

Platforms – June 2013 QCP feedback

October 2013



This Feedback Statement reports on the main issues arising from Chapter 4 of CP13/3.

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1.

Platform services definition and updated compatibility statement

- 1.1** In CP13/3 we consulted on a correction to the definition of ‘platform service’ which had been made in April 2013 when we published PS13/1, *Payments to platform service providers and cash rebates from providers to consumers*. We said in PS13/1 that we would consult on:
- the corrected definition, to ensure there were no unintended consequences
 - an updated compatibility statement reflecting the new FCA objectives, in particular our duty to consider the impact of our rules on authorised mutual societies
- 1.2** We received five responses to the consultation, from the Association of Independent Discount and Non-Advisory Brokers (AIDB), Cofunds, Fidelity International, International Financial Data Services (IFDS) and UBS Wealth Management. None of the respondents had any comments on the updated compatibility statement, so this feedback relates only to the corrected platform services definition.

Background

- 1.3** In PS11/9 *Platforms* (August 2011) we gave feedback on comments received on the definition of ‘platform service’ and said:
- ‘Several respondents highlighted that the definition applied to those execution-only dealing services which also included a custody service for the assets purchased. While we recognise that these firms may not commonly be referred to as fund supermarkets and wrap platforms, the services provided by such execution-only brokers are similar to the services provided by execution-only wraps and fund supermarkets. Each deals in investments as an agent for the client and may undertake or arrange custody of investments and consolidated reporting for their clients. Given this similarity, we believe the definition should include these execution-only services.’
- 1.4** The definition of ‘platform service’ was intended to reflect this policy intention, but did not do so as a result of a typographical error. This was corrected in April 2013, by amending the definition to read:

platform service

a service which:

- a) involves *arranging and safeguarding and administering assets investments*; and
- b) distributes *retail investment products* which are offered to *retail clients* by more than one product provider;

but is neither:

- c) solely paid for by *adviser charges*; nor
- d) ancillary to the activity of *managing investments* for the *retail client*.

- 1.5** The impact on firms, including execution-only firms that are within the definition, is that they will no longer be able to receive payments from providers (whether in the form of commission or other payments) other than those permitted by COBS 6.1E. For new business, this will apply from 6 April 2014, while for platform legacy business, firms that fall under the definition have until 6 April 2016 to ensure that they move to platform charges.

Feedback and our response

- 1.6** One respondent agreed that the corrected definition adequately captures execution-only firms that also arrange for the safeguarding and administration of their clients' investments, and said this would ensure greater clarity of charges for consumers of the firms that provide similar services to fund supermarkets and wrap platforms.

- 1.7** The main comments by other respondents were as follows:

1. One objected to the corrected definition as being a last minute change that fundamentally changes the definition and replaces the previous clarity with a large degree of subjectivity, so that firms will not have a clear idea of whether or not they will be classified as a 'platform service provider'. They said that having less than a year to implement the corrected definition would pose serious challenges for firms.

Our reply – our policy intention was set out in PS11/9 and the cost benefit analysis with that PS, in August 2011.

2. How will charges be set out for the client if the execution-only firm is classified as a platform, and there is also a 'true platform' providing safeguarding and administration of the client's assets – will there need to be a single platform fee covering both firms' services?

Our reply – the client must be told the total charge for the service provided. However, firms can choose how to present this information – either as a single platform charge, or the different elements that make up the total. This is a matter for discussion between an execution-only firm and the platform it uses for custody of its clients' assets rather than for our rules, subject to the need for the information to be clear, fair and not misleading.

3. How will clients' consent be obtained to the move to platform charges, particularly where clients do not respond to communications from the firm?

Our reply – firms must consider their legal and contractual rights and also their obligations to the client. They will also need to bear in mind the need for clear, fair and not misleading communications, the client's best interests rule and the need to treat customers fairly.

4. How will the FCA ensure that execution-only brokers that come within the definition of platform service have the correct custody permissions?

Our reply – we are providing information for the relevant firms through contacts with trade bodies, the fund supermarkets and wrap platforms that deal with execution-only brokers, and the trade press. This explains what execution-only firms need to take into account to ensure they have the correct permissions and to check whether they fall within the platform service definition.

5. It is not clear why the definition appears to cover only those firms offering a technology-driven white label and not firms offering a dual-branded service or an offline service.

Our reply – the definition is not limited to white label firms or to firms using technology to provide their services. It covers all execution-only firms that fall within the definition of platform service.

6. Can platforms continue to facilitate payment of commission by providers to execution-only brokers that do not fall under the definition?

Our reply – Yes. Commission is not banned for execution-only sales, so firms that do not come within the definition can continue to receive payments from providers in the form of commission.

7. Extending the definition will restrict the types of assets which UK wealth managers providing execution-only services with custody can hold, and in particular they will not be able to hold international assets where there is no clean share class. This could affect international customers with existing portfolios coming to the UK, and could also mean that customers may not be able to hold all their assets with one manager.

Our reply – from 6 April 2016 platforms will generally not be able to receive payments from providers on new or legacy business (subject to the exceptions in COBS 6.1E.7R, for example, payments for pricing error corrections). However, payments can still be received from providers if these are passed on to clients in the form of additional units or small cash rebates (see COBS 6.1E.10R and 6.1E.11G). So wealth managers will still be able to hold international assets where there is no clean share class, but will need to pass on the payments to clients in the form of additional units or small cash rebates.

8. One respondent urged us to introduce a blanket ban on commission payments for the sale and distribution of all retail investment products and all non-advised as well as advised sales, to ensure consistency and good customer outcomes.

Our reply – in PS13/1 we said we felt there was a strong argument for the application of similar rules to non-platform markets, particularly the execution-only and self-invested personal pension (SIPP) markets. We would consider these markets as part of our ongoing work and aim to consult later on any rules, where necessary. This is still the position.

- 1.8** The correction to the definition was made in April, when PS13/1 was published, and we are not making any further changes as a result of the feedback to the consultation in CP13/3.

Cost benefit analysis

- 1.9** As stated in CP13/3, the scope of the platform service definition was clearly reflected in the CBA in PS11/9, which is still valid. The updated compatibility statement published with CP13/3 (on which we received no comments) does not affect the CBA published with PS13/1, which was updated in the light of the comments received on the CBA in CP12/12. We did not receive any comments in response to CP13/3 that have led us to question the previous CBAs.

Equality and diversity

- 1.10** We did not receive any comments on the statement in CP13/3 that the amended definition and updated compatibility statement did not affect our previous assessment. This was that the rules we have made do not give rise to any issues for equality and diversity.



PUB REF: 4808

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