

Is it time for asset managers to face scrutiny on fees and performance?

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Andrew Wass

PARTNER | UK

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Over the last decade, the asset management industry has, to a large extent, avoided being the target of numerous litigants seeking redress for the consequences of bad behaviour. Whilst the global banks have faced a tsunami of civil claims (together with the unwanted attention of regulators & criminal prosecutors) and had on occasion their (very) dirty laundry washed in public, the fund managers (and their esoteric practices) have come out of the financial crisis relatively unscathed.

However, this may be about to change. Whether it be the lack of transparency of fees, closet tracking, underperformance, mis-selling, allegations of running a cartel, or the cosy relationship between dealing commission and brokers' research, the multi-billion asset management business is coming under increased scrutiny.

Whilst large institutional pension funds (often overseen by risk-averse trustees) may be reluctant to sue its fund managers, there is a trend for the consumer (say, individual pensioners, or small portfolio holders) to join class actions seeking redress. Recent collective claims involving shareholder litigation relating to the Tesco accounting scandal, and the RBS rights issue have received significant publicity; it might be the turn of the mysterious and extremely well paid people who run our money to face the music.

The FCA's dealing with the increasingly high profile issue of closet tracking (in keeping the names of offending funds anonymous) has been underwhelming, and with the growth of third party litigation funding and adverse costs insurance, the time may be right for individual claimants to collectively flex their muscles.

The asset management industry, whilst ostensibly acting in the interest of the masses, has historically been adroit in keeping most of its colourful practices out of the public gaze...with quite some success. After all, litigants have to understand that they have been wronged before deciding to seek compensation. However, this might be about to change...and about time too.

Authors

Andrew Wass

PARTNER | LONDON

Litigation and arbitration

 +44 20 7597 6320

 andrew.wass@withersworldwide.com