FCA Investment Platforms Market Study 17/1.2

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About TISA

TISA is a unique, consumer focused membership organisation. Our aim is to improve the financial wellbeing of UK consumers by aligning the interests of people, the financial services industry and the UK economy. We achieve this by delivering innovative, evidence-based proposals to government, policy makers and regulators; the proposals provide practical solutions to major consumer issues.

TISA's growing membership comprises over 190 firms involved in the supply and distribution of savings and investment products and services. These members represent all sectors of the financial services industry, including the UK's major investment managers, retail banks, insurance companies, pension providers, distributors, building societies, wealth managers, third party administrators, FinTech, consultants and advisers, software providers, financial advisers, pension providers, banks and stockbrokers.

TISA's current strategic policy and industry solution developments include:

- **Guidance**: developing a framework to make guidance more widely available to the estimated 42 million UK citizens who will rely on it when making financial decisions
- **Digital ID:** development of a digital identity for consumers of financial services: following successful earlier feasibility work, a project with members has now been established to develop and test a pilot of the Digital ID.
- **Digitalisation**: building on the successful launch of TeX, TISA has initiated a range of member projects developing open standards that support the growth of FinTech and increase consumer access to financial services, while lowering costs for providers.
- **Financial education**: helping to make young people aware of the impact of finance on their life including the KickStart Money project – a £1million three-year programme delivering financial education to 18,000 primary school children.
- **Retirement saving**: strategic policy focused on the needs of millennials and the self-employed and the use of property to supplement retirement income.
- **ISAs**: working with government, the simplification/improvement of this key savings regime
- **The TISA and KPMG Savings Index:** a biannual measure of typical household savings and debt in Great Britain.
- **Consumer engagement:** alongside our financial education and guidance work, we are also considering how the industry can improve how they identify and interact with vulnerable customers, and encourage greater financial capability for UK consumers.

TISA also provides support on a range of operational and technical issues targeted at improving processes, standards of good practice and open standards, alongside the interpretation and implementation of new rules and regulations, including MiFID II (through publication of good practice guides and open standards, and an industry solution to the collection of target market data and costs & charges); Client Assets (publishing good practice guides and working on unbreakable term deposits; tackling financial crime, data standards, SM&CR and GDPR; and Brexit, by developing proposals for government that will enable the savings and investments sector to prosper on a global scale to the benefit of UK plc.

Our work to improve industry infrastructure includes TeX, (an industry utility providing the legal framework and governance necessary for the use of electronic messages facilitating transfers) alongside support for the Transfers & Re-registration Industry Group (TRIG) and support for the UK Fund Trading and Settlement initiative (FTS).

TISA RESPONSES

Q1: Are you aware of specific innovations that display costs and charging information in a way which facilitates consumers making informed investment decisions?

We believe that the recommendations set out in the TISA document on MiFID II Costs & Charges disclosure (Approach to Implementation for MiFID II Costs & Charges Disclosures, a copy of which is attached) provides a standard to enable costs and charges to be compared in a way that is helpful to clients.

Q2: Bearing in mind the existing costs and charges disclosure requirements found in, for example, COBS 2.2.1R and COBS 6.1.9R (for non-MiFID business) and COBS 2.2A.2R, 6.1ZA.11R and COBS 6.1ZA.12R (for MiFID business), do you think additional disclosure remedies are required to ensure that consumers are able to compare platform charges? If yes, what should those further requirements be and why do existing disclosure requirements not go far enough?

It is important in this context to understand that fee transparency does not necessarily equate to clarity, and can even act in reverse: more detailed (and inevitably more complex) disclosure can often simply serve to confuse the consumer and discourage him[1] from seeking to understand how he is charged. In this context we are opposed to further changes to the disclosure requirements required by regulation. TISA's view is that MIFID II introduced sensible and sufficient changes in this regard. The changes brought in by MIFID II are still bedding in, and we suggest that the FCA reviews this issue again in 2019 before implementing any further changes.

However we are open to discussion, as explained below, regarding ways in which a consumer's understanding of the fees might be enhanced. We believe there is scope to require firms, on an annual basis, to make it clearer to a client what (if any) fee he is paying for advice.

