

The impact of recent FCA rules for funds that imply a guaranteed/positive return

Earlier in the summer, the Financial Conduct Authority published amendments to its Collective Investment Schemes Sourcebook (COLL) that relate to authorised funds where there is an implied guarantee of capital protection or positive returns when no such guarantee exists.

Handbook Notice 004 was issued on 25 July 2013 and came into force the following day, this being the beginning of a 6 month transitional period in which groups need to review their fund objectives. However, if other changes are made during the transitional period the new COLL amendments need to be addressed at the same time.

Potential impact on investment objectives wording

The FCA appears to be particularly concerned about the lack of a guaranteed return on a fund where the name and/or the investment objective imply such a guarantee. For funds that are considered to be within scope of the new rules additional disclosures are required **within the investment objectives** that clarify:

- That capital is, in fact, at risk
- The investment time frame over which an implied positive return will be delivered
- There is no guarantee that positive returns will be achieved.

The additional disclosure requirements can be found under FCA 2013/57, COLL amendment number 8.

For groups that have explicit absolute return funds within their range, prospectus wording needs to be checked to ensure that the required disclosures form part of the stated investment objective and are not just placed under the Risks section. It may be that investment objectives will need to be changed to incorporate the new requirements, with all that that would entail, in terms of FCA applications etc.

In a broader context, it is also worth checking investment objective wording for non-absolute return funds, since 'loose' wording may imply either capital protection or positive returns there too. For example, the term 'total return' is used quite liberally throughout investment fund objectives. Groups sometimes adopt it as an alternative way of simply saying 'income and growth' but careful thought needs to be given as to whether the overall context of wording could lead potential investors to expect a positive return irrespective of market conditions (when this is not guaranteed).

Impact on KIIDs

We are raising this issue because it has a real potential impact on KIIDs, since they should mirror prospectus narratives, albeit in a more retail investor-friendly manner. If the disclosures are added to prospectus investment objectives then they will have to be reflected in the complete suite of investor-facing materials such as KIIDs and fact sheets (where space is limited and where, for a KIID, layout and content is heavily prescribed).

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