THE INVESTMENT ASSOCIATION

Michael Collins
Asset Management and Funds Policy
Financial Conduct Authority
12 Endeavour Square
Stratford
London
E20 1JN

By email to: cp24-18@fca.org.uk

Date: 11 October 2024

Dear Michael

RE: Chapter3, FCA CP24/12 Quarterly Consultation Paper No.45

The Investment Association (The IA) is responding only to chapter 3 of Quarterly Consultation Paper No 45, which relates widening access to the LTAF by amending the rules on investing in second schemes for Non-UCITS Retail Schemes (NURS) to facilitate investment into Long Term Asset Funds (LTAFs).

Having pioneered and been involved in the LTAF since its inception, the IA welcomes the proposal by the FCA to make it easier for NURS to invest in LTAFs, subject to an overall 20% limit. This proposal closely mirrors a change advocated by the IA in its response to CP22/14: Broadening Retail Access to the Long Term Asset Fund.

Since its inception, the NURS has become a popular fund vehicle for multi-asset funds marketed to retail investors, due to having an investor protection framework equivalent to UCITS combined with greater investment flexibility. NURS are frequently used to structure bespoke funds for DC schemes, wealth and advised clients. It is therefore welcome that these funds will be able to more easily make a small allocation to private market investments via LTAFs, enabling them to offer greater diversification.

The IA supports the principle that the manager of a NURS investing in an LTAF should ensure that an investment in LTAF or LTAFs should have an appropriate liquidity risk management framework to ensure, to the best of their ability, that this allocation will not compromise the overall ability of the NURS to meet its redemption obligations. This is already a requirement of the AIFMD rules transposed into FUND, which apply to NURS – the IA questions whether it is therefore necessary to include the rule in COLL 5.6.10DR and 5.6.10EG, or whether this can be restated as guidance pointing to the existing requirement in FUND3.6.2R and 3.6.3R.

Overall, the IA welcomes the FCA taking into consideration feedback previously given by the IA and others on allowing NURS to invest in LTAFs on the same basis as NURS FAIFs, though with a lower overall limit than the latter, and supports the change the FCA is proposing. We note however some remaining barriers to the more widespread adoption of LTAFs, such as the slow adoption of the system changes by platforms to facilitate non-daily dealing products, the SIPP and ISA status of LTAFs, the ability of self-directed pension

The Investment Association

Camomile Court, 23 Camomile Street, London, EC3A 7LL
www.theia.org
[peter.capper@theia.org]

@InvAssoc @The Investment Association

investors to invest in LTAFs, and the registration of assets requirements for depositaries, which need to be resolved. In addition, some managers are encountering challenges with using LTAF for hybrid strategies, and LTAF applications from independent ACDs, whose role is critical in enabling LTAFs from private asset specialists to be brought to the market, have taken considerably longer to get approval.

Finally, it is important that the FCA continues efforts towards a proportionate and meaningful cost disclosure regime for all product types, including LTAFs and investment companies, to ensure that the cost impact of allocations to private markets are not overstated.

Should you wish to discuss the points raised in our response further, please do not hesitate to reach out to me.

Yours sincerely

Peter Capper
Senior Adviser, International Fund Regulation

Response to consultation

CHAPTER3, FCA CP24/12 QUARTERLY CONSULTATION PAPER NO.45

WIDENING LTAF ACCESS – AMENDING NURS SECOND SCHEME RULES TO FACILITATE LTAF INVESTMENT

About the Investment Association

The Investment Association (IA) champions UK investment management, a world-leading industry which helps millions of households save for the future while supporting businesses and economic growth in the UK and abroad. Our 270 members range from smaller, specialist UK firms to European and global investment managers with a UK base. Collectively, they manage £9.1 trillion for savers and institutions, such as pension schemes and insurance companies, in the UK and beyond. 47% of this is for overseas clients. The UK asset management industry is the largest in Europe and the second largest globally.

Question 3.1: Do you agree with our proposals to exempt LTAFs from COLL 5.6.10R(3) to allow investment access for NURS? If not, why not?

We agree with this proposal for the reasons set out by the FCA in paragraphs 3.7 and 3.8 of the consultation paper, which mirrors closely a change the IA called for in its response to CP22/14. One of the key innovations of the LTAF, and a relative strength compared with other fund frameworks for private assets, was the adoption of a different approach to managing the risk of circularity. This recognised the widespread use of fund structures to hold private market assets, and the limitations and inefficiencies for accessing this asset class that a traditional approach to mitigating the risk of circularity (namely restricting the percentage of collectives a second scheme can hold) would involve.