Q3: Are there any practical challenges, negative effects or limitations of innovations to enhance the comparability of charges and, if so, are there ways in which these could be overcome?

MS17/1 does not, in our view, adequately discuss the considerable practical challenges faced in achieving the FCA's aim of enhancing the consumer's ability to compare platforms' costs. Platforms are a very disparate group with different business models and customer propositions, occupying different positions in the consumer value chain. It is very difficult, if not impossible, to prescribe a disclosure regime that will be suitable for all and which allows a true like-for-like comparison. Coupled with this are significant challenges relating to the different ways in which consumers use platforms for different wrappers and purposes at different stages in the investment cycle.

We believe that the right approach is to rely on the competitive impact of the disclosure regime introduced under MiFID II.

Q4: Do you think that: a. third party intermediaries currently face barriers to placing competitive pressure on platforms? b. the role of third party intermediaries should be enhanced in an effort to

[1] Throughout this response we solely use the masculine pronouns and possessives simply for brevity.

improve competitive pressures on platforms and, if so, how? c. a requirement on platforms to provide third party intermediaries with more data or open data solutions is a good way to enhance their role in an effort to increase competitive pressures on platforms? d. there are practical challenges or negative effects of enhancing the role of third party intermediaries through introducing a requirement on platforms to provide them with more data or open data solutions. If so, how could these be overcome?

a. We are not aware of any such barriers.
b. We cannot envisage any practical way in which this could be achieved. It seems to us that by definition a competent financial adviser with his client's interests at heart will select a platform that most suits his client's needs. Crucially this choice is not simply driven by cost – platforms vary significantly in their service offerings and advisers must take this into account when making their recommendation.
c. Please see our previous comments.
d. Please see our comments above. We do not envisage that enhancing the role of third party intermediaries would bring the benefits the FCA seeks.

Q5: Are there any alternative ways to enhance the comparability of charges investors incur when investing through a platform?

We believe that the standard disclosures recommended in the TISA good practice guide would provide a good basis for making comparability of charges across platforms easier. We are aware of at least one comparability tool in the market.

Q6: Are you aware of specific innovations that display costs and charging information in a way which facilitates consumers making informed choices between investment funds?

We are aware of comparison websites, including those which interact with the online user to facilitate a more informed choice. MS17/1 discusses these briefly on page 57. We are generally supportive of these tools, which can only help to at least educate the consumer as to the issues he should bear in mind when making his choice. However, we consider that due to the challenges discussed in early questions the tools are obliged to make some reasonable assumptions regarding how the client intends to use the platform; a truly accurate like-for-like comparison seems an ambitious prospect, at current technological limits.

Q7: Do you think additional disclosure remedies are required to ensure that consumers are able to compare fund charges on a platform? If yes, what should those further requirements be and why do existing disclosure requirements not go far enough?

No. Please see our response to Q2.

Q8: Are there any practical challenges, negative effects or limitations of innovations to enhance the comparability of fund charges on a platform, if so, are there ways in which these could be overcome?

Yes, but please see our answer to Q3.

Q9: What impact do the commercial arrangements we have identified have on fund managers' incentives, on consumers and on competition?

MS17/1 does not draw attention to any realistic consumer harm in relation to the practice of fund managers offering favourable terms to the larger platforms, nor does TISA recognise any such harm. The suggestion that a fund manager's incentive to offer a discount to Platform A means that perforce the FM must maintain less favourable arrangements for Platform B (and that this therefore results in harm to the customers of Platform B) is open to question. Such arrangements are a commercial inevitability in any competitive industry operating to tight margins where economies of scale are crucial. If the FCA sought simplistically to ban this kind of arrangement it would result in equivalent harm to the customers of Platform A, and remove a Darwinian force in the industry's evolution that in the long term can only be of general benefit to consumers and markets.

We should be more concerned if prices for share classes were identical across platforms, leaving competition to be solely around service. That, in our view, would be more likely to be prima facie evidence of lack of price competition. Fundamentally, customers do not expect prices of similar consumer products to be the same between, e.g. Waitrose, Tesco and Aldi. Why should investment platforms be different?

