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Ruffer LLP
80 Victoria Street
London SW1E 5JL
+44 (0)20 7963 8100
Fax +44 (0)20 7963 8175
vpowell@ruffer.co.uk

Dear Sir/Madam

Introduction

Ruffer LLP offers discretionary investment management and at present has £21.1 billion assets under management. We are authorised and regulated by the Financial Conduct Authority. Ruffer LLP is a limited liability partnership (LLP) owned by current and former members of staff. This structure aligns our interests with those of our clients by emphasising investment returns and client relationships that are sustainable over the long term. We also have a subsidiary in France which will ensure we continue to serve EU clients post Brexit.

Costs and charges disclosure requirements under Article 24(4) of MiFID II

I: What are the issues that you are encountering when applying the MiFID II costs disclosure requirements to professional clients and eligible counterparties, if any? Please explain why. Please describe and explain any one-off or ongoing costs or benefits.

We extend the regulatory protections to our professional clients.

J: What would you change to the cost disclosure requirements applicable to professional clients and eligible counterparties? For instance, would you allow more flexibility to disapply certain of the costs and charges requirements to such categories of clients? Would you give investment firms' clients the option to switch off the cost disclosure requirements completely or apply a different regime? Would you distinguish between per se professional clients and those treated as professional clients under Section II of Annex II of MiFID II? Would you rather align the costs and charges disclosure regime for professional clients and eligible counterparties to the one for retails? Please give detailed answers.

We extend the regulatory protections to our professional clients.

We do not think giving investment firm clients the option to switch off the cost disclosure requirements would actually happen. In our experience, our professional clients want more detail rather than less and certainly the UK regulatory regime is moving in this direction. We would actually argue it is the retail clients who should have the permission to turn off disclosures if they so wish and that the information should be presented to them that is actually meaningful so that they can use it more effectively.

We would certainly prefer the costs and charges disclosure regime to be aligned for all clients as systems that create variations also risk introducing errors and given we believe the accuracy of these costs and charges is critical as a means of building trust, we do not want to introduce potential complexities that could result in errors.

K: Do you rely on PRIIPS KIDs and/or UCITS KIIDs for your MiFID II costs disclosures? If not, why? Do you see more possible synergies between the MiFID II regime and the PRIIPS KID and UCITS KIID regimes? Please provide any qualitative and/or quantitative information you may have.

We struggle to see data from third party data providers as the data is often missing or inaccurate. In our case, in particular, as we have produced the data ourselves from our own funds we have chosen to ignore third party data and use our own as we can verify it.

L: If you have experience of the MiFID II costs disclosure requirements across several jurisdictions, (e.g. a firm operating in different jurisdictions), do you see a difference in how the costs disclosure requirements are applied in different jurisdictions? In such case, do you see such differences as an obstacle to comparability between products and firms? Please explain your reasons.

There are no differences in calculation as all jurisdictions we are in fall under the remit of EU rules.

M: Do you think that MiFID II should provide more detailed rules governing the timing, format and presentation of the ex-ante and ex-post disclosures (including the illustration showing the cumulative impact of costs on return)? Please explain why. What would you change?

PRIIPs is imperfect but at least is detailed regarding timing, format and presentation. We are more concerned with the PRIIPs methodology rather than its timing and format. Regarding MiFID we believe the rules should be more detailed, for example transaction costs from others should be disaggregated and some are doing it on a monthly and quarterly basis but not doing them annually, which hinders comparison – a key objective which we believe is useful to clients.

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N: For ex-ante illustrations of the impact of costs on return, which methodology are you using to simulate returns? Or are you using assumptions (if so, how are you choosing the return figures displayed in the disclosures)? Do you provide an illustration without any return figure?

N/A

O: For ex-post illustrations of the impact of costs on return, which methodology are you using to calculate returns on an ex-post basis (if you are making any calculations)? Do you use assumptions or do you provide an illustration without any return figure?

We use our system generated performance numbers i.e. we do not use assumptions.

P: Do you think that the application of the MiFID II rules governing the timing of the ex-ante costs disclosure requirements should be further clarified in relation to telephone trading? What would you change?

No, we don't use telephone trading.

Q: Do you think that the application of Article 50(10) of the MiFID II Delegated Regulation (illustration showing the cumulative impact of costs on return) helps clients further understand the overall costs and their effect on the return of their investment? Which format/presentation do you think the most appropriate to foster clients' understanding in this respect (graph/table, period covered by the illustration, assumed return (on an ex-ante basis), others)?

No it does not help them understand the overall costs and their effect because firms methodology for cost and performance differs. The variables around calculations are very significant. The challenges of the complexities therefore prevents some of our market peers from presenting any numbers. This creates a commercial detriment for firms like ourselves who actually try as we are compared by our retail client in particular with these firms and yet they do not understand the omissions from others' costs and look at the total amount rather than its components.
In particular we believe that the aggregation of costs levied by fund managers/investment managers and market transactions costs is entirely misleading to a client. If the service was delivered without any fees being charged by the fund manager, the client would receive the gross return i.e. we have no incentive to churn our clients' portfolio because we do not charge them ourselves for any transactions, we therefore do not derive any benefit from transacting unless we think it is actually valuable to them to transact. The same would not apply to market transactions costs as without trading the return would not be the same. It would be helpful for a derogation on market trading costs to be made on transactions costs where the firm takes no fee itself from them.

R: Are there any other aspects of the MiFID II costs disclosure requirements that you believe would need to be amended or further clarified? How? Please explain why.

We would recommend that more detail be provided. Although we note that despite the greater granularity of PRIIPs there still remains areas of interpretation, such as treatment of FX. The introduction of RTS 28 is a good example of helpful standardisation. With this, the regulator now receives information on spreads. We would suggest that the regulator could very helpfully publish generic spreads refined from this data, with clearly defined asset classes to apply them to, that firms should apply. This would provide greater certainty and standardisation for MIFID II C&C implicit cost transparency.