A guide to the Agent as Client agreement.







An overview

When performed correctly, outsourcing your investment process to a third party can be of great benefit to your business and your clients.

Whether it be outsourcing to a fully discretionary service, or moving your clients into a Model Portfolio Service (MPS), both allow the adviser to pass most of the administrative and analytical burdens of investment management to a Discretionary Investment Manager (DIM).

MPS solutions, traditionally having lower barriers to entry and lower costs, are usually delivered through two styles of contractual agreement: *Agent as Client*, and the more recent introduction of *Reliance on others*. Although both styles of agreement ultimately facilitate the provision of the same service from a mechanical standpoint, there are some key differences that require full understanding from the adviser firm.

The main difference between these two contractual variants is the relationship between the DIM, the adviser and the underlying clients. The *Reliance on others* model sees the DIM form a basic contractual relationship with the end investor, forming a reporting and communication conduit between the two parties. It is understood that this allows the client direct recourse to the Financial Ombudsman Service (FOS) in the event of a breakdown of the service or breach of investment mandate, whilst retaining the adviser responsibility regarding individual client suitability of a portfolio selected.

Within the Agent as Client framework, the adviser is the client of the DIM, a per se professional client, the DIM having no direct contractual relationship with the end investor. This framework was born out of the adviser requirement for the DIM to operate through the adviser in all instances – thus preserving the relationship between adviser and client - but has caused some confusion and concern on the liability and responsibilities of all parties and ultimately the path of recourse should something go wrong.

At this point it should be highlighted that the management fee structure for traditional MPS arrangements has been calculated based on this structural arrangement. The MPS structure offers tremendous value for the adviser and investor if utilised correctly – and clearly, the pricing is reflective of the simple implementation of the product. This is made clear, when contrasted directly to fully discretionary services that charge 2x or 3x more for management and produce bespoke portfolios on a client-by-client basis and complete their own KYC and suitability assessments on the client.

The 8AM Clever Managed Portfolio Service (8AM CleverMPS) range is delivered through an *Agent as Client* agreement.

This guide sets out to bring clarity to the subject and make clear the roles and responsibilities of all parties involved.

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Agent as Client concerns

Given the nature of the agreement, whereby the adviser firm becomes a professional client of the DIM, there are several risks of which advisers should be aware.

Concern 1 – Unsuitable investments

Problem

Once an Agent as Client agreement has been signed between adviser firm and DIM, the adviser firm is now a professional client of the DIM under COBS 3.5. This means that the DIM can now, should they so please, invest in vehicles exclusively suitable and relevant for professional clients. These same investments are not suitable for retail investors and pose a risk should they be held within an account of a retail investor within an MPS structure.

Solution

Within the DIMs investment mandate, it should be made clear that only retail appropriate investments can be used within the investment process. If only retail appropriate investments are used (and this can be demonstrated and evidenced easily) then this risk has been effectively mitigated.

Most MPS solutions operate on wrap platforms intended for retail investors and so the use of other unsuitable investments is, for the most part, impossible. If it was to occur as a result of poor process and mandate breach, then the DIM is liable, as per the contractual obligations agreed at the outset.

What we are doing to help?

The 8AM CleverMPS investment mandate makes clear exactly what we will invest in and that our efforts to ensure liquidity and risk will be managed in line with the needs of retail investors. This gives the adviser firm a solid reference point and grounds to complain should we breach mandate, also making clear that we take full responsibility for initial and ongoing suitability of investments included within the portfolios, relative to this retail standard and to the risk profile assigned.

Please note, the adviser is still responsible for the suitability and selection of appropriate portfolios relative to the individual client's risk profile and capacity for loss. As well as regular assessment of the client, to ensure recommendations remain suitable.

The 8AM CleverMPS investment mandate can be found in the investment mandate section (pages 10-11) of this guide.

To support this, the adviser firm will be sent an email every month with the standard factsheets as well as analysis on performance of the constituent parts of the portfolio. In addition, advisers may access the CleverMPS adviser site which lists all past and present holdings of the portfolios, which is completely auditable and clearly demonstrates the quantitative rationale for a fund switch in any given month.

Furthermore, any ad hoc data requests are processed and delivered by 8AM Global LLP to provide additional data for the adviser to satisfy their due diligence requirements.

Concern 2 - Authority to act as agent

Problem

The Agent as Client agreement positions the adviser as the agent of the end investor, who is then granting the DIM authority to act on their behalf. Many adviser-client agreements or terms of business do not accommodate for such a relationship and as a result it is posited that the adviser is acting unlawfully in doing so.

Solution

Amend your terms of business for new clients and notify existing clients of an addendum to their existing agreements to accommodate for the change in contractual proposition.

What are we doing to help?

Upon signing up to the 8AM CleverMPS service, advisers are given a sign-up pack to help promote the service and restructure their relationships with their clients. As part of this pack, we provide template wording for advisers to add to their client agreements.

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The adviser-client agreement - Template wording

LLP on an Agent as Client basis. This means the service is provided via ADVISER NAME and ADVISER NAME assumes responsibility for ensuring the Managed Portfolio Service PLATFORM NAME and the selected funds held within selected for you is suitable at the outset and continues to be suitable for you whilst under their agency. Complaints regarding the suitability of the selected portfolio can be referred to the Financial Ombudsman Service (FOS) and ADVISER NAME is covered by the Financial Services Compensation Scheme (FSCS).

The Managed Portfolio Services we recommend are independently risk-rated and monitored by Dynamic **Planner** to ensure investment risk is consistent and appropriate for each portfolio. The investment mandate undertaken by 8AM Global LLP on behalf of ADVISER NAME restricts the use of any investment unsuitable for a retail investor.

