FINANCIAL CONDUCT AUTHORITY

Making transfers simpler – feedback to CP19/12 and final rules

Policy Statement
PS19/29

December 2019

This relates to

Consultation Paper 19/12
which is available on our website at
www.fca.org.uk/publications

Email:
cp19-12@fca.org.uk

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1 Summary

1.1 In March 2019, we published CP19/12, a consultation on rule changes that aim to make it easier for consumers to transfer their assets from one platform to another. The consultation was part of a wider package of remedies from our Investment Platforms Market Study (IPMS), which found that competition in this market is limited by the barriers facing consumers when they try to switch platforms.

1.2 This Policy Statement (PS) summarises the feedback we received on CP19/12 and sets out our final policy position, taking into account the feedback received. It also contains the final rules which implement our policy decisions, with the aim of improving competition between platforms.

1.3 Having considered the feedback we received, we have decided to implement the rules we consulted on without amendment.

1.4 Chapter 2 of this paper summarises the feedback we received and our response to it.

Who this affects

1.5 This PS will be of interest to the following groups:

- platform service providers
- fund managers and their service providers
- financial advisers
- consumers of platform services and consumer organisations

The wider context of this policy statement

Our consultation

1.6 We published the IPMS Final Report in March 2019. It found that consumers often find it difficult to move from one platform to another because of the time, complexity and cost involved. Our report outlined a package of remedies to address this finding, including our monitoring of industry initiatives to improve the switching process.

1.7 We noted in the IPMS Final Report that the industry is taking steps to improve the timescales and customer experience in switching. We concluded that, for the most part, further regulation is not currently needed. But there were two exceptions, where we felt that regulatory intervention may be needed to improve competition. One of these is exit fees, which we plan to consult on separately in Q1 2020, and do not cover in this paper. The other, the subject of this PS, relates to 'in-specie' transfers and unit class conversions. In the context of this PS, an 'in-specie' transfer is where a customer's investments (eg units in a fund) are transferred directly from one platform to another, with the customer remaining invested throughout.

1.8 On this, the IPMS found that consumers are sometimes required to liquidate their holdings to enable them to switch platforms, even though this may not be the best way for them to do so. Liquidating assets can lead to a tax charge, and consumers can also incur losses if the value of an investment rises while they are not invested. Additionally, some consumers are put off switching when platforms do not make in-specie transfers available, which in turn weakens competitive pressure on platforms.

1.9 A common reason why firms do not offer in-specie transfers is the complexity that arises where there are bespoke unit classes in a fund, that is, unit classes specific to a particular investment platform. Where there is a mismatch of unit class between the ceding and receiving platforms, a unit class conversion is needed to perform an in-specie transfer. However, the IPMS found that some firms do not routinely provide the option of a conversion, preferring to require that the consumer sells the units and repurchases them via the new platform. This may sometimes lead to consumer harm due to time out of the market or tax implications. Harm may also occur if these issues deter consumers from switching in the first place.

1.10 In CP19/12 we consulted on a set of rules which aim to ensure that firms routinely offer consumers in-specie transfers and unit class conversions as part of the transfer process. In doing this, our main objective was to complement existing rules on transfers and re-registration (COBS 6.1G.1R, COBS 6.1G.2R).

How it links to our objectives

1.11 The rules set out in this PS are intended to advance our objectives of securing an appropriate degree of consumer protection and promoting effective competition in the interests of consumers.

1.12 The consumer protection objective is met by enabling consumers:

- to avoid unnecessary risks or costs from temporary disinvestment when they move between platforms but stay in the same fund, and
- to make better-informed decisions where a discounted unit class is available.

1.13 The competition objective is met (particularly alongside other remedies set out in the IPMS) by making it easier for consumers to move between platform service providers and other competing businesses.

What we are changing

1.14 We are introducing a package of rules that introduce requirements for platforms to:

- offer consumers the choice to transfer units in investment funds that are common to both platforms via an in-specie transfer
- request a conversion of unit classes, where this is necessary to enable an in-specie transfer to take place
- ensure that consumers moving onto a new platform are given an option to convert to discounted units, where these are available for them to invest in

Outcomes we are seeking

1.15 The intention of the new rules in this PS is to complement the existing rules on transfers and re-registration. The rules will also complement the industry initiatives that aim to make it easier for consumers to move their assets from one platform to another.