The IA agrees that it is appropriate to allow LTAFs to be included within the 20% unapproved limit for NURS – this will allow NURS to make small allocations to private markets via LTAFs without changing the fundamental nature of a NURS. In practice, given that NURS managers will not be able to reduce position sizes in LTAFs quickly, they will operate considerably below the 20% limit to allow headroom for market movements and redemptions without breaching the limit.

It is important that multi-asset investors in retail investors are not prevented from being able to benefit from diversification into private market assets due to an excessive and pervasive culture of safetyism. Noting the benefits stated in our covering letter of allowing NURS to invest more easily in LTAFs, the IA strongly encourages the FCA to proceed with what we regard as a proportionate measure that appropriately balances investor protections while further building on the innovation represented by the LTAF in making illiquid investments more accessible to a wider range of investors.

Question 3.2: Are there any other changes we should make to facilitate investment by NURSs in LTAFs without unduly increasing risks for investors?

We do not consider that further changes need to be made by NURS with respect to facilitating investment in LTAFs. There are other barriers however that remain to facilitating broader investment into LTAFs which should be addressed, in particular:

- The slow adoption by platforms and other intermediaries of systems designed to administer non-daily dealt assets.
- The designation of LTAFs as a non-standard asset for Self-Invested Pension Plans (SIPPs);
- The status of LTAFs as qualifying investments for the Innovative Finance ISA only, not the far more widely utilised Stocks and Shares ISA;
- The permitted links rules in COBS 21.3 continue to make self-select investor access to LTAFs challenging, even after FCA work in this area; and
- Addressing the Registration of Assets Requirements for Depositaries, which are proving a barrier to establishing LTAFs more directly in private market assets.

These issues were all flagged in the IA's response to CP22/14, which can be read here.

In addition, some managers have noted the requirement that the strategy for the LTAF must be to invest at least 50% in private market assets is proving a barrier to using the LTAF for hybrid private/public strategies that have proved popular in other markets. The IA also understands that LTAF applications from independent (host) AFMs have taken considerably longer and been disproportionately more challenging than from internal AFMs. While the IA cannot comment on specific cases, the role of independent AFMs will be critical to allowing LTAFs to be brought to market by private asset specialists, including international managers, who have not historically managed UK authorised funds and do not have the in-house capabilities to act as a UK AFM. It is important that LTAF applications from in-house and independent AFMs are treated equitably.

Question 3.3: Do you agree with our proposed provisions at COLL 5.6.10DR and 5.6.10EG setting expectations for NURS managers, when they invest in LTAFs, to ensure that they can meet their obligations to investors in the NURS to enable redemptions? If not, why not?

We agree in principle that NURS should only invest in an LTAF or LTAFs where and to the extent the manager is satisfied that the liquidity, redemption policy and dealing terms of the LTAF are sufficient for the NURS to meet its redemption obligations. However, we note that the requirements proposed for COLL 5.6.10DR and 5.6.10EG already effectively apply to managers of NURS under the AIFMD requirements in FUND – FUND 3.6.2R requires "an AIFM must ensure that the investment strategy, liquidity profile and redemption policy of each AIF it manages are consistent". This rule is complemented by FUND 3.6.3R, which requires managers of AIFs to employ appropriate liquidity management systems and procedures.

The FCA has, in its recent Call for Input on FCA Requirements following the introduction of the Consumer Duty, asked for examples on where its rule book could be simplified, including areas of complexity, duplication or over-prescription. This would appear to be one of those cases. Guidance or an evidential provision, directing members to the rules in FUND 3.6 would be more appropriate. If the FCA in future consults on removing the NURS from the scope of the AIFMD/FUND, then the necessity for a rule in COLL can be revisited at that stage.

Question 3.4: Do you agree with our proposed minor amendments to COLL 5.7.7R(3) and COLL 5.7.7AG(2) for NURS FAIF managers in line with our proposed provisions for NURS managers at COLL 5.6.10DR and 5.6.10EG?

We have no specific objections to the minor amendments proposed to COLL 5.7.7R(3) and COLL 5.7.7AG(2) for NURS FAIF managers, noting these changes do not materially change these rules. But as noted in our response to Question 3.3, we question whether these rules are duplicative, given that NURS FAIFs are within the scope of the AIFMD rules in FUND, including the liquidity requirements in FUND 3.6.2R and FUND 3.6.3R.