SCM Direct Response to MS15/2.2. Asset Management Market Study

Overview

The 208 page FCA asset management market study published on 18th November 2016 is a comprehensive and informed analysis of the numerous dubious practises that have dogged the UK fund management industry for decades. Whilst the findings present a significant challenge to the asset management sector, firms cannot say it was unexpected as they have been walking a tightrope in terms of following their moral compass and the principle of putting customers first.

SCM understands from various sources that the investment industry and its mouth piece, the Investment Association, has commissioned flawed research to dispute the FCA's report and findings. This follows from their similar attempt, published just before the Asset Management Market Study ***"Hidden Fund Fees: The Loch Ness Monster of Investments?"***[1] which has been rightly criticised by academics and ourselves for being amateurish, fundamentally flawed and wholly misleading.[2] In fact it calls into question whether the main board IA directors, that includes the Chief Executives of major UK fund management companies, are 'fit and proper persons' as they must have knowingly 'signed off' this deliberately misleading report.

These actions raise a very important issue. The UK trade body and large firms have attempted '***regulatory capture***'[3] by falsely re-assuring regulators that self-regulation whereby they clean up the industry is the optimum route. Their action in commissioning deliberately misleading research reports aimed at denying and obfuscating any major issues found by the regulator are evidence of this process. It is vital that the FCA sees responses from the industry and its trade body in this context.

Lack of Competition

SCM Direct has analysed the retail classes of a significant number of active funds sold to UK investors and uncovered evidence of a complete lack of price competition whereby the underlying charge by fund managers has remained identical for many years – even post RDR. The findings are so shocking as to suggest there may have been informal price collusion between major fund groups. SCM is not

[1] http://www.theinvestmentassociation.org/media-centre/press-releases/2016/hidden-fund-fees-the-lochness-monster-of-investments.html

[2] https://scmdirect.com/sites/default/files/SCM%20Direct%20-%20True%20and%20Fair%20Campaign%27s%20Response%20to%20the%20IA%20Research%20on%20Costs%20-%20Aug%2016%20w.pdf

[3] Regulatory capture is a theory associated with George Stigler, a Nobel laureate economist. It is the process by which regulatory agencies eventually come to be dominated by the very industries they were charged with regulating.

aware of any other industry in the world in which the underlying fee charged by the vast majority of companies for its products was found to be **identical**. This research will be published shortly and backs up the findings of the FCA Asset Management study. We would be happy to discuss the findings and any other matters directly with the FCA.

Questions for feedback

1. What is the likely effectiveness and proportionality of:

– the FCA setting out its expectations about how AFMs should demonstrate that they are acting in the best interests of unitholders

– governance reforms to help ensure firms comply with their responsibility to act in the best interests of unitholders

– the specific options (A-F) set out above

Only compulsory guidelines will be effective in ensuring that AFMs act in the best interests of unitholders. We have seen countless voluntary codes that are either ignore by many groups or only followed by those which were already meeting the requirements. For example - when the IA itself asked its fund group members to formally put clients interest first[4], only 20% were willing to sign up to their voluntary code.

The fact that most AFMs seemingly do not challenge in any way the standard 0.75% AMC irrespective of size of fund, is an indictment of their lack of ability or interest in Treating Customers Fairly. This is in sharp contrast to the rules in the US where the majority of AFM boards are independent and there is a fiduciary duty to pass back economies of scale to investors.

The US model, which has proved successful over many years, appears to be closest to option E:

***Replace existing governance structures with new body: Replace AFM Boards with majority independent fund boards, similar to the US Mutual Fund structure, with their responsibilities underpinned by the SM&CR**.*

As our previous 2014 report[5] found 'In the UK the largest sized funds charged just 6% less than smaller funds compared to 33% less in the US. This is largely because US funds are run by independent boards, mandated to pass economies of scale back to investors'.