1.16 In turn, we expect this (along with the other remedies in the IPMS) to improve competition in the sector, increase efficiency and improve the consumer experience. We consider that overall this will help us to deliver public value through a better functioning retail distribution sector.

Measuring success

1.17 As stated above, these rules are being introduced as part of a wider package of measures to improve the efficiency of the transfer process, and we will measure their success in this context.

1.18 In the IPMS Final Report we welcomed and supported industry commitment to improving the switching process. These commitments were aligned with our desired outcomes to:

- improve standards for transfer and re-registration times from an industry-agreed maximum timescale for each step in the switching process
- ensure clearer customer communications at the start of the switching process, explaining the transfer process, timelines and giving a point of contact for any questions or complaints
- publish transfer times data so consumers and third parties can compare platform performance

1.19 The rules introduced in this PS will support these initiatives, providing clarity on what we expect of firms when carrying out transfers on behalf of consumers.

1.20 In the IPMS Final Report we said we would carry out an assessment of progress made by firms, and we are publishing the outcome of our initial assessment at the same time as this PS. In 2022 we will carry out a further review, and will consider whether we need to take further regulatory action.

1.21 As well as this review, we will monitor the implementation of the rules in this PS through our supervision work. We will expect processes to be in place to ensure that in-specie transfers and unit class conversions routinely take place where requested by consumers.

Summary of feedback and our response

1.22 Most respondents to CP19/12 agreed in principle with the proposals for in-specie transfers and unit class conversions, with many stating that they already operate along these lines.

1.23 Much of the more detailed feedback from respondents reflected uncertainty about the methodologies firms should use to implement the requirements, in particular for

unit class conversions, and the roles of the various participants in the process. The main themes included:

- the scope of the requirements
- technology and common standards
- the role of fund managers
- methodology for unit class conversions
- respective responsibilities of ceding and receiving platforms
- disclosure and advice

Equality and diversity considerations

1.24 In CP 19/12 we explained that we had considered the equality and diversity issues that may arise from our proposals and we welcomed feedback from stakeholders.

We did not receive any comments on our assessment and so we continue to consider that the requirements we are introducing do not materially impact any of the groups with protected characteristics under the Equality Act 2010.

Next steps

1.25 The new rules will come into force on 31 July 2020.

1.26 If your firm is affected by the final rules in this PS, you should consider what changes you need to make to ensure you have implemented necessary changes by this date.

2 In-specie transfers and unit class conversions

2.1 This chapter outlines the views of respondents to CP19/12 on our proposals for new rules aimed at making in-specie transfers easier for consumers. For each area of feedback we have also set out our response, and explained how we will proceed.

Giving consumers the option of an in-specie transfer

2.2 In CP 19/12 we proposed a requirement that platforms should offer retail clients the option of an in-specie transfer of units in investment funds which are available and offered for investment on both the ceding and receiving platforms. We asked for feedback on whether firms may face any material obstacles in implementing this proposal.

Feedback

2.3 Respondents generally supported our proposal that firms should offer the option of in-specie transfers. Many suggested they could see no material obstacles which would prevent firms from implementing this. A number of responses said most platforms already offer this option. A recurring theme among many responses was the importance of technology in enabling the automation of transfers and so improving consumers' experiences when transferring platform provider. A number urged us to encourage further adoption of the 'STAR' initiative. STAR is an industry-led joint venture set up to improve transfer times and customer communications.

2.4 Some respondents raised issues about the practical implications of this proposal and also the draft rules themselves. We set these out below.

Role of fund managers

2.5 Some respondents felt that our proposals overlooked the key role of fund managers in the transfer process. We were told that some fund managers do not respond to re-registration (and conversion) requests promptly, or keep the ceding and receiving platforms up-to-date regarding progress. There were some calls for the FCA to supervise this more closely and to consider applying similar requirements to fund managers directly.

Scope

2.6 A few respondents queried the scope of the remedy. In particular, why it applies only to units in investment funds (as opposed to all investments) and only to platform service providers (ie not to firms offering 'comparable services' like SIPP or ISA providers, discretionary investment managers and fund managers).