Q10: What are the reasons why D2C consumers have significantly higher cash balances than advised consumers?

As a preliminary comment, it is not always possible to distinguish between a formerly advised and now D2C ('orphan') client and a client who has an ongoing relationship with an adviser. Client/adviser relationships often break long before the platform becomes aware of it. We discuss this issue further in our answer to Q23.

There are many sensible or at least understandable reasons for clients to hold cash for moderately extended periods. MS17/1 seems to be take as its premise that cash holdings are always anathema. Cash holdings are an inevitable part of the investment lifecycle, for many reasons, but to address this question directly: Whilst we have no empirical data (a situation we suggest the FCA's study should address) we suggest that D2C clients tend to be more inclined to ride out what they perceive to be periods of market volatility by holding cash. They do not necessarily have a professional investor's understanding that the best way to weather a turbulent or depressed market is to invest in assets that benefit from periods when the FTSE struggles, and they often lack the skills and knowledge to know what those assets might be. Self-directed investors often like cash because it makes them feel 'safe'; they disregard the opportunity cost.

Cash holdings can also arise at the point that a consumer is making arrangements for retirement, which can take time, particularly if such arrangements involve the sale and/or purchase of property. Probate processes, which usually involve liquidation of assets, also tend to be protracted.

We also remind the FCA that the platform industry manages a lot of cash ISAs!

Q11: How are cash balances held, ie does it tend to be in a wrapper or for certain products, and how long does it stay uninvested for?

Please see our answer to Q10. The obvious example is a cash ISA. We have no empirical data on how long clients hold cash, although the FCA must be aware that some cash is an inevitable part of most portfolios, even those that are actively managed.

Q12: Are certain types of consumers more likely than others to hold large cash balances and, if so, why?

Please see our answer to Q10.

Q13: What determines how the level of interest rates on cash balances paid to customers is set?

This is a commercial decision by individual platforms. Platforms which offer cash ISAs compete for very rate-aware consumers. Investment platforms are required under CASS rules to disclose to customers where they retain interest on balances, and obtain their consent to do so.

Q14: What reasons are there for platforms to charge a platform fee on cash and what are the costs for a platform associated with holding consumers' cash?

Platforms earn revenue by providing their full range of investment services. Allowing customers to simply 'park' cash for extended periods, without those clients paying some kind of fee, would threaten the platform business model. So fees (or below market rate interest rates) are a means to discourage clients from holding cash for extended periods. Unless the platform is able to extract some modest revenue from such clients it would result in active investors paying higher fees, thereby effectively subsidising the passive investors.

Q15: How much cash should consumers reasonably hold, and for how long?

This question cannot be answered other than to point out that cash should be held for as long as it is reasonable to hold it, depending on the purpose the client has for holding cash. There are many reasons for clients to hold cash, even for extended periods, as we explain in our answers to Q10 and Q11. We avoid here any obvious comment regarding cash ISAs.

Q16: As set out in paragraph 9.18 there are a number of existing rules which require platforms to disclose information that is relevant to a consumer holding a cash balance. Given the high proportion of cash balances: a. how could the relevant disclosure requirements be made more effective at warning consumers of the costs and charges associated with holding cash balances? b. do you think there are better alternative options which could make consumers aware they are holding cash balances and the charges associated with doing so?

Again we emphasise that it is not necessarily safe to assume that clients hold large cash balances for extended periods due simply to their ignorance or apathy. The FCA's investigations in this regard seem to have been undertaken at a rather macro, statistical, level and made no effort to examine a sample of individual client situations to understand what might have driven the decision to hold cash. We believe the FCA's study could usefully be extended in this regard.

The FCA should also be sensitive to the risks attached to a process in which a platform (which is not acting as the client's adviser) is required to warn a client that he is holding cash and that this might be causing him detriment. Firstly, self-directed clients might consider this rather patronising, particularly in the kinds of situation described above where the decision to hold cash has been deliberate. Secondly, there is the risk that the prompt achieves its aim of encouraging self-directed clients to invest, only to see their investments fall in value. Where the client has an adviser (including situations where the platform is the adviser) the adviser's responsibilities in this regard are already more than adequately covered by COBS rules.