2. Do you have views on how firms should demonstrate that they have acted in the best interests of investors?

[4] https://www.fundstrategy.co.uk/godfrey-disappointed-ia-statement-principles-decision/

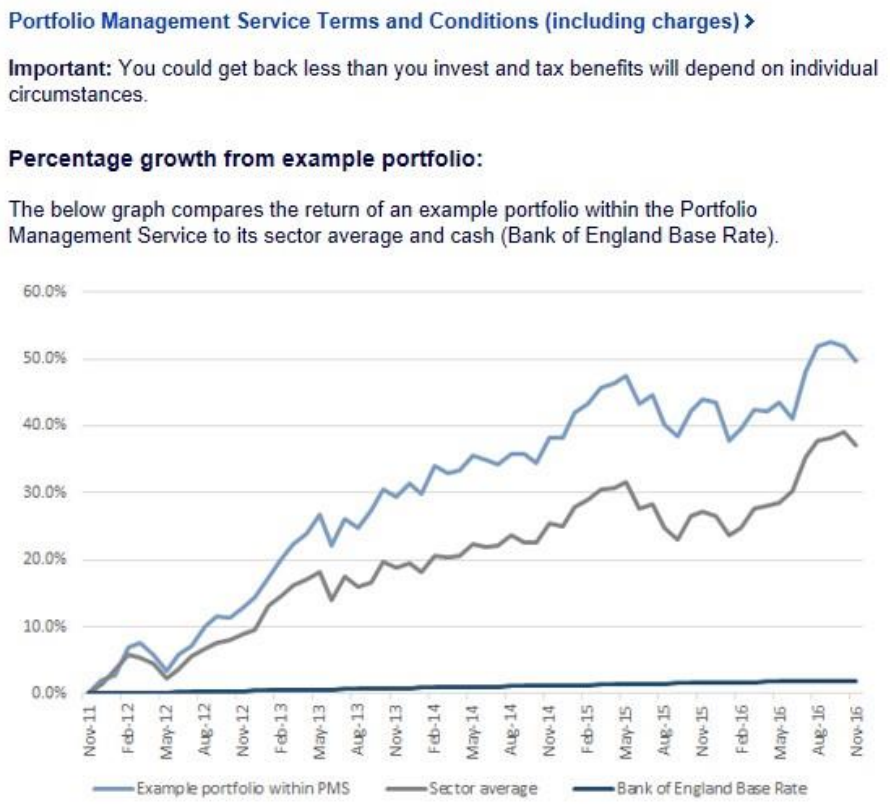
[5] https://scmdirect.com/sites/default/files/FINAL%20True%20and%20Fair%20Campaign%202nd%20Anniversary%20Report%202014%20(Secured).pdf

Asset managers must document, in writing, best practices when dealing with clients and supply clear examples to the FCA e.g. specific examples of turning away clients when the product would not have been suitable, showing communications in a balanced way in which drawbacks as well as opportunities are highlighted.

Unfortunately, our experience shows that despite extensive internal compliance departments, practises within many of the largest firms are actually the poorest. This may well be because of the internal culture of internal compliance departments being encouraged to stretch the regulatory boundaries to the maximum due to pressures they face from their CEO's, fearing that a less aggressive stance would endanger their own future and remuneration, and overall firm profitability.

As an example of a large firm' poor communication – Hargreaves recently widely marketed its Portfolio Management Service[6] with a link to its website with no guide to likely charges, save an almost incomprehensible eight page Terms and Conditions document[7] which contained no illustration of actual charges or even attempts to show the level of underlying fund charges for the service offered. The main page[8] also shows a performance graph of an 'example portfolio' without any detail of what this 'example portfolio' might be, does not indicate the name of the specific sector used for comparison and fails to show any individual years' performance. One has to assume that such an important service must have been 'signed off' by internal compliance within Hargreaves.

The question is whether an external specialist compliance firm would have allowed this to go out?



Source: Hargreaves

[6] http://www.hl.co.uk/financial-advice/professional-portfolio-management
[7] http://www.hl.co.uk/__data/assets/pdf_file/0006/7312551/PMS-Terms-and-Conditions-of-business0913.pdf
[8] http://www.hl.co.uk/financial-advice/professional-portfolio-management

Suggestion: FCA should mandate, that an independent compliance person or firm should audit the firm at least once a year and make proof of acting in investors best interests as the over-riding principle. This could follow similar rules that apply to Company Report & Accounts.

3. Do you have views on how governance should work to ensure firms act in the best interests of investors?

The FCA should set out clear guidelines to be adopted into asset managers' governance bodies and implemented by their operations. The transparency measures introduced through existing MiFID and PRIIPS initiatives should contribute towards enhanced clarity of information for investors. The FCA's suggestion of a 'strengthened' duty of care to enhance the best interests of investors is an excellent one as it should change the way the market operates, and serve to augment existing best practice. With the Senior Managers Regime, there should also be increased accountability.