Mis-matching unit classes

2.7 Many respondents said it is not problematic to offer in-specie transfers where both the receiving and ceding platforms hold the same unit classes of a fund. However, some highlighted the practical difficulties with in-specie transfers where the platforms

involved hold different unit classes. The IPMS had already identified these issues and we aim to address them via our proposals for unit class conversions – see paragraphs 2.11-2.19 below.

Clarity about responsibilities

2.8 Some respondents said the draft rules should be clearer about the respective responsibilities of ceding and receiving platforms. This is because the rules in some areas do not specify whether they apply to the ceding or receiving platform. A few felt that any ambiguity in the rules could allow firms to avoid fully acting on consumer requests. For example, some firms may not dedicate sufficient resource to processing conversions and transfers away from their firm, causing blockages in the process.

2.9 There was also some comment where the draft rules do indicate more definitively which party is obliged to act. For example, a few respondents objected to the requirement on ceding platforms to request the conversion. They felt it should be the receiving platform's responsibility, since they would be able to confirm to the fund manager how they wish to receive the holding.

'Available Scheme'

2.10 One respondent asked for clarity on the term 'available scheme'. We defined this in the draft rules in CP19/12 as 'a fund in which units are available for investment by the client via both the ceding and the receiving platforms'. This respondent asked whether this covers funds that are currently offered for investment, or funds that could in theory be held on the receiving platform.

Our response

The role of fund managers: it is important to note that there are existing FCA rules which require fund registrars to carry out re-registrations of title within a reasonable time (COBS 6.1G.2R). There is also a rule that requires fund managers to perform unit class conversions on request from the client (COLL 6.4.8R, applicable to authorised unit trusts and authorised contractual schemes). In view of these rules, and the general obligations for firms to act professionally and with due skill, care and diligence (Principle 2), we do not consider that further rules are currently necessary. We emphasise that the aim of the new rules is to ensure the consumer is given the opportunity to request an in-specie transfer and, where necessary, a unit class conversion. The new rules therefore complement the existing requirements.

However, we take this opportunity to remind fund managers of their responsibilities in this area. These include having appropriate processes and resources in place to perform transfers within a reasonable time, and to co-operate and communicate appropriately. For clarity, and as stated in the IPMS Final Report, we do not consider it to be 'timely and efficient' for firms to accumulate individual consumers' requests in order to perform bulk transfers (or unit class conversions) on a periodic basis.

Scope: the requirement to give the client the option of an in-specie transfer applies specifically to platforms because they are the primary facilitators of fund transfers and unit class conversions in the market where the IPMS identified potential consumer harm from barriers to switching.

Similarly, we are only applying this requirement to units, rather than all investments, because this is where the IPMS found evidence of specific potential harm from unit class conversions.

We would also reiterate that this remedy is part of a wider package of actions to improve the switching process, including the industry-wide STAR initiative. We expect that our overall package of remedies will result in a prevalence of in-specie transfers for most client assets. As explained in paragraph 1.20, we will be reviewing the industry's progress in improving the switching process and will consider whether further regulatory intervention is required.

Mis-matching unit classes: see paragraphs 2.11-2.19 below.

Respective responsibilities: we would like to clarify that in some areas the rules deliberately apply to both parties, while in others they are specific to one platform (receiving or ceding) where appropriate. For example, the rules requiring that firms tell the consumer about their transfer options deliberately apply to both parties. This is because while the client will generally approach the receiving platform to initiate the transfer, this will not always be the case. Other rules, which oblige the platforms to efficiently process the transfer/conversion, are more specific about which platform (receiving or ceding) is required to act.

We believe this approach ensures that platforms' obligations are clear while ensuring that non-standard consumer journeys are still captured.

On the specific question in paragraph 2.9, the rules require that it is the ceding platform that must request a unit class conversion, where necessary to enable the transfer, because that firm is the current legal owner of the units.

'Available scheme': we can confirm that a scheme is considered 'available' in this context where both the ceding and receiving platforms currently offer it for investment. We consider that the draft rules we consulted on were clear on this. It is not our intention that a receiving platform would have to add a new fund onto its offering to accommodate an in-specie transfer.

