

## Summary of feedback received

October 2013

<p><b>Consultation title</b></p>	<p>GC12/12 - A guide for SIPP Operators</p>
<p><b>Date of consultation</b></p>	<p>23 October 2012 - 28 November 2012</p>
<p><b>Summary of feedback received</b></p>	<p>SUPERVISION:</p> <ul style="list-style-type: none"> <li>• We received a total of six responses, which either commented on the supervision guidance published or referred to the thematic work undertaken by supervision.</li> <li>• One respondent requested more specific guidance as to the extent of a SIPP operator’s responsibility for the quality of the business it administers.</li> <li>• One respondent praised the guidance annexes and thanked us for providing clear explanations.</li> <li>• One respondent commented on the timing of the original thematic work. The questionnaire was issued, with a two-week deadline, at the start of the Easter and Royal Wedding bank holiday weekends. This respondent raised the timing of our questionnaire with Mark Hoban MP through his local MP.</li> <li>• The Association of Member-Directed Pension Schemes (AMPS) responded on behalf of its members (66 firms of whom 52 were SIPP operators responded to an AMPS online survey and they also highlighted themes arising from an AMPS workshop attended by 40 of their members.). Their responses were presented as percentages of firms responding to a number of questions posed by AMPS. The key theme identified by AMPS members was 93% of respondents considered that their company and senior management were sufficiently aware of the regulatory requirements before the release of the thematic report.</li> <li>• 75% of AMPs members called for a specific SIPP sourcebook.</li> <li>• One respondent felt the thematic report appeared to be deliberately aggressive and has been orchestrated to create a ‘climate of fear’ around SIPPs to justify greater regulatory attention.</li> <li>• One respondent supported our overall stance to improve standards across the sector and believed our guidance will assist firms in understanding our expectations of them.</li> </ul>

### Response to feedback received

#### CASS:

- We received a total of four responses commenting on CASS
- The comments were generic and do not relate to the guidance material we consulted on.
- One respondent commented the FSA had poorly drafted requirements [with respect to rules in general – not the guidance consultation] where compliance and auditors interpret these differently.
- One respondent focused their comment on whether trust law is sufficient protection.

#### Supervision:

- AMPS commented on the need for a specific SIPP sourcebook. The guidance material we issued was based on our thematic findings and we have no plans to issue a SIPP specific sourcebook.
- AMPS commented that 93% of the respondent members considered their senior management were sufficiently aware of the regulatory requirements prior to the publication of our thematic report. Our thematic findings evidenced a lack of, previous, regulatory experience within the senior management of over half the SIPP operators reviewed and a widespread poor understanding of their regulatory responsibilities for the quality of business they administer.
- One respondent has commented mainly on CP12/33 a new capital regime for Self-Invested Personal Pension (SIPP) operators. While broadly agreeing with our capital adequacy proposals, he queries how you can assess the risk of some exposure to non-standard investments, and that if clients regularly switch their holdings this would make business planning 'very difficult'. He does not feel an investment led approach to Capital Adequacy is workable – especially for the existing book of business. CP12/33 is out with the scope of the thematic report and guidance. We will forward his response to be considered as part of the CP12/33 consultation.
- One respondent requested more specific guidance as to the extent of SIPP operator responsibility for the quality of business it administers. This point was addressed and expanded upon with examples during the SIPP operator seminars, held December 2012-January 2013, to which every SIPP operator was invited.
- One respondent commented on the timing of the original thematic work. He felt issuing the questionnaire, with a two week deadline, at the start of a period of two bank-holiday weekends was not good practice. While not having a direct impact on the thematic report or guidance consultation, we would agree the implications do not appear to have been considered by the original project team. This should be taken forward as a lesson learned.

### CASS

- One respondent commented the need for a SIPP-specific sourcebook: We issued CASS guidance material for consultation based on our thematic findings. We have no plans to issue a sourcebook specific to SIPPs and CASS. However we will consider making further clarifications in our review of CASS rules (in general) later in the year.
- One respondent commented on the requirements were poorly drafted and compliance companies and auditors interpreted the requirements differently: We do not regulate compliance companies or auditors. Our rules apply to regulated firms and where firms are conducting a regulated activity it is the firm's responsibility to comply with our rules. We have worked with The Auditing Practices Board (APB) and APB issued a bulletin 'Providing Assurance on Client Assets to the Financial Services Authority' in October 2011 to improve the quality of CASS audits.
- One respondent commented on the reliance of trust law being significant in some scenarios and not others: If a *firm* is conducting a regulated activity by way of business, it could fail. If a *firm* does fail, any monies belonging to the *firm* will be due to the *firm's* creditors. Therefore if the *firm* is holding client money the CASS rules are applicable - the *firm* should clearly segregate client money from money belonging to the *firm*. If monies are held in accounts in the name of a bare trustee, this is clearly separate from any money held by the *firm*.
- One respondent commented on CASS 7A requiring client money to be returned to clients if a *firm* fails being in conflict with HMRC and generating a tax charge: If an operator were to fail, any client money held would be returned to the trustees of the scheme (this is the 'client' of the operator – the individual SIPP scheme members are not the client of the operator with respect to the SIPP scheme it operates) therefore it is essential bank accounts are set up clearly and correctly.

### Changes made to the guidance as a result of feedback received

#### SUPERVISION:

We have considered the feedback we received. But we do not propose to make any changes to the guidance material because the responses received did not challenge the content of the thematic report or the guidance material. Where comments were received or questions posed we have set out our responses above.

#### CASS:

We considered the feedback we received to this guidance consultation. But we have not made changes to the guidance

## Finalised guidance

A guide for SIPP Operators

material because the comments received did not challenge the guidance material. Comments received posed questions and requests to us and we have set out our responses above.

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[You can access the full text of the guidance consulted](#)

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