The FCA should be implementing rules that outline the critical transparency drives in terms of fees and costs, including penalties for non-compliance.

4. Are there any logistical challenges and unintended consequences that should be taken into account? If so, how could these unintended consequences be overcome?

Common sense and the mitigation of conflicts of interest can almost always be used to reduce 'unintended consequences' – unfortunately there will always be some form of challenge or unintended consequence but these will not be significant in our view. In the area of transparency of fees and costs, the FCA should be seeking to mandate the format that Costs should be displayed to ensure comparability and consistency, as well as ensuring firms do not 'game' the requirement.

5. Are there advantages to the FCA recommending the government introduce a fiduciary duty by statute which could not be achieved through regulatory reforms?

It would be sensible to combine the two approaches. The SEC has recommended the following approach[9], with which we agree:

'The Investor Advisory Committee believes that personalized investment advice to retail customers should be governed by a fiduciary duty, regardless of whether that advice is provided by an investment adviser or a broker-dealer.

The Committee further believes that the fiduciary duty for investment advice should include, first and foremost, an enforceable, principles-based obligation to act in the best interest of the customer.'

Why not combine the fiduciary duty with regulatory reforms to ensure the best protection?

6. Are there better alternative supply side remedies that would encourage asset managers to demonstrate that they are providing value for money?

[9] https://www.sec.gov/spotlight/investor-advisory-committee-2012/fiduciary-duty-recommendation.pdf

The easiest and quickest solution for value for money to be demonstrated is by showing clearly the sum of all fees and charges faced by consumers via a common FCA endorsed template to ensure easy comparability amongst providers and products.

It would be helpful if the FCA calculated the industry standard charges for the various layers (as it already has given estimates for some of these elements within the Asset Management report) to ensure the industry uses the same comparisons in any table. This would immediately highlight to consumers the areas of charging that were higher or lower than the industry norm and lead to genuine price competition.

7. The likely effectiveness and proportionality of the:
– single charge remedy to incentivise asset managers to control the charges taken from funds –
the specific options (A, B, C, D) set out above

We believe that a mandatory single fixed charge might push up overall charges as fund groups would want to 'price in' the extra risks attached to higher costs for themselves during periods in which the fund dealt at higher than normal levels. Additionally, it would give a significant conflict of interest for many fund groups as they would be financially incentivised not to deal to increase their own profits at the expense of their clients.

SCM believes the best option is the one used by our company since launch in 2009 on our monthly factsheets. Fund managers would reveal the Total Cost of Investing of the actual OCF charge, together with an estimate of the implicit and explicit transaction costs which are updated monthly:

Fees & Charges	TRUE FAIR
ANNUAL MANAGEMENT CHARGE: 0.4% +VAT	**0.48%**
Underlying ETF costs (TER)	*0.35%*
Est. Dealing Costs (based on last 3-year annualised portfolio turnover of 30.6%, a recent weighted average spread of c. 0.52%, and a 0.07% commission rate)	*0.20%*
Custody & Administration fee	*0.20%*
TOTAL COST OF INVESTING	**1.23%**

This matches option B:
The current OCF becomes the actual charge, with managers providing an estimate of any implicit and explicit transaction costs. This would be similar to A, above, but would oblige asset managers to provide an estimate of the transaction costs the fund will incur. This option would enable easier comparison of the likely total charges across different funds.

8. Any unintended consequences of:
– single charge remedy to incentivise asset managers to control the charges taken from funds
– the specific options (A, B, C, D) set out above
– and how we can overcome any of these unintended consequences

A: The current OCF becomes the actual charge that is taken from the fund.

It is inevitable that this option would lead to pressure from senior management on fund managers to trade less to maximise firm profitability. It is very hard to envisage any reforms that would remove this inherent conflict of interest.

C: There is a single charge which includes all charges taken from the fund, including both implicit and explicit transaction costs, but with an option for 'overspend'.

This raises the almost impossible task of setting out what exactly is an 'exceptional circumstance'. Every time a fund manager deals, by definition, might be deemed an exceptional circumstance given that for the majority of times during the day or week the position in a security (excluding new investment/redemptions) stays the same.

D: There is a single charge which includes all charges taken from the fund, with no option for overspend.

This would cause even greater conflicts of interest than A, C or D in our view. We believe investors do not want necessarily a charge that is set in stone if this does not serve their best interest. What matters more than anything else is being given a full and realistic estimate of the likely charges.