Having said all the above we would support sensible proposals for a requirement for platforms which are not acting as adviser to write to relevant clients on perhaps an annual basis suggesting that they take the opportunity to review their cash holdings. The letter would however need to be drafted carefully with, we suggest, wording prescribed by the FCA, to ensure that the platform cannot be held responsible for any actions taken by the client in response to the letter. The criteria for determining which clients should receive the letter would also need careful thought, and again we suggest that to avoid risks of the kind discussed here the FCA would need to prescribe the relevant criteria. There are significant regulatory risks in requiring platforms to make their own determinations in this regard.

Platforms with an advisory relationship with the client are already bound by COBS rules to ensure that the client is adequately advised about his investments.

Where the client has a third party adviser it falls to the latter to advise his client appropriately; the duty does not pass to the platform.

Q17: Is there a role for the FCA in reinforcing the industry initiative to improve transfer times and, if so, what should this role be?

We strongly encourage the FCA to support the current industry initiative aimed at setting out maximum transfer times. We would be happy to discuss the best way to achieve this.

Q18: What is the likely effectiveness and proportionality of: a. The possible remedies outlined in this section which are intended to make switching easier and increase the competitive pressures operating in the platform market? b. FCA measures that are intended to improve the switching times and processes by, for example, introducing remedies to shine a light on firms' switching times or setting minimum standards for transfer times?

Please see our response to Q17.

Q19: What should be the scope of a remedy to ban exit fees (ie should the ban apply to platform fees only, or also eg product-specific fees)?

We do not support the FCA's proposal to ban exit fees. The transfer process is a costly one for platforms and it is reasonable for firms to ask clients to pay for the service, in the same way they pay for other services they enjoy. It is likely that banning exit fees would have the 'waterbed' unintended consequence of forcing firms to recoup such costs through other fees, which would be unfair to those clients who do not leave; it would effectively be a punishment for loyalty, which in itself is a fairness issue.

There may however be some scope for the FCA to regulate exit fees where the amounts set are arbitrary, or not related to cost, or not easily disclosable in advance, but which act as a competitive barrier. This would require careful consideration; the issues are too complex for discussion here. Exit fees are often a mirror of entry fees and banning them retrospectively might cause graver harm than the potential benefit to customers.

Q20: Would there be any unintended consequences associated with any of the possible remedies outlined in this section which aim to make switching easier? If so, how could these be overcome?

Please see our response to Q19.

Q21: What costs do advisers incur when reviewing whether they should switch their clients to an alternative platform and then executing a switch?

For obvious reasons an adviser cannot make a recommendation to switch platforms without a review of the client's needs; it would be an advisory event like any other. Reviews take qualified skill and time, and therefore incur costs. The process of activating and monitoring the switch on the client's behalf is also time-consuming, particularly as it often involves changes to the client's underlying investments following a discussion of his needs, plans and risk appetites.

Q22: Would guidance on our expectations for adviser switching be useful? If so, what do you think this should cover? If not, what alternative remedies could achieve our aim of ensuring the costs of switching adviser platform are proportionate?

We do not think that guidance from the FCA would be of material benefit here. Please see our comments in our response to Q19.

Q23: What is the likely effectiveness, proportionality and unintended consequences of the remedies listed above (A-C)?

As a preliminary comment it is important that the FCA understands that identifying an orphan client is not as straightforward as MS17/1 seems to suggest. It can take some time for a platform to become aware that a client has broken his relationship with his adviser. We believe the FCA could do more here to notify platforms of advisory firms that have gone into default.

The issues and remedies here seem to us to be wrapped up in the earlier discussion of disclosure. If a client is aware of the fee he is paying for advice, and he is also aware that the fee is (or was) being paid to his adviser, then it follows that he should be in a position to understand that when he breaks his relationship with an adviser he is effectively paying for nothing. An annual disclosure of the fee before it is paid to the adviser should be sufficient to give him time to notify the platform, where he does not wish it to be charged or paid.

