

## FEATURE HEAD TO HEAD

## SIPP REGULATION

## Six months on, what has been the impact of Sipp regulation?



JOHN MORET

Director of sales & marketing  
Suffolk Life



JOHN LAWSON

Head of pensions policy  
Standard Life Assurance

## PARTICIPANTS

**JOHN MORET:** It is a little early to form any conclusions on the impact of regulation but I am still of the view that one of the consequences will be consolidation. This will hit the smaller Sipp operators, where the full impact is yet to bite as they won't have had a regulatory visit yet and the warps in their business won't yet be exposed.

One thing that regulation has done is shift the axis of Sipp from the specialist operators and more into the packaged product arena, which in this context means life companies. They are writing significant volumes of Sipp, and the move has helped life companies in their relative competitiveness against other operators.

**JOHN LAWSON:** In theory that is true, but there is still no evidence. The only traditional insurer in the top players in the Sipp market is Standard Life. Suffolk Life is technically an insurer as well, but a Sipp specialist. According to a recent survey Aegon creeps in at number 10, but the other large ones are Hargreaves Lansdown, AJ Bell and Winterthur.

**MORET:** Aegon would probably argue it has many more Sipp than you suggest, but I sense there is change starting, because the regulatory framework that we now have is more easily accommodated by life companies than non-life companies.

**LAWSON:** I think you're right, John, but I hope the FSA as a risk-based regulator does not fail to visit firms with only 1,500 or even 1,000 Sipp because they are very small compared to the big players. There is no point in passing regulations unless you are prepared to enforce them and I don't think many of these firms really understand what regulation is all about. It is a lot more than just becoming regulated

– it goes to the core of your business and must be woven throughout it.

**FLOYD:** Will some of that regulation look at what actually constitutes a Sipp as that has become unclear since A-day?

**LAWSON:** It would be wrong for a provider to use the highly regarded Sipp brand to flog something that wasn't actually a Sipp. I'm not saying that they should have everything available because of potential tax liabilities. For example, we exclude some things, such as own company shares as you have to track ownership and I simply don't know how the firms that allow these know who is related to whom.

There are certain companies – probably insurers – who sell personal pensions that pretend to be Sipp but are not, as when you look below the surface, over 90% of the fund is invested in insured funds and that is a personal pension. As a comparison, our Sipp is only 40% in our own insured funds.

**MORET:** One can get too excited about what is and isn't a Sipp as there are various legislative and regulatory definitions, as from a regulatory position, a personal pension is a Sipp. The real issue is in respect of incentives, suitability, price and awareness of the end investor as to what they have actually got. There are occasions when investors might be misled and even though this is probably a perception rather than reality, it can be quite dangerous and is already leading to media comment that we could be on the verge of a mis-selling scandal.

The high ground is to offer everything, but in my view you'd be mad to embark upon that path if you are looking to grow and have a scalable business, because with some investments you have no idea what is

going on unless you employ people to track them and the risks of that far outweigh any particular gain. This is where we come back to regulation and risk management is simply not on the radar of many of the small operators at the moment.

**LAWSON:** I think some must be employing genealogists, because self-certification by the member is not good enough. On the issue of price, if people are repricing a personal pension and selling it as a Sipp, there may be a problem. You would expect Sipp to be more expensive for the investment choice and because you can't do drawdown or borrowing from a personal pension. But there may also be functionality that people want from a Sipp but without using the full investment choices.

**FLOYD:** However, there is such variance and it is not made clear just how 'full' a full Sipp should be.

**MORET:** We are constituted as a life company and our Sipp is restricted by the permitted links regulations. Others such as Standard Life are not as they are written under trust. This imposes some artificial restrictions as to what we can and can't do and as a result applies to some other companies.

There are probably six to eight broad categories of investment – almost the original list that Chancellor Nigel Lawson issued in 1989, such as shares, gilt, cash and property – and if any Sipp did not offer these including insurance company funds, then it is not a full Sipp.

*[Editor's note – since giving this interview, Suffolk Life has announced the launch of a new trust-based Sipp accepting protected rights.]*

**LAWSON:** Should we have a categorisation of three kinds of Sipp

agreed by industry, then, and if it had more than 80% of funds in own insured funds, it couldn't be a Sipp.

**MORET:** Possibly, but does it matter? What you need is a list of investments and a tick box which could be part of the key features. Provided customers see that up front, there is less scope for argument. It was fairly obvious in the last *PM* Sipp survey as to which companies were offering real Sipp rather than a little bit of window dressing.

**FLOYD:** Moving on to transfers. John [Lawson], you have said Standard life would allow in specie if you could get the Revenue to agree to changes, but without discretionary powers, any changes would have to be done through regulations.

**LAWSON:** We need a dialogue with the Revenue and Treasury to change the regime. In specie was never allowed for in the original finance act – it was someone's legal interpretation that you could do this as a two-stage process by stating a contribution and then matching it with an asset of equal value. The problem is getting the asset of equal value as they are almost always going to be valued on different dates.

