



RISK ALERT - PROBATE & PPI CLAIMS

The deadline for submitting compensation claims for the mis-selling of payment protection insurance, ("PPI"), is 29 August 2019. As that date approaches, some industry stakeholders have expressed concern that claims management companies may intensify their recovery efforts by seeking to re-direct unrealised PPI claims to fiduciaries, including solicitors who may have been involved in the administration of a deceased's estate.

THE RISK

Claims management companies may seek to argue that fiduciaries, (and/or their advisers), are liable to their clients' estates for failing to adequately investigate entitlement to compensation in relation to the mis-selling of PPI.

WHO IS AT RISK?

Fiduciaries who may be at risk include Solicitors, personal representatives, attorneys under enduring or lasting powers of attorney, Court of Protection deputies, trustees in bankruptcy and supervisors of individual voluntary arrangements.

MINIMISING THE RISK

Whilst claims management companies wishing to pursue fiduciaries in this way face a number of practical barriers, the following steps may assist firms in reducing their exposure to these potential claims:

- Will you be administering an Estate prior to 29 August 2019? If so, you may wish to consider STEP guidance which recommends firms including specific provision as to their responsibility to check the estate for PPI in their retainer;
- In respect of historic matters, do you consider your firm to have been under a duty to pursue PPI on behalf of an estate? If so, you may wish to review these matters, noting that August 2004 is the 'long stop' date for the purposes of limitation.

NB: - The existence of a duty in this respect will depend on the factual circumstances of each case, your firm is best placed to assess your obligations, though further guidance may be obtained by contacting the Law Society's Practice Advice Service on 020 7320 5675.