to equities and other risk asset classes.

Mrs A surrendered both investments in 2006 and has requested compensation which would put her in the position as if she had received "correct" advice.

background

Mrs A's complaint was investigated by one of our adjudicators, who concluded that it should not be upheld because she was satisfied that the advice was suitable for Mrs A's circumstances at the time and that the advice matched her financial objectives.

The adjudicator noted that, while Mrs A received a modest pension, which she used to "treat family members", she relied on her husband's income from full-time employment which gave them a comfortable disposable income. He was also due a good pension in around four years' time and they shared significant capital savings held on deposit, which provided an adequate contingency fund to replace any potential capital losses.

In the circumstances, the adjudicator considered advice Mrs A received to invest around 20% of this available capital in a 'cautious' fund of tax-efficient investments was not inappropriate.

In response, Mrs A's representative did not agree with the adjudicator's view and said that:

- The adviser should have highlighted to Mrs A that the business did not offer a suitable non-equity growth product and referred her to an independent financial adviser. It was not appropriate to offer a product that is the "next best fit".

- The adviser therefore failed in his obligations to provide advice in the best interest of the consumer as required by Conduct of Business (COB) rule 9.2.1.

As no agreement has been reached in this complaint, it has been referred to me for review.

findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I find that I agree with the conclusions reached by the adjudicator, and for essentially the same reasons.

Mrs A's financial position in 2003 needs to be assessed in terms of the total resources she shared with her husband, including income he still earned from full-time employment and capital savings which were held in joint deposit-based accounts. Mrs A's husband had also accrued a significant number of years of final salary pension scheme benefits. Their home was mortgage-free and their joint income gave them a comfortable monthly disposable income.

The business recorded that Mrs A wished to invest around 20% of their total capital savings in her name for growth, based on a 'cautious' attitude to risk, to maximise her tax-efficient allowances. This still left a significant portion of their total capital in accessible cash reserves, which the adviser recommended her to hold in tax-efficient products, such as cash ISAs and certain National Savings accounts.

While Mrs A's representative has referred to a lack of any of 'risk-profiling' tools employed by the business to establish her attitude to investment risk, the advice she received was given in 2003, when regulatory rules did not call for such a scientific approach to establish an investor's risk profile. Given her financial circumstances, I am satisfied that it was appropriate for Mrs A to adopt a 'cautious' approach to investment with 20% of the total capital savings she held jointly with her husband.

The adviser recorded that Mrs A did not wish to invest in equity-based assets and revised her recommendation of the choice of fund, which invested approximately 89% of its assets in a range of fixed interest securities and gilts. Although her representative has suggested that this fund represented a lack of diversification, it did invest in a wide spread of government and other public securities as well as fixed interest assets, which was consistent with Mrs A's objective of achieving greater potential returns than they were receiving from their deposit-based savings.

The fund recommended by the adviser was designed to provide an income. However, any income it does produce can be reinvested and the tax treatment of this income is the same whether it is taken as income or reinvested. The arrangement whereby an initial sum of £7,000 was invested in the ISA and the maximum allowances in future tax years switched from the unit trust provided tax-efficiency for Mrs A.

The adviser did, however, also recommend alternative tax-efficient investments for Mrs A to consider, such as stakeholder pensions and national savings products, which she declined.

I note that Mrs A has surrendered these investments in 2006 even though they were intended to be held for capital growth over the medium-to-long term. If this course of action was prompted by the ongoing performance of the investments in the short term, this alone is not sufficient for me to conclude that she received unsuitable advice.

decision

My final decision is that I do not uphold Mrs A's complaint.

Kim Davenport
ombudsman