Consumers understand that these charges may fluctuate from year to year. The fixed precision of these A, C and D options will inevitably come at a huge cost in terms of higher overall fees as fund groups price in their extra risks associated with these pricing models, or by them not making investment decisions on their own merits in order to safeguard the firm's profitability.

9. Do you think that the scope of this remedy should be limited to retail investors or should it be extended to other types of investors?

The remedy, which we believe to be Option B, should be applied and implemented regardless of the type of investor. There is need for consistency across the industry to avoid misinterpretation of which rule applies to which subsector. It is a fallacy in our experience to believe that many professional investors are either more knowledgeable or more diligent in assessing costs and charges.

A presentation we made to a large group of pension fund trustees on the subject was met with widespread apathy and complete ignorance. In fact, the 'professional' consulting actuary who followed our presentation told the same trustees that all they needed to know was the overall aggregate pension fund turnover levels rather than the particular turnover and attendant costs associated within each asset class that the pension fund was invested.

10. Whether there are better alternative remedies or pricing models that would encourage asset managers to control the charges taken from funds?

The best option in our view is combining Option B with online fund calculators that show each potential investor the amount they would be charged for each fund over the course of their investment in £ and as a percentage. Such online calculators would allow the investor to see the actual charges faced by

differing levels of investment, time period or underlying return - https://scmdirect.com/investmentcost-calculator

11. Do you agree that risk-free box profits should be used solely for the benefit of the fund and not be permitted to accrue to the asset manager?

Yes completely – it is grossly unfair that fund managers should be allowed to profiteer by simply matching buyers with sellers of their funds. Investors are clearly unaware of such practises. Either the spread in such circumstances should be eliminated, or the gain go back into the fund to benefit all investors rather than solely the fund manager who is benefiting from a completely risk free activity.

It is interesting to note that such practises have been deemed unethical within the industry for many years[10] and appear to breach the fundamental principles of Treating Customers Fairly.

For example, SCM has found that the amount earned by Jupiter plc from such box profits and initial charges combined amounted to £18.8m in their 2015 accounts:

- Gross management fees, £370.1m;
- Performance fees, £14.6m;
- Initial charges and box profits, £18.8m;

Investors are unable to scrutinise these box profits as it is not possible to tell, either from forecasts or after the event, if the price any one customer has paid for their units covered the costs of their transaction or contributed to the asset manager's box profit.

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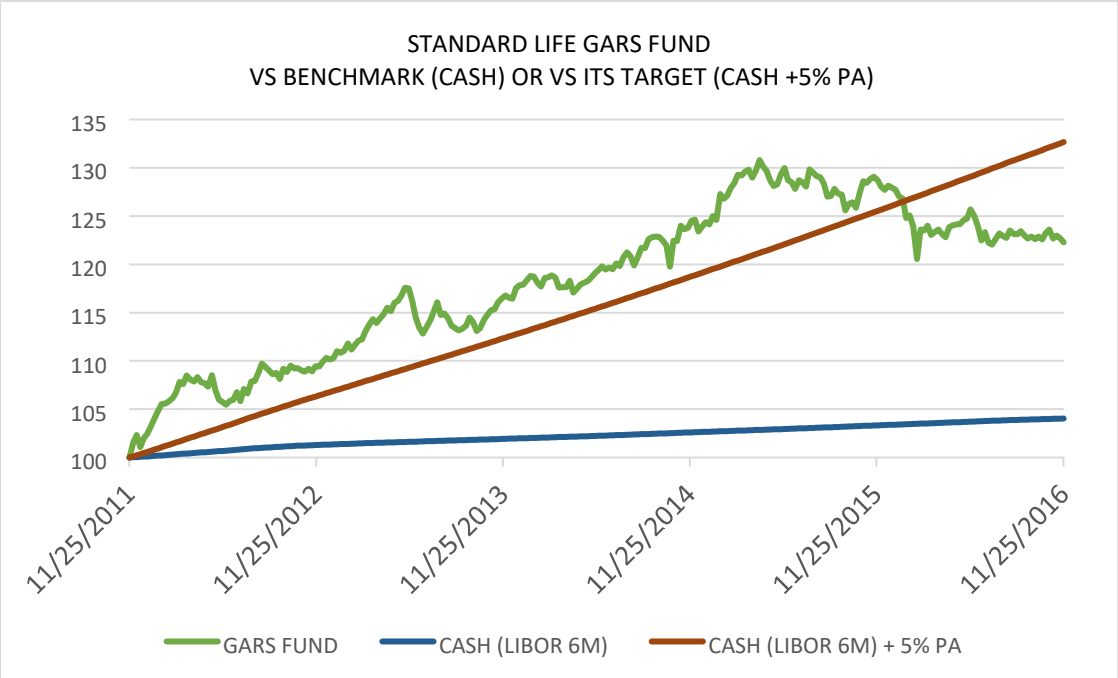
12. Would it be proportionate and effective to require fund managers to be more specific with investors by clarifying an upfront objective and tracking performance against that objective over an appropriate time period?

