

complaint

Mr B has complained about the performance of a with-profits bond he holds with The Prudential Assurance Company Limited (“Prudential”).

background

In September 2016 Prudential sent Mr B a statement showing the state of his investment at that time. Mr B says that in the year to September 2015 his investment had grown by 6%, but in the next year it had only gone up by 2.75%.

Mr B didn't think this was right considering stock market performance, so he called Prudential about this. It wrote back to him to give an explanation of the fund performance, but Mr B says this letter wasn't received. Around a month later Prudential wrote again. It apologised for not properly recording Mr B's complaint, but set out the asset make-up of the fund and that the fund had only returned 3.2% net of tax that year. Prudential also offered £75 for the problems Mr B had in complaining. But he didn't think this letter gave any substantial reasons to explain the fall in growth rate.

In February 2017, Prudential again wrote to Mr B. It explained that *‘the performance of the Fund and the bonuses declared, reflect the performance of the markets in general’*. It also explained that the amount of bonus declared not only took into account the performance of the fund in the previous year, but also the predicted performance in the future and the Principles and Practices of Financial Management document (“PPFM”).

Mr B still didn't think this was a good enough explanation. And he thought that the process of smoothing should've stopped the fall in the growth rate from happening. So he brought his complaint to this service.

One of our investigators looked into the complaint, but didn't think it was one that should be upheld. He thought Prudential had given an explanation of what had happened and that it wasn't for this service to set Prudential's with-profit growth rate. But Mr B didn't agree, so the complaint has been passed to me for a final decision.

my findings

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'm not going to uphold Mr B's complaint.

Mr B has invested in one of Prudential's with-profits funds. The regulator, the Financial Conduct Authority ("FCA"), has set down principles and rules that businesses must follow when working out and applying bonuses in with-profit funds. The FCA Handbook sets this out in some detail, but in particular a business must '*pay due regard to the interest of its customers and treat them fairly*' (Principle 6).

There is a part of the FCA Handbook that deals with with-profits funds, the Conduct of Business Sourcebook (COBS 20). Here it says:

With-profits business, by virtue of its nature and the extent of discretion applied by firms in its operation, involves numerous potential conflicts of interest that might give rise to the unfair treatment of policyholders...(COBS 20.2.1(1))

and

A firm must have good reason to believe that its pay-outs on individual with-profits policies are fair.(COBS 20.2.3)

Prudential publishes its PPFM document that sets out how it manages its with-profits funds and it's accountable to the FCA in doing this. It's required to appoint a with-profits actuary and the FCA provides rules and guidance on their duties. Prudential also has an independent With-Profits Committee whose remit is to protect the interests of the with-profits policyholders and ensure that they are treated fairly.

The Financial Ombudsman Service was set up to handle individual complaints about financial products from consumers. This service is not able to carry out a forensic audit of Prudential's management and operation of its with-profits funds - as explained above, it *is* the regulator that monitors the management of these funds. Prudential has exercised its commercial decision in setting returns on the fund Mr B investment is in, and that decision will have a wider impact on all investors, not just on Mr B. Mr B can report this to the FCA if he thinks himself and others haven't been treated fairly, however I am not aware of it having any concerns about the operation of this fund.

Mr B has said that the profits of the fund should've been higher given the overall performance of the stock market in the year to September 2016. However the with-profits fund is invested in a variety of asset classes, not just equities, and the returns in any one year won't necessarily mirror the return achieved by the fund in that year because of the smoothing process. Prudential didn't give a guaranteed annual growth rate or guaranteed bonus in Mr B's fund. Annual bonuses are added to Mr B's bond and, once added, can't be reduced or taken away. Here I think Prudential has exercised its commercial discretion in setting the level of fund growth in September 2016. And I haven't seen any evidence that Prudential has mismanaged the fund.

I've also thought about whether Prudential has given Mr B an explanation about his fund. I've seen it wrote to him three times between September 2016 and February 2017. The first letter sent wasn't as clear as it could've been, but Mr B said he didn't get it. Prudential has already offered Mr B £75 for this. I think the other letters sent were clearer. I understand Mr B doesn't agree and he'd like a more detailed explanation, possibly speaking with the fund manager to get this. But I think Prudential has done enough in trying to explain to Mr B the return on his investment.

my final decision

For the reasons set out above, I don't uphold Mr B's complaint against The Prudential Assurance Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 September 2017.

Mark Hutchings
ombudsman