**MORET:** I can't see why it is any different from cash. HMRC is making up the rules as it goes along, or is interpreting that there is no room to challenge it and no-one feels strong enough to really take them on. I would hope that common sense prevails, but I'm not sure it will.

There are also two particularly big issues with transfers. One is service levels across the industry – not just Sipp but occupational schemes as well where the variation in service is so variable and this is one area I would have expected the FSA to be ▶

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## ANALYSIS



**Providers, advisers and government must each contribute to success of Sipp rules**

Regulation of Sipp has only been with us for six months and we will not see its impact until we know how the FSA will operate within this new framework.

There are fears – and not unreasonable ones – that a risk-

based regulator will go for the big ticket business and leave the smaller players to their own devices. This would be a grave error. Despite a couple of wrinkles, Sipp have been hailed for their transparency and any regulatory shortfall would cast the shadow of mistrust and suspicion over the Sipp market and possibly pensions as a whole.

That said, the big players must put their own house in order, because it is difficult to argue that old-style commission structures fit within a new regime that puts the client at the heart of the process.

**“Regulatory shortfall would cast the shadow of mistrust & suspicion over the Sipp market and possibly pensions as a whole”**

Of course, RDR will deliver these changes, but not soon enough to prevent at worst further damage and at best greater confusion.

The government would greatly assist in this matter if the HMRC and Treasury were to treat fees and commission as one and the same.

The chances are in this environment that everyone would end up paying more tax but at least the cost to the client would be explicit and unequivocal.

Only time will tell.

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**“Regulation is about managing the whole business in a regulated way. That will be a reality check for many small businesses”**  
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keen on ensuring customers are being treated fairly, particularly in closed books.

The other more relevant to suitability is the issue of commission. I have felt for some time that paying a commission on transfer values is unhelpful and probably unjustified given that many of the accumulated funds will have had commission paid on them and doesn't represent a fair way of remunerating advisers. A number of issues around suitability and mis-selling would disappear if the commission on transfer payment regardless of the source was prohibited and all advice on payment transfers done on a fee basis that reflects the work done.

**LAWSON:** We use the customer remuneration basis as proposed by RDR. The money comes out of the product, but it doesn't mean it is commission. The customer agrees with the adviser how it will be paid and what the cost will be. Paying commission or fees out of the product is an efficient way for tax reasons.

**MORET:** I'm not saying that you shouldn't be able to be remunerated from within the fund, but the VAT position – whether described as a commission or a fee – is very confusing. Advisers receive different advice as to whether it should be VATable. If we could sort out this issue, it would facilitate a move away from the commission structure towards the CAR concept.

**FLOYD:** As an explicit figure?

**MORET:** It's much clearer if it is taken out up front – there's no argument. The advice costs £x and there may be some trail as well – although I do worry about the impact of trail. That is a much cleaner, more understandable concept and ultimately would reduce the risk of consumer detriment in the area of transfers. We need a sea change here if we are going to clean up the business.

**LAWSON:** It's not for us to regulate our advisers and the problem with an explicit figure is that you cannot express it as such as HMRC does not allow money to come from pensions that is described as anything but commission.

**MORET:** Arguably there's a distortion as the VAT position favours life companies over non-life companies with the establishment of an insurance contract. We have been looking at this for our Sipp, which is not an insurance contract, but if it is deemed a financial product – which I think it is – then it can probably be

treated in the same way as an insurance contract.

There is an issue on the regulation as we are talking about both occupational and personal pensions and FSA regulation does not cover occupational.

**LAWSON:** Although the TPR has said it would work closely with the FSA in looking at regulation.

**FLOYD:** Would you summarise your main points on the Sipp market and how you think it will develop over the coming year and what will come from RDR.

**LAWSON:** RDR won't have any impact in the next year – that is a 2010 issue. I would like to see more providers who have payment coming from the product working on a CAR basis so the customer knows explicitly what the price for advice is. The impact of FSA regulation will be if the FSA manages to visit most providers and uncovers some significant issues – this may hasten the shakeout among the smaller providers. Regulation is about managing the whole business in a regulated way which includes collecting management information, risk management, robust processes and above all, professional compliance staff who understand the FSA's requirements. That will be a reality check for many small businesses.

**MORET:** Regulation will have an impact over time. On regulation there remains some confusion as to what is regulated activity and what is not and there are certainly some operators, probably from the SSAS background which are looking at structures that take them outside of regulation, in bare trust structures which would be unhelpful.

Regulation will take a while, but over the next 12 months, we will start to see something's happening.

The whole area of advice is key – the RDR is about two or three years off so there will be no obligation to change before then.

The other issue is transfers and the need to do something and there is no reason that couldn't start tomorrow if there was willingness across the industry and the industry has probably got enough on its plate at the moment.

Overall, regardless of where you sit in the Sipp market, subject to any further surprises the prime minister may have for us tax-wise, all the important indicators are very positive indeed and that is why the growth will continue. **PM**