24 March 2015

Response to the 2015/16 FCA Business Plan – Market Study on Asset Managers

The UK regulator is behind many other national regulators in addressing misleading fees and marketing materials.

Whoever forms the new government, one of their first actions should be to set up an independent commission into this vital industry that pretends to safeguard the public's savings and investments.

Yesterday's 2015/16 FCA Business Plan[1] *stated that the FCA will* launch a market study on asset management in 2015/16 to examine the charges paid by investors, and the factors that drive those charges. It will also look at whether UK funds match what is in their marketing materials.

Why is the FCA so far behind other regulators? The evidence that firms are not following the FCA's overarching principle of communicating in a *'clear, fair and not misleading'* manner is overwhelming.

- The FCA latest investigation into fund charges may only formally start in 2016 and does not even have a formal end date (the report says '*end date TBC*')
- The FCA last conducted a review of fund charges in May 2014[2] which amounted to just 13 pages and relied on the largest UK trade body, the Investment Association (IA), to somehow sort things out, inevitably resulting in absurd, misleading and partial cost disclosures[3] which the FCA later admitted '*might not give investors a comprehensive picture of the total cost*'[4]
- By the time the FCA has once again looked into fund charges, the European regulator, ESMA, will have already provided comprehensive guidance on MiFID II text which calls for '*The information about all costs and charges, including costs and charges in connection with the investment service and the financial instrument……shall be aggregated to allow the client to understand the overall cost as well as the cumulative effect on return of the investment, and where the client so requests, an itemised breakdown. Where applicable, such information shall be provided to the client on a regular basis, at least annually, during the life of the investment'* which comes into effect in 2017.
- The UK industry, through its mouthpiece, the IA, continues to behave unethically by actively encouraging the UK regulator to flagrantly breach future EU law[5] and to only show part of the costs

[1] http://www.fca.org.uk/static/documents/corporate/business-plan-2015-16.pdf

[2] https://www.fca.org.uk/static/documents/thematic-reviews/tr1407.pdf

[3] TR 14/17 Clarity of fund charges May 2014 – '*We will continue to work with the Investment Management Association (IMA) on this matter. The IMA has issued voluntary industry guidance on enhanced disclosure of charges and costs and has consulted on introducing a template presenting information about performance and charges into funds' annual reports and accounts. This will provide more information on charges to investors*.'

[4] FCA Quarterly consultation No.5 June 2014

[5] http://citywire.co.uk/wealth-manager/news/ia-stands-by-charge-disclosure-plans-despite-potential-mifid-ii-clash/a797514

to investors before they invest rather than add up all the costs as clearly stipulated by the EU parliament.

- One of the most widespread consumer abuses in the UK, in which funds do not match their marketing materials is 'closet indexation', where funds charge for being active but are in fact almost identical to the market. SCM Direct first exposed this widespread fraud in September 2013[6] which we estimate has cost UK investors £3.8 Bn over the last 6 years alone. These practices are being investigated and actioned by regulators and governments in Sweden, Holland, USA, Australia, and by the European regulator, ESMA. Yet the FCA has not announced ANY formal investigation nor fined ANY fund.

Gina Miller, founder of SCM Direct and the True and Fair campaign commented:

'The FCA has stated its three key operational objectives - To secure an appropriate degree of protection for consumers, to protect and enhance the integrity of the UK financial system and to promote effective competition in the interests of consumers. Call me naïve, but it's this what we should all be doing in our businesses every day with every client?

Successive UK regulators have allowed consumers to be abused, and for the industry to behave unethically and act as a cartel. Surely the misleading fees and marketing documents need to be addressed decisively by the FCA through direct action and fines, not more reviews, reports and consultations.

Millions of pensioners and savers are being ripped off on a daily basis. Everyone knows who the criminals are and where they can be found. We do not need a UK regulator to write reports, we need a regulator who takes action.

The elephant in the room is whether the continued refusal to act is connected with the revolving doors between the regulator and the industry? There may well be conflicts of interest within the regulator if senior personnel can leave the FCA and walk into highly paid jobs within firms they were regulating.

We urgently recommend a formal independent review of the UK asset management sector with its recommendations enacted by the sitting government and for there to be minimum 12 month window before senior FCA personnel can be employed by any regulated firm. This would allow UK investors to have the investment industry they deserve founded on ethics and honesty rather than the present institutionalised system of fraud.'

End

Notes to Journalists:

SCM Direct.com is a fair, innovative on-line wealth manager, offering investors low cost access to high end investment management. The team are respected for their integrity and thrive on their passion for delivering the best possible investment outcomes for clients. This is achieved through a winning combination of expertise, evidence and ethics, all at total transparent low fees and with 100% transparency of holdings. The founders believe actions speak louder than words and invest significant amounts of their wealth alongside clients, on exactly the same terms and fees.

In January 2012 SCM launched the True and Fair Campaign - www.trueandfaircampaign.com - calling for 100% transparency on fees and holdings, and a Code of Ethics, believing these actions would lead to

[6] http://www.scmprivate.com/content/file/knowledge/research/closet-indexation-report-full-sept-13.pdf

significantly higher levels of consumer protection for UK investors. Having achieved major successes in their fight for total cost transparency via two European Directives, SCM and its campaign is now focusing on transparency of holdings.

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