This is not as clear cut as it would first seem, as it will depend on the relevance of the objectives set and the conditions which applied over the time period in which the comparative is used. For example, many funds have an objective to beat cash but given they may have invested in a mix of bonds and equities, any performance graph over the last few years would inevitably show their performance being significantly ahead of the target which is often almost indecipherable from the x-axis given low interest rates. Does such a graph with a nominal cash return comparison give a misleading impression to investors that the gap between equity/bond returns and cash returns is likely to be as wide as it has been over the last few years?

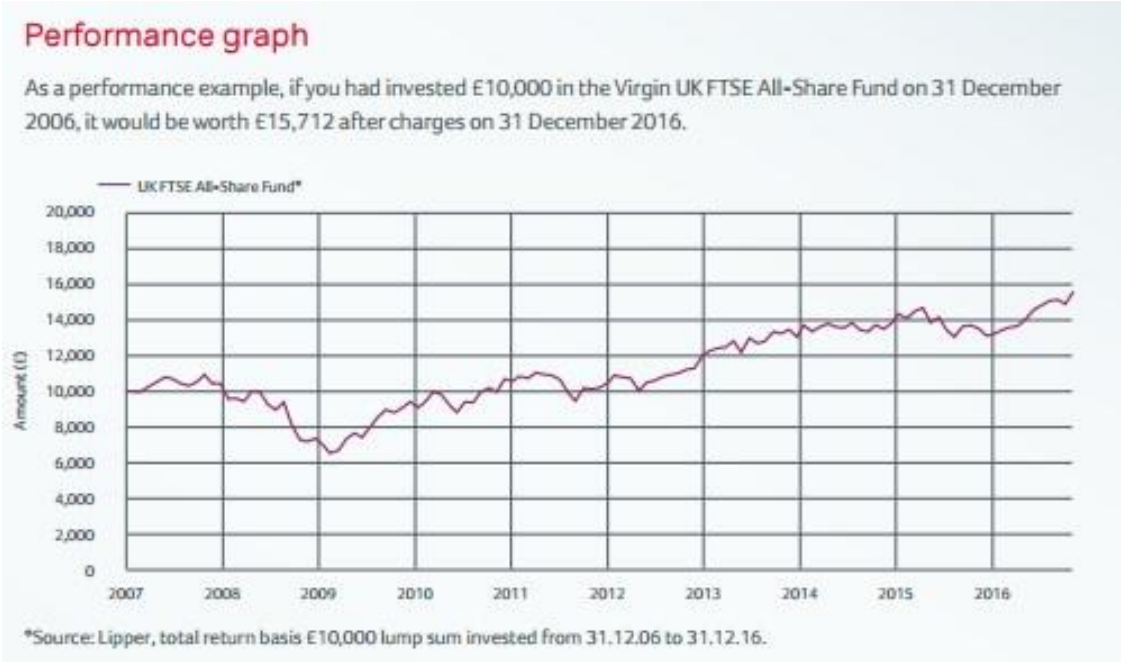
Surely the most important question is whether the comparative line gives investors a more or less realistic view looking forward? This is therefore subject to inherent judgement on a case by case basis – the regular statements issued by the fund manager will of course show the comparative performance vs benchmark anyway.

[10] https://www.ft.com/content/334ffcea-8d9c-11e2-9a8a-00144feabdc0

For example, the graph below shows the performance of the Standard Life GARS fund against its benchmark and its target. A graph of simply the benchmark comparative return (as used by Standard Life in its factsheets) gives a completely different view to that of the target return for the same fund:



Similarly, an index fund should of course show its performance against the index that it seeks to track to avoid misleading investors. An example is this graph of the Virgin UK FTSE All-Share Fund[11] shown in marketing materials shown below, followed by its actual performance vs its (index) benchmark:



Source: virginmoney.com

[11] http://uk.virginmoney.com/virgin/assets/pdf/ut_virgin_uk_ftse_all_share_fund.pdf

This is the same graph but showing its performance against the index which it seeks to track:



Source: Bloomberg

13. How should fund managers and other market players communicate to allow investors to judge success over an appropriate time period? In what circumstances, would it be appropriate to provide comparators, for example, performance of passive funds in the relevant market?

