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Deputy John McGuinness
Chairperson
Joint Committee on Finance, Public Expenditure and Reform, and Taoiseach
Leinster House
Kildare Street
Dublin 2

By email: financecommittee@oireachtas.ie

1st May 2024

Re: Standard Life 'Global Absolute Strategies Fund' (GARS)

Dear Deputy McGuinness

Thank you for your letter of 13 March in relation to the Standard Life 'Global Absolute Strategies Fund' (GARS). You will understand that it is not possible for the Central Bank of Ireland (Central Bank) to comment on, or provide detail of any specific supervisory engagement in relation to this fund with individual regulated firms. However, as requested by the Committee, I enclose general information on the Central Bank's regulatory role in relation to the sale of insurance based investment products and the regulatory requirements that apply when such products are sold to consumers.

Overview

The Central Bank regulates financial service firms that operate in Ireland, including non-life, life, and reinsurance firms, and intermediaries that provide investment advice and sell insurance based investment products.

Insurance based investment products can be sold by life insurance firms or through intermediaries. The GARS fund was authorised under the UCITS Directive. It is common for unit linked life insurers operating in Ireland to offer policyholders various fund options that are accessed by the insurer investing in the underlying UCITS. I understand the GARS fund was available to Standard Life retail customers from 2008 to 2023.



Regulatory framework

The Insurance Acts and Regulations require an undertaking to hold an authorisation under the Solvency II Directive if they wish to carry out insurance business. Under current requirements an insurance intermediary must be registered under the European Union (Insurance Distribution) Regulations 2018 (IDR), if they wish to carry out the activity of insurance distribution, including the provision of advice in relation to insurance products. Investment intermediaries must be authorised under the Investment Intermediaries Act 1995 (IIA) and investment firms must be authorised under the Markets in Financial Instruments Directive (MiFID) to provide services with respect to MiFID instruments.

Insurance firms and insurance intermediaries operating in Ireland are required to comply with the conduct of business rules, all other relevant consumer protection legislation and the overall requirement for firms to act in the best interests of consumers. These protections apply to firms regulated in Ireland and also those firms operating on a freedom of establishment or freedom of services basis (i.e. firms established in other EU jurisdictions and selling insurance products in Ireland).

All regulated firms are required to meet specific requirements when providing investment advice and selling products to retail investors. These requirements apply whether a product is sold directly or through an intermediary, and applied throughout the period that this fund was available. For example, regulated firms must:

- Act in the best interests of consumers at all times;
- Make sure any product recommended is suitable for the consumer (by completing a thorough suitability assessment);
- Explain the potential disadvantages/risks as well as the potential benefits of the investment;
- Consider the consumer's attitude to risk; and
- Provide consumers with detailed risk disclosures/warnings in all marketing material, making sure any communications they give a consumer are clear, accurate, up to date and written in plain English.

Provision of information to consumers

When providing advice on an insurance-based investment product, the insurance intermediary or insurance firm must obtain the necessary information regarding the customer's knowledge and experience in the investment field relevant to the specific type of product or service offered. Information must be gathered on an individual's financial situation and investment objectives, including the ability to bear losses, and that individual's risk appetite, to enable the firm to recommend products that are suitable for their circumstances.

For products sold since 2018 insurers and intermediaries have been required to provide a Key Information Document (KID) for insurance based investment products. This is a document containing all the essential information about the product. It also has a standardised format so that consumers can easily compare different products. The following information is included in a KID:

- What the product is, along with its objectives and who it is intended for;



- The level of risk it contains, in a form of a risk indicator with a score from 1 (lowest-risk) to 7 (highest-risk);
- What you can get in return;
- What the costs are;
- What happens if the insurer is unable to pay out;
- The recommended holding period;
- Options for earlier termination; and
- What you can do if you need to need to lodge a complaint.

In addition, under current requirements standardised disclosures are required for investment products in line with the packaged retail and insurance-based investment products (PRIIPs) requirements. PRIIPs include investment funds, life insurance policies with an investment element, structured investment products, structured deposits and financial instruments issued by special purpose vehicles that meet the definition of PRIIPs.

Consumer Complaints

As set out in the Consumer Protection Code, any consumer who is not satisfied with how a regulated firm has dealt with them in the course of providing a service, can make a complaint directly to the regulated firm. As the Committee is aware, if a consumer is not satisfied with how their complaint is dealt with, they have the option of then making a complaint to the Financial Services and Pensions Ombudsman (FSPO), which is the statutory officer who deals independently with complaints from consumers about regulated financial service providers and pension providers.

We continue to welcome any information about regulated firms that can inform our supervisory engagement and ensure that we continue to protect the interests of consumers. If there is any specific information or evidence of concerns that the Committee wishes to share with the Central Bank we will review it in detail in the context of our work.

I hope that the information outlined is helpful and I thank you once again for your letter.

Yours sincerely

A handwritten signature in blue ink that reads "Colm Kincaid".

Colm Kincaid
Director of Consumer Protection