Unit Class Conversions

2.11 In CP 19/12 we noted that some firms currently choose not to offer an in-specie transfer where there is a mis-match of unit class between the ceding and receiving platform. Instead, they prefer to require the consumer to disinvest rather than facilitating a unit class conversion. In our view, the need to undertake a unit class conversion should not be a reason to prevent an in-specie transfer where it has been requested. So, we proposed that platforms should offer consumers the option of a unit class conversion, where necessary, and so avoid the need for the consumer to disinvest. The draft rules also included requirements for the ceding platform to request a conversion by the fund manager and take reasonable steps to bring it about.

2.12 We asked if stakeholders foresaw any material obstacles to these proposals or any circumstances where platforms would not be able to bring about conversion.

Feedback

2.13 While there was broad support for this proposal in principle, some common themes emerged from the responses, described below.

Technology/industry wide standards

2.14 Once again, a recurring theme was the need for the industry to adopt technological solutions to be able to process conversions efficiently. Some respondents felt that if the TISA Exchange (TeX) standards and STAR were adopted more widely, then firms would have few problems with supporting conversions.

The need for a 'common' unit class

2.15 Some respondents felt that for conversions to take place, fund managers would need to identify an appropriate 'common' unit class which all platforms could hold. Platforms would need to carry this standard class as well as their 'restricted' or 'private' unit classes to be able to facilitate unit class conversions.

2.16 One respondent felt that the common unit class option was an inefficient way to process conversions and transfers. A few respondents suggested alternative solutions such as fund managers being more flexible about which unit classes they allow to be held by different platforms. This is particularly the case since they are only likely to be holding it temporarily while the transfer into the final unit class is completed. Others argued for a return to a pre-Retail Distribution Review (RDR) model where payments (known as cash rebates) from product providers to consumers were allowed. This was because it would offer an alternative method of varying the price of a fund via different platforms and therefore mitigate the need for multiple unit classes. The practice of cash rebates was banned as part of the RDR because they had the potential to give consumers the incorrect impression that there was no charge for the platform (or advice).

Unit class matching

2.17 Related to this, a few respondents pointed out that work needs to be done to ensure that platforms can precisely identify which unit classes are convertible to another class available on the receiving platform, given that all classes have a unique ISIN code.

Disclosure and advice

2.18 Some respondents highlighted that a move to a unit class common to the two platforms may mean that a consumer is moved into a more expensive unit class, albeit temporarily. They suggested that this would need to be made clear to the consumer before the conversion and transfer proceed.

2.19 Relatedly, a few respondents were concerned about potentially straying into giving investment advice/personal recommendations when ensuring that consumers are made aware of how different conversion options compare.

Our response

We intend to implement these rules as set out in CP19/12. While some respondents have raised issues about the methodologies to be used when performing conversions (to which we respond below), there was

broad agreement that in-specie transfers, where possible, are normally the best option for the client. As stated above, these rules aim solely to complement existing requirements and obligations by ensuring that consumers are given this option. In this sense, the rules are formalising what already exists as good practice in the industry, and we have evidence that many firms already offer and perform conversions as a matter of routine.

Technology and industry standards: we agree that common standards and widespread use of automated transfer systems are important to achieve the wider aim of improving the efficiency of transfers. Standards and technology are key elements of the industry's ongoing initiatives. While the IPMS has supported these initiatives, the Final Report does not prescribe the way in which firms should implement change. The rules in this PS are a component of the overall initiative, designed to ensure that consumers are given the information to enable them to make decisions on how their assets are transferred. Similar to the approach taken in the IPMS, we do not consider it appropriate that the rules should prescribe the methods firms use to implement these requirements.

Nonetheless, it is our view that all participants in the transfer process, including fund managers and their agents, should use appropriate technology where this improves the efficiency of the process.

Common unit classes: while we recognise that the use of a common unit class is likely to be the principal way in which a unit class conversion can be performed, we do not consider it appropriate for the rules to specify this. Firms might use other methodologies, particularly in the future as automated systems become more sophisticated, and potentially where 'in-flight' conversions at fund manager level become more widely available (an 'in-flight' conversion is where the unit class conversion and the re-registration are undertaken in a single automated process by the fund manager). We support innovation in this area, including in-flight conversions, and we encourage the industry to continue work on solutions which make switches more efficient. As noted above, however, we believe that the industry should determine transfer and conversion methodologies, and the rules should not pre-define them. We will continue to monitor the progress made in this area as part of the review work referred to in Chapter 1.

