THE INVESTMENT ASSOCIATION

Response to CP26/32: Chapter 8 CCIs: amendments to DISC and COBS

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 250 members range from smaller, specialist UK firms to European and global investment managers with a UK base. Collectively, they manage £11.1 trillion for savers and institutions, such as pension schemes and insurance companies, in the UK and beyond. 53% of this is for overseas clients. The UK asset management industry is the largest in Europe and the second largest globally.

Executive summary

We welcome the FCA continued constructive engagement with industry as firms navigate the implementation of the new CCI regime and we agree with the proposals for minor corrections to DISC which are a positive and constructive step. However, we do not agree with the proposed changes to the past performance requirements in COBS 4 which would extend the CCI approach to non-CCI instruments and non-retail communications and thereby represent a materially broader regulatory change than the consultation describes.

Whilst it may be beneficial to align the rules in DISC and COBS 4 to the extent they relate to CCIs intended for retail investors, the broader scope of COBS 4 requires a fuller consultation allowing for proper stakeholder engagement and consideration of the benefits, costs, and implications for the wider set of firms, instruments, and client types affected. We recommend conducting this exercise as part of the forthcoming review of the financial promotion rules.

Chapter 8: CCIs: amendments to DISC and COBS

Question 8.1: Do you agree with our proposed changes? If not, please explain why.

Overall, we agree with all of the proposed changes to the DISC sourcebook as set out in appendix 7. We have set out a number of technical comments on the proposals below.

We do not agree with the proposed changes to the past performance requirements in COBS 4 which would extend the CCI approach to non-CCI instruments and non-retail communications and thereby represent a materially broader regulatory change than the consultation describes. We recommend deferring consideration of any changes to the forthcoming review of the financial promotion rules. We set out our reasons in more detail below.

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PROPOSED CHANGES TO DISC

We have the following comments on detailed aspects of the proposed changes to DISC:

1. A further amendment is required to 3.5.3R(2) *"The information in DISC 3.5.2R(1) must include:"* because the dates referred to therein should be included in the machine-readable information in 3.5.2R(1) rather than in the instructions referred to 3.5.3R(1).
2. It is unclear whether the simulated past performance used in 5.2.1AR(3)(b) is required to meet the conditions set out in COBS 4.6.6R because DISC 7.5.5G appears to relate only to past performance used in the line graph.
3. It is unclear whether the use of an appropriate benchmark in 5.2.1AR(4) should be for the entire 10-year period or just for the portion of the period where the CCI does not have performance information.
4. Clarification is required in 5.8.1R(1) about how performance affects the risk and return profile. The construction of an investment portfolio determines the risk and return profile. Performance is the outcome of being exposed to the investment portfolio so the risk and return profile impacts performance. This could be modified as *"how the performance of a consumer composite investment ~~impacts~~ is impacted by its risk and return profile"*
5. We do not agree with the requirement in 6.2.3R to always give the cash amount in pounds sterling. Where an investor is buying a CCI denominated in a foreign currency, we think their needs are more likely to be met, and their decisions better informed, by giving the amount in the currency to which they will be exposed.
6. Notwithstanding our comment in point 5, the amendment to 6.2.3R fails to achieve the intended outcome because all costs and charges must be expressed as a percentage in accordance with 6.3.1R. Therefore, the modified text could be read as if there will never be an instance were 6.2.3R applies. A simpler modification could be used instead *"In relation to a consumer composite investment priced or denominated in a currency other than pounds sterling, the costs and charges must be ~~calculated~~ expressed in pounds sterling and, where this requires a currency translation to take place, accompanied by a statement of the exchange rate used ~~to calculate them~~."*
7. In addition to the proposed amendments to 7.1.4R, it should be made clear that this requirement applies only in response to a request for the specified information from a distributor. In practice, such information is readily available in the market and distributors routinely employ hosting agents to render performance information on their websites. The do not have an appetite to harvest such information from the websites of several hundred different manufacturers. Our suggested enhancement will make the rule more proportionate for manufacturers without diluting the certainty that distributors have unfettered access to the information they might need.
8. The proposed extension of the transitional period in TP 2.1R(3) is unnecessarily restricted by the condition that the CCI must be closed to new retail investors as of 6 April 2026. We can see no reason why a CCI that closes to new business later in the transitional period should be excluded from the extension. We recommend changing the 'as of' date to 7 June 2027.
9. On a wider point concerning the amendments proposed in CP26/24, it is unclear how the application of amendments to other sourcebooks under TP 2.11R will work when the choice of providing a K(I)ID or a PSD resides with the distributor. The proposed amendments to TP 2.11R appear to control the application of amendments to other sourcebooks by reference to document being *prepared by the manufacturer* rather than being *provided by the distributor*.

PROPOSED CHANGES TO COBS 4

The consultation paper presents chapter 8 as minor amendments to the CCI rules in DISC and COBS. DISC applies to firms carrying on activities in relation to CCIs intended for distribution to retail investors. COBS 4 applies much more widely to firms communicating with retail and professional clients in relation to all financial instruments, financial indices, and investment services.

We note the link between these proposals and the expectation set out in PS25/20. However, that expectation set was specifically in relation to feedback on the original proposal concerning "the past performance of a CCI". There was no indication that the scope of the alignment would be widened to non-CCI instruments or to communications with non-retail clients.

The wider application of COBS 4 creates many issues that need to be considered before the changes can be made and implemented in an orderly fashion. The timescale of the consultation, appropriately short in the context of the nature of the changes to DISC, is inadequate to properly identify and assess these issues. Moreover, although it is reasonable to dispense with a cost benefit analysis on the basis that alignment makes it simpler for firms to comply with both DISC and COBS 4 in respect of marketing CCIs, this is much less likely to be valid for the wider application of the proposals to non-CCI instruments.

In the limited time available we have not been able to fully assess our members' feedback on the wider application of the proposals, so our comments focus on the shortcomings of the consultation process and the recommendation to roll this exercise in to the forthcoming review of the financial promotion rules. Nevertheless, with more time we can expand on the following matters that have been raised:

- Changes to client-facing websites and factsheet-production systems require substantial lead time, project work, and IT resources.
- In some markets it may be costly or time consuming to backfill performance data for periods between 6 and 10 years ago.
- In some instances, longer periods of past performance may not improve the decision-usefulness of the information presented, for example, the risk and return dynamics of gilts shift markedly as they approach maturity.
- Minor changes presented in an omnibus consultation imply rules being made quickly with insufficient time for an orderly implementation.
- It is unclear how the 60-day recency rule linking the end of the data set and the preparation date could work in practice for illiquid and private market instruments where valuation may be quarterly or less.
- The preparation date in the 60-day recency rule is ambiguous, especially in the context of client-facing presentations and dynamic media.
- The proposals raise a number of questions that need to be worked through about the presentation of performance information in a more flexible manner without the familiar standardised 12-month blocks.
- Past performance requirements should not be amended in isolation because they interact with other disclosures, for example, balancing past performance with the fair and prominent indication of risk[1] in relation to COBS 4.5.2R.

Notwithstanding these wider concerns, some of our members have expressed support for alignment between DISC and COBS 4 in so far as it applies to CCIs, and it may be appropriate to proceed with limited scope alignment while deferring changes for the wider universe of non-CCI instruments.

[1] Risk Warnings Review: Practical Guidance for Firms (April 2026)