This is a very complex issue and the risk is always that fund managers will inevitably choose whichever comparison that shows their fund in the best light. How would the regulator enforce that all comparisons are in reality clear, fair and not misleading? Sometimes, it may be easy to find a fair comparison and help investors compare their fund with appropriate indexes or funds, but not always.

A better approach may be for a fund / portfolio to be 100% transparent in terms of all holdings, which would allow investors to understand what the fund holding to produced its performance, and gain a better tool for comparing with other funds or investments that the investor is contemplating.

14. Should we set out our expectations on using benchmarks, particularly when benchmarks are used to trigger performance fees?

Yes. It is right that when benchmarks are set that they fulfil the objective of matching either the targets of the investor e.g. to beat cash or inflation, or the asset class invested e.g. the FTSE 100 index etc. Regarding performance fees, such benchmarks are even more important as they determine the fees paid by investors and it is important in such cases that they are not just fair and appropriate to the investment strategy, but can also be understood by investors. The calculation of some performance fees can be highly complex and thereby almost impossible for end investors to understand.

15. Should managers be required to take action when funds are persistently underperforming and, if so, what form should this action take?

It is right that managers are encouraged to take action when funds are persistently underperforming but the action should be a review first. It maybe that the underperformance has simply been the result of a consistent style of stock selection which has been out of favour, rather than evidence of poorly applied and thought out securities selection.

Again, a thorough analysis needs to be taken and the fund management group should protect investors best interests by changing the manager, style of investment or closing the fund in circumstances where the analysis shows this is likely to be the best outcome for its investors.

The danger is that an investor who has suffered such losses is effectively forced to crystallise that loss if the group does not allow the investment bets or style to be tested over a longer time period.

16. Is there a role for the regulator in 'shining a light' on poorly performing funds and if so what form could this take?

Yes, as this would inevitably be a more independent and professional analysis than many 'independent' firms that are often conflicted by existing business arrangements. It would also encourage fund groups to take appropriate action as described above.

17. Are there likely to be any unintended consequences and, if so, how could they be overcome?

This will of course depend on the manner in which such an exercise is undertaken. For example, the FCA might want to perform a review of retail index funds to show which had the greatest tracking difference over prolonged periods.

The FCA might choose to highlight a £2.8bn UK equities index tracker charging 1% pa whilst identical funds charge 1/10th of this fee and which has underperformed its (index) benchmark by 3.4% pa over a 10-year period. By bringing such examples to the public attention, investors could save significant sums – for example had investors switched from this fund into the Vanguard equivalent, they would have been 36.66% better off over the 10 years to end December 2016. This would equate to saving an extra £1.03 bn based on the current fund size.



Source: Bloomberg

18. Are there other metrics/indications/pieces of information that could give investors better insight into likely future returns?

    The best metric is the long-term return (over 20 years) of the particular asset class adjusted for the total fees (including transaction charges) charged by the product.

    For example, a UK equities fund might want to illustrate likely future returns by showing that over the last 20 years, UK equities (FTSE All-Share Index) has returned 6.65% pa and since the fund has a total charge of 1.2% pa, one would expect before any extra value added or subtracted from stock selection, a return of 5.45% pa. By showing long term annualised returns of assets, it reduces the likelihood of investors having unrealistic expectations solely on the basis that the fund or its market performed very well last year.

19. Do you agree that the focus of any remedies in this area should be on investors in scenarios 2 and 4 outlined above?

    Yes.

20. What would be the most proportionate and effective way of moving investors into cheaper share classes? Can you provide an estimate of the cost of moving investors to cheaper share classes and how these costs would arise?

    Not our expertise.

21. Are there any potential unintended consequences of remedies in this area?

It might crystallise tax liabilities associated with the crystallisation of a capital gain.

22. What is the likely effectiveness and proportionality of:

– remedies which aim to introduce further cost transparency and aim to encourage retail investors and their advisers to become more price sensitive

– the specific options (A, B, A+ and B+) set out above and alternative remedies that could be introduced

This is vitally important and urgently required. Denying investors to see the true total cost of their investment is denying them the most basic of consumer rights.