It is our understanding that common unit classes are readily identifiable and can be made available for conversions. We expect fund managers to collaborate with platforms and be flexible in providing appropriate information and access to unit classes for transferring consumers.

On the feedback suggesting we allow cash rebates to be reintroduced, post-RDR research has shown that the ban has improved transparency and charges. We continue to believe that rebates create a lack of transparency and have the clear potential to confuse consumers about the true price they are paying for their platform service. So we do not currently intend to allow this model to be re-established in the market.

Unit class matching: we know that firms will need a methodology to identify where a convertible unit class exists on a receiving platform. Different unit classes have separate ISIN codes, so a simple ISIN matching process will not identify all available classes. It is our understanding that TISA's TeX framework is working on an electronic matching solution. In any event, we would expect firms to communicate and co-operate appropriately to identify where units can be converted if the client has requested this. We include this expectation in the new rules at COBS 6.1H.4R(1).

Disclosure and advice: we agree that there may be circumstances where a consumer is temporarily converted into a unit class with higher charges, to enable a transfer to take place in specie. Given that the duration of such scenarios should be very short, however, the effect on consumers should not normally be material. We expect firms to tell their customers about the conversion(s) that will be made as part of the transfer process, and to consider the materiality of any temporary increase in charges as part of this disclosure.

Providing general information about the implications of different options (eg costs, timing, exposure to market movements) is not likely to constitute regulated advice.

Converting to a discounted unit class on the receiving platform

2.20 In CP19/12 we also proposed that, as part of the funds transfer process, receiving platforms should offer consumers the opportunity to convert units into a discounted unit class, where that unit class is available for investment by the consumer.

Feedback

2.21 A large majority of respondents agreed that consumers should be given an option to convert to a discounted unit class where available. A handful considered that conversion to the most advantageous unit class should happen by default, without the need for clients to expressly request this.

2.22 A few respondents disagreed however. This was for a range of reasons, including concern that an additional manual step was being added into the transfer process, which already takes considerable time to complete. They were also concerned that it may interfere with the advice of a financial adviser. For example, funds within a model portfolio may include specific unit classes, so if consumers have the option of selecting a different unit class there is a risk that the investment strategy may not be correctly implemented.

Our response

Following the feedback received, we have decided to finalise the policy as reflected in our CP proposals.

Default option: we note some respondents' view that transferring consumers should be defaulted into the most advantageous unit class available to them. The new rules do not require this, because it may not be appropriate in all circumstances, but they do not prevent it either. We are not convinced that the rules need to specify this, as firms are already required to act in their clients' best interests (COBS 2.1.1R). Where there are two or more options that require a decision from the consumer, it is important that these are communicated clearly and promptly.

Additional step: we recognise that this requirement adds a further step into the transfer process. But we consider that any additional administrative burden is outweighed by the benefits for consumers from having the option to take advantage of the best deal available to them.

Advised customers: where a consumer is acting on advice, we would expect the adviser to provide information to ensure that the appropriate unit class is selected. We would also expect the adviser to provide justification where they recommend a more expensive unit class, eg where this is needed to maintain the integrity of a model portfolio.

Implementation timelines

Our proposal

2.23 We proposed that our rules would come into effect on 31 July 2020. This was intended to allow firms adequate time to plan and implement any required changes to their processes.

Feedback

2.24 Approximately half of the respondents agreed with the planned implementation date of 31 July 2020. Those who disagreed were split evenly between those who felt the implementation date was too far away (eg the Financial Services Consumer Panel) and those who felt firms would need more time to implement the necessary systems and processes.

Our response

We have carefully considered the timeline for implementation and the role of this remedy in the wider package of remedies to improve platform switching. On balance, we propose to implement the rules on 31 July 2020 as set out in CP19/12. The technology to automate the unit class conversion process is available now, and we believe that a delay beyond this date would hinder the progress of the ongoing industry initiatives to improve transfer efficiency.

