

CLEANIN' OUT MY CLOSET

Distribution advisory firms should be aware that dealing with conversions to the new style clean and super clean share classes may not be as straightforward as they perhaps think. Whilst the FCA consultation paper clearly points out that a simple share class move is not an advice event, advisers should carefully consider their approach to their customers.

The recent guidance consultation (GC13/7) has suggested that conversions would not normally be advice. However, there are circumstances where conversions would be advice and this would also apply to switches (sales and repurchases), when advice is given in practice. We should bear in mind the general point that advice can apply in all the scenarios if indeed advice occurs in practice.

The FCA has said in its draft guidance that unit holders have the right to convert assets from one share class to another, but warned that where a nominee is acting on behalf of a beneficial owner that the underlying investor should be informed by the nominee of their intention to convert the share class of assets and be "given the option to object".

When the retail investment client is the unit holder, platforms must obtain their "express permission" before converting their assets to clean share classes, the FCA has said.

The regulator has said that it should be clients that request the conversion to take place or "at least provide their explicit consent" for it to happen. However, they warn that platforms could be at risk of giving advice, and therefore being subject to wider rules under the RDR, if they present investors with a "recommendation ... to convert to the clean unit class".

"A notification that a clean unit class exists (without a specific recommendation to convert to that class) does not constitute advice." Firms should also bear in mind the need to look at the issue of "disturbance" conversion constituting advice & when trail commission ceases.

If an old share class is moved to a new share class with the same fund manager on the same platform this would not be advice, assuming client best interest and no detriment except where advice has been given.

If an old share class is moved to a new share class with a new fund manager on the same platform, this sounds like a sale and re-purchase so would involve some client participation off the back of an interaction from a regulated person and is therefore advice, or could be deemed advice.

If an old share class is moved to a new share class but different asset holding with the same fund manager on the same platform then this will be construed as advice (a new fund manager suggests a new fund/asset holding.)



Any attempt to review the portfolio or change asset class (ie underlying investments) in any situation is advice although changes can occur following direct offers or even clients volunteering changes themselves under execution only.

TISA has been running a special interest group on share class conversions for some months now. Easy solutions are not emerging and the group is looking hard to find a palatable solution having just responded to the FCA's consultation.

Advisory distributors should take note to proceed with extreme caution if they are embarking on share class movements at the present time, as conversions to new share classes are nowhere near as simple as they may seem. There is a real danger of triggering an advice scenario and then trail commission switches off.

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