

complaint

Mrs G's complaint relates to her With-Profit endowment policy. The Prudential Assurance Company Limited (Prudential) has upheld the complaint as it was not satisfied the plan was appropriate for her. However Mrs G is concerned that, in calculating the redress, the business has used the interest it pays on its 90-day notice account.

background

An adjudicator recommended to the business that it should undertake a comparison as if 50% of the investment had produced an average return from fixed rate bonds, and 50% had performed in line with the APCIMS Stock Market Income Total Return Index ('APCIMS index').

The business did not agree and referred to a case study in 'Ombudsman News' and also comments from the consumer's representatives that the endowment policy was not suitable for the consumer's attitude to risk. The business stated that it was not possible to determine what actions the consumer would have taken had she not taken out the investment, and therefore it feels that its offer is fair and reasonable. It also feels that the comparison would not have been applied when it first dealt with the complaint and should not be applied now.

my findings

To decide what is fair and reasonable in this complaint, I have considered everything that Mrs G and Prudential have provided.

Prudential have upheld the complaint so the issue to be resolved is what is fair and reasonable redress in the circumstances.

It has not been put forward by any party that Mrs G is risk averse, and the financial planning documentation I have seen indicates a small risk was acceptable. Prudential's current approach assumes a risk free return, and I can appreciate why it has used that to help resolve the complaint, but it does not seem the best approach to me, given what I have said about Mrs G's acceptable risk level.

We do not know exactly what Mrs G would have done otherwise, but I think the adjudicator's recent suggestion of the 50/50 split between fixed rate bonds and the APCIMS index broadly reflects Mrs G's approach and is a fair and reasonable resolution, in the circumstances.

The fact that the ombudsman service may have applied a different approach historically is not reason to not follow the most appropriate approach now; redress is not 'fixed' at the point the complaint is referred to this service, or to the business, for that matter.

my decision

I consider the Prudential Assurance Company Limited should compare the investment with the position Mrs G would now be in, if 50% of the investment had produced an average return from fixed rate bonds, and 50% had performed in line with the APCIMS Stock Market Income Total Return Index ('APCIMS index').

The average rate is the rate for fixed rate bonds with 12 to 17 months maturity (as published by Bank of England). The APCIMS index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds.

The average rate would be a fair measure for someone who wanted to achieve a reasonable return without risk to the capital. The APCIMS index is for someone who was prepared to take some risk to get a higher return.

I consider that Mrs G's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. Therefore, the overall return from the 50/50 combination would broadly put her into that position.

It does not mean that I consider Mrs G would have invested 50% of the money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return that could have obtained from investments suited to her objective and risk attitude.

how the business should calculate the compensation

The compensation payable to Mrs G is the difference between the *total fair value* and the *actual value* of the investment. If the *actual value* is greater than the *total fair value*, no compensation is payable.

total fair value

This is what the investment would have been worth if it had obtained a return using the method of compensation set out above. It is the total of 'average rate element' and 'APCIMS index element'.

average rate element

To arrive at this value the business should:

- find out the average rate for fixed rate bonds, as published by the Bank of England, for each month from the date of investment to the date of calculation
- the rate for each month is that published at the end of the previous month
- use the rate for each month to calculate the return for that month
- the calculation should be carried out on an annually compounded basis; that is, with the return added to the investment at each anniversary
- work out the value to the date of calculation

APCIMS index element

To arrive at this value the business should:

- work out what 50% of the investment would have been worth, if it had performed in line with FTSE APCIMS Stock Market Income (Total Return) index to the date of calculation

actual value

This means the actual value of the investment at the date of calculation.

additional capital

Any additional sum that was paid into the investment should be added to the calculation (split equally between average rate element and APCIMS element) from the point in time when it was actually paid in.

withdrawals

Any withdrawal made from the investment should be deducted from the calculation (split equally between average rate element and APCIMS element) at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

income payments

Any regular income paid to Mrs G from the investment should be deducted from the calculation (split equally between average rate element and APCIMS element) at the point in time it was actually paid so it ceases to accrue any return from that point on. If there are a large number of regular payments, to keep calculations simpler, I will accept if the business adds all the income payments to the *actual value* and compares that total with the *total fair value* instead of periodically deducting them.

I am assuming that the investment is still in force. If it is not the case, the parties should let me know.

Information about the average rate can be found in the "Statistics" section of the Bank of England website. It is available under the section headed Interest and Exchange rates data / quoted household interest rates / fixed rate bonds / one year. The information about APCIMS index can be found in the website of the Association of Private Client Investment Managers and Stockbrokers or the FTSE Group.

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ombudsman