

FCA'S ASSET MANAGEMENT MARKET STUDY

SUMMARY AND ANALYSIS OF REPORT

REMEDIES TO PROTECT INVESTORS

ISSUE	REMEDY	TIMING	AUSTRALIA
Strengthen the duty to act in best interests of Investors	Proposal to create an additional Prescribed Responsibility under the Senior Managers & Certification Regime (to which the asset management sector will be subject in the near future).	Mentioned in CP 17/18, although this will be consulted on later in the year as part of the consultation on the Senior Managers & Certification Regime extension.	The proposed Banking Executives Accountability Regime (BEAR) (see the May edition of Unravelled) does not extend to asset managers and any extension would likely be first to insurers.
Lack of scrutiny as to whether investors' best interests are being Safeguarded	Proposal to require fund managers to appoint a minimum of two independent directors (and at least 25% of the total board membership) to the fund manager's board.	This proposal is part of the current FCA consultation in CP17/18, which Consultation period ends on 28 September 2017.	Responsible entities already need a majority of independent directors or a compliance committee. Recent discussion about independent directors has tended to focus on industry superannuation trustees.
Making it easier to switch	Proposal to allow a mandatory conversion where there is an unresponsive unitholder in order to facilitate switching investors to better value share classes. FCA also seeks views on whether trail commissions should be phased out in respect of payments to advisers on share classes sold prior to 31 December 2012.	This proposal is part of the current FCA consultation in CP17/18. Regarding trail commissions, FCA requests views from the industry, to feed into further work in this area.	While there is no proposal to reduce existing grandfathering concerns for conflicted remuneration, the ban is being extended into new areas (eg, life insurance outside super).
Assessing value for money	Proposal to require fund managers to assess whether value for money has been provided to fund investors, taking into account economies of scale, fees & charges, share classes, quality of services and transparency.	This proposal is part of the current FCA consultation in CP17/18.	MySuper requires superannuation trustees to promote the financial interests of MySuper members and assess scale annually, but this does not presently extend to asset managers.
	FCA proposes that retention of risk free box profits by the fund manager be prohibited, with disclosure requirements on fund managers for how any such profits will be treated. FCA concedes that fund managers will be permitted to retain any profits made from holding positions between pricing points when using their own capital.	These proposals are part of the current FCA consultation in CP17/18.	Regulation of 'box profits' has not yet been a topic of ASIC review. (The bid-offer spread between prices to buy and sell fund interests reflects the costs of buying and selling the underlying securities needed to create or cancel units. This means that when customers enter or exit the fund, the costs of their transactions do not dilute the value of existing unitholders' units. Where there

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REMEDIES TO INCREASE COMPETITION AMONGST ASSET MANAGERS

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All-in fee	The FCA remains in favour of a single all-in fee.	The FCA is planning to consult on disclosure methods, along with how to ensure consumer communications are clear as part of a Smarter Consumer Communications initiative.	Australian superannuation trustees, responsible entities and ASIC have been grappling with fee and cost disclosure under ASIC Regulatory Guide 97. The direct extension of this disclosure to other asset managers has not yet been mooted.
Performance fees	The FCA wants to ensure that fee structures align incentives between investors and asset managers, therefore it is considering whether further action may be required where there are asymmetric fees which do not align investor and asset manager incentives.	The FCA is considering consulting on rules requiring performance fees to be permitted only where a fund achieves a level of return above the fund's most ambitious target.	Superannuation trustees must ensure high-level performance-based fee rules are satisfied for MySuper assets. The extension of this to asset managers is not something ASIC has said it is considering.
Fees and charges communications to investors, including to retail	FCA considers investors need greater clarity about the charges they face and that the way in which this information is presented is the key.	FCA intends to consult on fees and charges communications later in 2017.	As above, Australian superannuation trustees, responsible entities and ASIC have been grappling with fee and cost disclosure under ASIC Regulatory Guide 97. Other asset managers are required to disclose their fees and charges clearly, concisely and effectively.
Presentation of past performance	FCA proposes that when fund managers present their past performance, they must do so against the most ambitious target they set out to investors, and that they may not present against a particular benchmark or comparator where they did not initially set such a benchmark or comparator.	The FCA intends to consult on new rules in this space.	In Australia it is possible (with the necessary disclosure) to change an investment objective. Additional regulation is not something ASIC has said it is considering.
Transparency for institutional investors	The FCA is supportive of templates which will allow institutional investors to compare the information received from asset managers more easily.	The FCA is proposing to work with a group of stakeholders to ensure that any templates meet the needs of institutional investors and address FCA concerns.	While MySuper product dashboards provide some disclosure, extending their application beyond superannuation funds is not something ASIC has said it is considering.

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SUMMARY AND ANALYSIS OF REPORT

REMEDIES TO INCREASE COMPETITION AMONGST ASSET MANAGERS (CONT.)

ISSUE	REMEDY	TIMING	AUSTRALIA
Objectives, benchmarks and performance Reporting	FCA considers that objectives and benchmarks need to be more clearly described in performance reporting for retail investors to be able to take an investment decision on the basis of them.	The FCA is chairing a working group on the issue, with the aim of consulting on rules on how objectives should be written.	Investment objectives and benchmarks are typically disclosed in the product disclosure statement (with performance fees themselves sometimes being included in a fund constitution). Additional regulation is not something ASIC has said it is considering.
Removal of barriers to pension scheme consolidation and pooling	FCA considers that there are barriers to pension scheme consolidation and pooling which would otherwise benefit some schemes.	FCA has recommended the removal of barriers to the Department of Work and Pensions.	Tax concessions intended to remove barriers to superannuation fund mergers have been extended beyond 30 June 2017
Effectiveness of investment Consultants	Having consulted on making a market investigation reference to the Competition and Markets Authority, undertakings in lieu have been offered by three of the largest investment consultants. The FCA proposes to reject these and is seeking views from other interested parties.	The FCA expects to make a decision on whether to make a market investigation reference to the Competition and Markets Authority in September 2017.	This is not something ASIC has said it is considering, although the Murray review did suggest a greater competition role for ASIC.
Regulation of investment consultants	FCA has recommended that the Treasury considers regulation of the investment consulting sector on the basis of a range of factors connected with weak competition in the investment consultant market.	No further action from the FCA. Awaiting Treasury response.	Additional regulation of investment consultants is not something ASIC has said it is considering.
Investigation into whether retail investors benefit from economies of scale when pooling their money via investment Platforms	FCA has announced that it will launch a Market Study in relation to investment platforms.	The Market Study terms of reference document is expected shortly.	This is not something ASIC has said it is considering.