To comment on the individual remedies proposed by the FCA:

Remedy A: The FCA requests a persuasive explanation of why orphan clients are sometimes charged more than advised clients. The answer is quite straightforward: it is often the case that unadvised clients demand more time and attention than advised clients. They are far more inclined to contact the platform for information, and their instructions are often unclear and require the platform to contact the client for clarification.

Remedy B: As discussed previously we would be wary of any solution which requires firms to suggest that an orphan client switches to an unadvised proposition. Orphan clients are not easily identifiable; lack of activity is not a safe test. Again, we see disclosure as the appropriate remedy here, rather than the dangerous approach of making what in effect are recommendations to the client that he take action to address a situation that the platform might not necessary properly understand. Many orphan clients become so accidentally – because of a move, which breaks a client relationship, or because an adviser ceases business. It seems unlikely that clients who have relied on advisers to handle their investments for many years will suddenly have the confidence to become self directed. At the very least the FCA should not assume this as a default position.

Remedy C: Our comments above are valid. Orphan clients are not safely identifiable by a test for activity levels.

Q24: Should remedies A-C apply to orphan clients only or other groups of consumers?

We do not support remedies A, B or C, and refer the FCA back to the discussions on fee disclosure.

Q25: Would platforms face any practical challenges in introducing remedies A-C above?

Please see our comments above. We believe that MS17/1 expresses unrealistic expectations of the ability of firms to identify orphan clients, and the proposed remedies are not safe.

Q26: We welcome views on whether the issues we have identified with in-house model portfolios are likely to apply across all types of model portfolios and also exist in model portfolios offered by wealth or asset managers.

We recognise the issues and challenges described by the FCA, but please see our response to Q27.

Q27: What is the likely effectiveness, proportionality and unintended consequences of the remedies that would: a. apply current performance and risk disclosure obligations for funds onto model portfolios? b. require firms to use standardised terminology to describe their strategy and asset allocation, including formalising definitions such as cautious, balanced and adventurous?

It is difficult to respond to this question (and the previous question) without a better understanding of how the FCA might go about achieving this aim. It seems to us fraught with difficulty; funds are obviously highly diverse in the assets they hold, and to state the obvious even minor differentiation can result in a material change to a risk rating. We note that the FCA is planning further investigatory work in this area and we would be willing to discuss any more detailed proposals.

Q28: To what extent do existing rules go far enough in making platforms' trading practices transparent to retail investors?

This appears to be a general ‘catch-all’ question and therefore difficult to answer, particular as the document does not make it clear to what ‘trading practices’ it is referring.

MS17/1 seems to us to pay insufficient attention to the role of the adviser, whether this be the platform or a third party. It is the adviser’s fiduciary duty to ensure that the client’s investments are well-placed, in accordance with his appetite for risk, and well-managed, and that cash is held only when appropriate. So the concerns regarding cash balances and unsuitable model portfolios should in our view refer back to the well-established COBS rules, where an adviser relationship exists. In our view MS17/1 places too much emphasis on the role of the platform and seems to suggest that platforms should fill breaches of advisory duty. We demur.

The concerns in relation to ‘orphan’ clients paying for advisory services they don’t receive seems to us a disclosure matter. We are open to discussion about how firms might improve clients’ awareness of the fees they are paying for advice and where those fees go, but we believe that once this understanding is achieved, it is then for the client to instruct the platform appropriately. We are deeply uncomfortable with MS17/1’s suggestion that firms should in some way detect when a client is not receiving advice (as discussed this is not as straightforward as the document seems to suggest) and makes what in effect would be a call to action. The platform business model (and its regulatory authorisation) is based on being the acquiescent recipient of a client’s instructions or his adviser’s instructions. Even in situations where the platform is also acting as the regulated adviser it is important to differentiate between those two roles. The FCA’s suggestion that platforms should be proactive in detecting clients’ needs and reacting to them seems to us to be based on a misinterpretation of the relationship clients seek from their platform provider, and the relationship platform providers seek with their clients.