Cost benefit analysis

2.25 In CP 19/12, at Annex 2, we included a cost benefit analysis (CBA) of our proposed rules as required by the Financial Services and Markets Act 2000 (amended by the Financial Services Act 2012). We asked respondents for comments on our CBA.

2.26 The majority of respondents either agreed with the CBA or had no comments. However, some considered that the estimates understated the true costs of complying with the new requirements. In particular, a few firms noted that the estimated costs were based on manual processing of conversions and did not reflect the significant costs of technology changes they would need to make.

2.27 Two respondents felt that the CBA did not consider costs from other firms in the chain such as fund managers.

2.28 A few respondents noted that the proposals would require platforms to hold a common unit class (see paragraph 2.15 above) and that this would impose additional costs.

2.29 A few respondents disagreed with the CBA on the basis that it did not include the costs from the exit fees remedy which was discussed in CP 19/12.

Our response

Manual processing: we consider that the technology costs highlighted by a few firms are primarily associated with the wider initiatives being undertaken to improve platform switching, rather than to implement the specific rules in this PS. We understand from various stakeholders that the extra cost of the additional technology for conversions would be relatively minor.

Additionally, some platform providers are small and a technology-led solution may not be right for them, given the number of conversions they are likely to undertake.

We consider that the estimated manual costs reflect the unavoidable compliance costs of our proposals and so have been incorporated in our CBA. Firms are, of course, free to choose to implement the changes in a way which best suits their operations. In the longer term, firms which choose to adopt technological solutions (and incur the associated one-off costs) may benefit from lower ongoing costs than those outlined in the CBA in CP 19/12.

Fund manager costs: in CP19/12 we recognised that the new rules may mean that fund managers have more conversions to process. But we did not expect this to generate significant additional costs because they have been processing conversions for many years and so we would expect them to have systems in place. However, we have since approached some firms such as transfer agents (to whom fund managers often outsource administrative functions) and fund managers to understand the scale of additional costs from increased volumes of conversions.

We understand that transfer agents are likely to use technology, so costs which would be passed on to fund managers are generally expected to be low. Additionally, a major trade body representing fund managers responded that it was not clear that the costs for fund managers would be significantly different to the costs of selling the holding and transferring in cash to another platform (which the fund manager would otherwise have to do).

Costs of holding common unit classes: we have followed up this consultation feedback with trade bodies and other market participants. A majority of these considered that the costs of holding a common or standard unit class in addition to a bespoke unit class on a platform are not likely to be significant. Furthermore, it will only be an issue for those firms who have decided to compete on the basis of offering discounts on funds via bespoke unit classes.

Exit Fee Costs: the CBA in CP19/12 was intended to focus on the proposed rules in that consultation, which are finalised in this PS. We will set out our CBA for the exit fees remedy as appropriate in our publication planned for Q1 2020.

Since the final rules are unchanged from those in CP19/12, we have concluded that we do not need to update the CBA in that document.

Annex 1
List of non-confidential respondents

Aegon UK

Alliance Trust Savings

Amber Financial Investments

Association of British Insurers

Aviva

Brewin Dolphin

Cave & Sons

Clive Gould

David Bell

FCA Practitioner Panel

Financial Services Consumer Panel

Hargreaves Lansdown Asset Management Ltd

Hubwise Securities Ltd

Interactive Investor

Investment Association

James Hay Partnership

Lloyds Banking Group

Mark Seaman

Nicholas Hunter

Novia Financial plc

Nucleus Financial Group

PensionBee

Personal Investment Management & Financial Advice Association

Roger Lawson

ShareSoc/UK Shareholders' Association

Simplybiz Group

Standard Life

Tenet Group

The Investing and Saving Alliance

The Share Centre Limited

Thomas Grant & Company Ltd

Tom Loeffler

UK Platform Group

Vanguard Asset Management

Williams Investment Management LLP

Zurich Insurance

Annex 2
Abbreviations used in this paper

CBA	Cost Benefit Analysis
COBS	the Conduct of Business Sourcebook
COLL	the Collective Investment Schemes sourcebook
CP	Consultation Paper
FCA	Financial Conduct Authority
IPMS	Investment Platforms Market Study
ISA	Individual Savings Account
ISIN	International Securities Identification Number
PS	Policy Statement
RDR	Retail Distribution Review
SIPP	Self-invested Personal Pension
SLA	Service Level Agreement
TeX	TISA Exchange
TISA	The Investing and Saving Alliance

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

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Appendix 1
Made rules (legal instrument)

CONDUCT OF BUSINESS SOURCEBOOK (PLATFORM SWITCHING) INSTRUMENT 2019

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the following powers and related provisions of the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rule-making power); and
(2) section 137T (General supplementary powers).

