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External in-house counsel

The Financial Conduct Authority has expanded retail access to the Long-Term Asset Fund

Background

In June 2023, the Financial Conduct Authority ("**FCA**") released Policy Statement PS23/7 (the "**Policy Statement**") which outlines the finalised rules and guidance aimed at broadening retail and pension access to the Long-Term Asset Fund ("**LTAF**"). Following its initial consultation in August 2022 to explore the possibility of extending retail access to the LTAF, the FCA took feedback into account and made amendments to the original consultation.

Key Changes

Changes to categorisation

As part of the recent updates, units within LTAFs have undergone a categorisation change, transitioning from Non-Mass Market Investments to Restricted Mass Market Investments ("**RMMI**"). This reclassification enables broader distribution, allowing mass market retail investors, self-select Defined Contribution Pension Schemes and Self-Invested Personal Pensions to invest in LTAFs.

Retail investor protection rules

In order to safeguard mass market retail investors, the FCA has extended certain investor protection rules, originally applicable to other retail authorised funds, to also include non-limited protection LTAFs. These amendments include:
- Ensuring full engagement with unitholders regarding any proposed fundamental or significant changes to the fund, including rules on change events related to feeder LTAFs;
- Establishing protocols for maintaining a register of unitholders and conducting unitholder meetings;
- Imposing restrictions on the types of payments and charges that can be applied to LTAF unit classes available to retail clients; and
- Mandating regular investor updates in the event of a suspension of dealing.

Investors must have a strong understanding of the risks

LTAFs are now subject to several measures aimed at reducing investor risk. These include:
- Firms targeting retail investors with LTAF marketing activities will be required to provide risk warnings and summaries;
- Firms involved in the sale of LTAF units must conduct appropriateness assessments for unadvised investors and suitability assessments for advised investors; and
- Unadvised investors will need to declare that their exposure to RMMI investments in the past 12 months and the next 12 months is limited to 10% of their investable assets.

Next Steps

The changes outlined in the final rules and guidance issued by the FCA have been in effect since 3 July 2023. Existing LTAFs have been granted a transitional period of 12 months to comply, with the deadline set for 3 July 2024, or earlier if updates are made to the fund and prospectus. These changes align with the New Consumer Principle which requires investors to have a thorough understanding of the associated risks before making investments. We have prepared a concise one-page guide on the consumer duty which sets out key considerations for firms, here. To read the full Policy Statement, click here. To explore the original consultation and for further information on LTAFs, read our previous article here.

For more information on the final rules and guidance introduced by the FCA, Cleveland & Co External in-house counsel™, your specialist outsourced legal team, are here to help.

if you need any further assistance or information, please contact:
Leela Fair - Managing Director, General Counsel EMEA
+44 7412 502985
lfair@cleveland-co.com

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