It is a travesty that fees or even examples of fees are not shown on a significant number of financial adviser websites. Most investors will not see the fees until they are effectively signing up to the advisers' recommendations, by which time they will have effectively committed to going ahead anyway. The fact that many advisers are placing clients' assets on platforms that can charge up to twice as much as their competitors is another example of the complete lack of interest in this area.

The most true and fair solution is total cost transparency utilising an easy to understand template of all costs and charges, added up and shown in £ and %, illustrating the impact of such charges over different time periods. This should be presented to all clients at the earliest stages of the engagement process.

There should also be the threat of disciplinary action when advisers found to be charging excessive fees and not acting in the best interests of their clients. For example, if an adviser makes large initial and ongoing charges, invests via an expensive platform in a very low yielding, high charging bond fund, how could a client expect to receive any return after fees? How can such a sale or recommendation be in that clients best interest?

23. What would be the most effective format and mechanism to increase investor awareness of the impact of charges?

Our work through our True and Fair Campaign has shown that when investors have a common understandable template, akin to a food label, it not only hugely increases understanding, it enables product comparison across a wide range of products. It is imperative that the FCA mandates a common label that is understandable and comparable across all investment products.

24. Would there be unintended consequences of:

– remedies which aim to make investors more price sensitive and, if so, are there ways in which unintended consequences could be overcome?

The problem will be that by focusing solely on cost, it may encourage a race to the bottom and investors being sold funds which offer low costs but also very low returns or very high risk. In our view, it is therefore imperative for managers and investors to be shown and understand the balance and tradeoffs between Cost, Risk and Returns.

– the specific options (A, B, A+ and B+) above and ways in which we could overcome any unintended consequences?

We have developed a label[12] to show the various costs that can be shown at the point of sale disclosure and thereafter.

Sample Label

The final format would be assigned to an independent organisation

	%pa	Notes (All calculations based on minimum required investment or typical size if no minimum)
% Annual Management Charge (AMC)		
% Custody & admin costs etc		
% Performance fee		Based on 12 months disclosed performance fee or average of up to three years if data available.
% Dealing costs		Based on latest 12 months or average of up to three years if data available. Dealing costs = Portfolio Turnover Rate X estimated full cost buying/selling underlying assets. Most funds will simply use a common agreed schedule of costs.
% Any other costs		E.g. extra costs of underlying funds when investing in a "fund of fund" structure if not already included above.
Less any other recurring revenues		E.g. net securities lending revenues or other recurring income received based on last 12 months or average of up to last three years if data available.
Total Provider Cost (TPC)		**This is the figure that should be advertised by fund managers.**
Platform fees via Sales Channel A		Where not already included in above figures.
Entry / Exit costs via Sales Channel A		Any charges should be amortised over five years as the assumed length of investment unless stated otherwise e.g. for pensions.
Advisor fees / rebates not included above via Sales Channel A		Amortised over five years unless clearly stated as per above.
Total Cost of Investment (TCI) via Sales Channel A		**This is the figure that should be advertised by the sales channel.**

25. Are there better alternative options that would encourage investors to become more price sensitive?

[12] http://www.trueandfaircampaign.com/true-and-fair-code/true-and-fair-label/

Not that we are currently aware of.

26. What funds should be in scope of any remedies which encourage greater focus on charges?

All funds. It is no excuse for managers to say that somehow because they are no longer marketing a fund, that it is OK to fleece all their old investors knowing full well that inertia will lead to a very slow diminution of assets over time.

27. What would be the most effective ways to communicate with investors?

Via websites and email. Many investors simply do not open or read the formal written communications sent to them by post.

28. Whether institutional investors would benefit from standardised disclosure of asset management fees and charges?

Yes. It is a complete fallacy to assume that the average professional investor has more knowledge or interest in fee transparency than retail investors. This has not been our experience. We have even found a shockingly low level of understanding of total fees and their impact on returns amongst consultants.

29. What fees and charges information should be included in a standardised disclosure framework?

All. Please see template above.

30. What would be the cost to asset managers of providing information?

Very little. We have found that the information is normally available or can be estimated with a high degree of accuracy. The costs of building online calculators and other tools containing such information is not high, and for the largest fund groups, it would be a very small percentage of their overall income. SCM Direct is a very small company and we can calculate and show such numbers, updated monthly – why can't much larger companies do the same?