B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 31 July 2020.

Amendments to the Handbook

D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Conduct of Business Sourcebook (Platform Switching) Instrument 2019.

By order of the Board
12 December 2019

Annex

Amendments to the Conduct of Business sourcebook (COBS)

Insert the following new section, COBS 6.1H, after COBS 6.1G (Re-registration of title to retail investment products). The text is not underlined.

6 Information about the firm, its services and remuneration

…

6.1H Platform switching

Application

6.1H.1 R This section applies to a *platform service provider* in relation to the transfer, or potential transfer, of a *retail client*'s *units*.

Definitions

6.1H.2 R In this section:

(1) "transfer" means the process of transferring a *client*'s *investment* from existing arrangements with a *platform service provider* ("ceding platform") to separate arrangements with another *platform service provider* ("receiving platform"), irrespective of whether the assets, rights or interests comprising the *investment* are themselves transferred, or whether any of them are converted, exchanged, sold and replaced by equivalent assets, rights or interests, or realised as part of the process;

(2) "available scheme" is a *fund* in which *units* are available for investment by the *client* via both the ceding and the receiving platforms;

(3) "discounted *unit* class" is a *unit* class of an available scheme in respect of which the *fund* manager is remunerated by a lower level of charges than would otherwise apply to the *client*'s investment in the available scheme;

(4) "in-specie transfer" refers to a transfer of the *client*'s *units* which is given effect via re-registration of the ownership of the *units*, whether or not the transfer also involves a *unit* class conversion but in any event without the *fund* manager redeeming the existing *units*;

(5) "*fund* manager" is the *operator*, or, to the extent not covered by that term, the *AIFM* of the available scheme; and

(6) "*unit*" includes any right to or interest in a *unit*.

In-specie transfers and unit class conversions

6.1H.3 R Where a *client* contacts a *platform service provider* in connection with a potential transfer of their *investment* which is, or includes, *units*, the *platform service provider* must provide the *client* with:

(1) the option of an in-specie transfer of *units* in an available scheme, provided there are no circumstances outside the control of either the ceding or the receiving platform which would prevent such transfer;

(2) the option of, as part of the transfer, converting the *units* in an available scheme into *units* of a discounted *unit* class, provided *units* in such class are available for *investment* by the *client* via the receiving platform; and

(3) sufficient information in good time about the options above, where they are applicable, to enable the *client* to make an informed decision about what transfer instructions to give.

6.1H.4 R If the *client* instructs the *platform service provider* to proceed with a transfer of *units*, then:

(1) the ceding and receiving platforms must take all reasonable steps to give effect to the *client*'s transfer instructions efficiently and within a reasonable time, including cooperating with and promptly providing each other with information as necessary;

(2) if the *client* has chosen an in-specie transfer in accordance with *COBS* 6.1H.3R(1) and a *unit* class conversion is required to enable or facilitate such transfer, the ceding platform must request the *fund* manager to carry out the relevant *unit* class conversion, and take any other reasonable steps to bring it about; and

(3) if the *client* has chosen a discounted *unit* class in accordance with *COBS* 6.1H.3R(2), the receiving platform must request the *fund* manager to carry out, and take any other reasonable steps to bring about, the conversion of the *units* into the appropriate discounted *unit* class.

6.1H.5 R The obligation to request a *unit* class conversion in *COBS* 6.1H.4R(2) and (3) only applies to the extent the *platform service provider* is entitled to request it.

6.1H.6 R If a *platform service provider* is unable to give effect to all or part of a *client*'s transfer instructions, it must contact the *client* at the earliest opportunity to request further instructions.

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