31. Would there be unintended consequences if trustees were required to publish costs and charges?

As highlighted before a focus solely on costs risks not showing the importance of a threedimensional perspective of considering risk, returns and costs. However not showing costs, or not showing all costs, or not showing such costs in an understandable format is tantamount to fraud and leads to a situation where there is no genuine price competition and investors are effectively being robbed of their future savings.

32. The scope of fund/products that this disclosure template should cover? Should it cover private equity strategies and hedge funds as well?

Yes. It is right that all investors should have a common tool to compare the various investment options that they have. It would not stop investors investing via hedge funds but would lead to a better-informed investment decision in which they balanced their higher expectations of returns against the higher charges they would face.

33. Are there better ways in which information could be presented to trustees, particularly member nominated trustees, in order for them to assess the performance of their scheme? How could this be achieved?

We suggest the same simple template but with much greater detail attached to it to allow those trustees and advisers with a greater knowledge base to conduct further analysis and recommendations.

34. What format should simplified and comparable disclosure take and who should be responsible for providing the information?

See template above. It should be the responsibility of the organisation at the point of sale who then would need to ensure that the companies supplying such information were legally responsible for supplying the data in a timely and accurate fashion.

35. Are there ways in which parts of the institutional demand side (DB trust, DC trust and DC contract based schemes) could more effectively pool assets together?

This is not our expertise.

36. To what extent would pooling result in better outcomes for investors?

As a multitude of research papers on the LGPS have shown, considerable economies of scale can be obtained through the pooling of assets that would thereby improve investor's net returns.

37. Are there logistical challenges involved in pooling assets? How could we overcome these?

Yes, there will be challenges but the greatest challenge is often dealing with the 'turkeys not voting for Christmas' principle whereby the separate chief executives will not want to lose their job.

38. Ways to provide trustees with clearer information about the charges and performance of fiduciary management.

See template. Trustees should have to attend a mandatory training whether on-line or physically based and pass a knowledge test thereafter to demonstrate understanding before being allowed to be a trustee.

39. What information on fees and performance information should be made public and are there ways to benchmark the performance of fiduciary managers?

All information should be made public. We are aware that some managers have forced potential clients to sign confidentiality agreements or NDAs regarding fees clearly acts to restrict competition and keep charges at a higher level than if there was a free market. This is a total disgrace.

40. What are the unintended consequences of enhanced disclosure and how can we overcome them?

The problem will be focusing solely on cost, is that it might encourage the sale of funds which offer low costs but also a very low return or a very high risk. In our view, it is therefore imperative for managers and investors to be shown and understand the balance and trade-offs between risk, return and cost.

41. What is the likely effectiveness and proportionality of guidance to trustees on these issues?

Guidance does not work. There must be regulation and a fiduciary duty to act in the best interest of the members of the pension fund. There also needs to be mandatory training and exams to show competence.

42. Are there better alternative remedies that we can put in place to empower trustees in their decision making?

See above.

43. What hat could any guidance from TPR/FCA to trustees in this area usefully cover?

Due to the responsibility trustees have to ordinary end investors, and fiduciary duty involved, there should be a formal comprehensive trustee programme that is fit for purpose, covers the main subjects of relevance, and which culminates in an exam. If trustees do not pass the exam, they simply should not be allowed to be a trustee. There should also be a ban on trustees from any pension scheme, having any affiliation or incentivisation from the same fund management groups or consultants, used by the scheme.

44. Whether the FCA should recommend that HM Treasury brings the provision of advice provided by investment consultants to institutional investors within the regulatory perimeter.

Yes. There is overwhelming evidence that an oligopoly that exists in this market which leads to significant conflicts of interest, excessive charges, and acts against the best interests of members. It should not under any circumstances be allowed to continue in its current state.

45. Whether to bring the provision of advice provided by employee benefit consultants to employers and trustee boards within the regulatory perimeter

Yes. There is overwhelming evidence that an oligopoly that exists in this market which leads to significant conflicts of interest, excessive charges, and acts against the best interests of members. It should not under any circumstances be allowed to continue in its current state.

46. Are there alternative remedies that we should also consider to allow better monitoring and assessment of advice provided by investment consultants and employee benefit consultants.

No. There needs to be a proper, fresh, thorough investigation of this whole area which simply does not work.