Custody of your invested assets and responsibility for execution of trades into the funds within which

The Managed Portfolio Service is provided by 8AM Global the Managed Portfolio Service invests is covered by PLATFORM NAME. Complaints about PLATFORM NAME can be referred to the Financial Ombudsman Service. our portfolio are covered by the FSCS.

> As access to the Managed Portfolio Service is provided via ADVISER NAME, should you decide to withdraw servicing rights, we will no longer be able to provide access to the Managed Portfolio Service. In this event, the platform will assume responsibility for the investment and likely dis-invest. This will mean your investments are held on the platform in cash, which could result in significantly reduced investment growth until the funds are re-invested. You may have to pay for financial advice in order to ensure funds are re-invested in a suitable way.

In order to access this portfolio, you are appointing ADVISER NAME to act as your agent in relation to the provision of this service only.

Whilst this wording accurately describes the contractual relationship between adviser and investment manager, it is an example only. 8AM Global LLP offers no warranty or endorsement as to the suitability of the wording and use of the above should always be agreed with your compliance team.

Concern 3 - Lack of clarity on where responsibilities lie

Problem

The end investor (the adviser's client) does not have a direct contractual relationship with the DIM and this could create confusion on roles and responsibilities should things go wrong - should recourse be sought. Without a direct contractual relationship with the DIM, the client wouldn't (under normal circumstances) have any right to complain to the FOS in direct relationship to the Managed Portfolio Service offered by 8AM Global LLP in relation to the suitability of the portfolio and underlying investments selected.

Let us take the example of a client being invested directly in a unit trust run by 8AM Global LLP or any other investment manager. There would be no direct bipartite contractual relationship between 8AM and the underlying client. The FOS would likely hear a complaint in relation to a breach in the management of the fund in accordance with the published prospectus. In the same manner, gross misconduct or a breach of investment mandate relating to the retail suitability of selected instruments or the management of the 8AM CleverMPS portfolios relative to their risk targets, could be treated in a similar way.

Solution

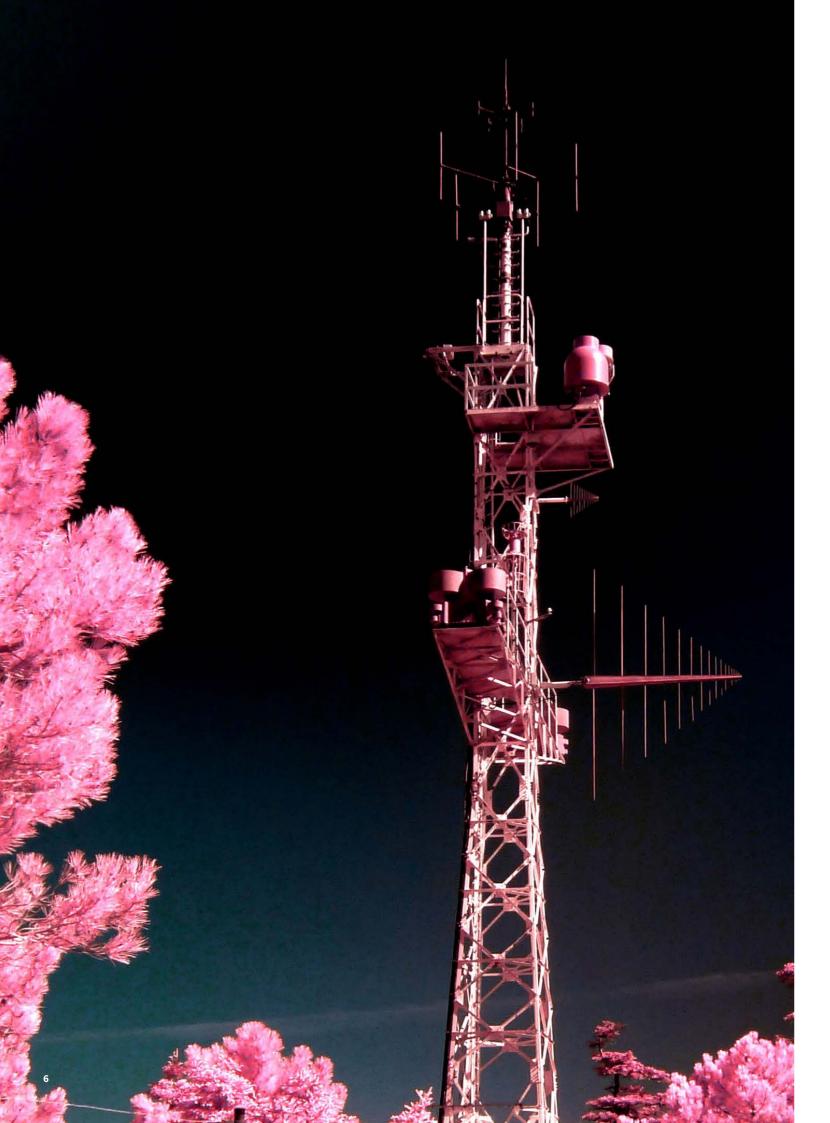
A clear understanding from all involved as to the rights and responsibilities of all parties – as well as a documented investment mandate against which the DIM can be held accountable in case of a breach.

What we are doing to help?

The 8AM CleverMPS investment mandate forms part of the initial, binding agreement with the adviser, that makes clear exactly what we can invest in and that our oversight to ensure liquidity and risk will be managed in line with the needs of retail investors. This gives the adviser firm a reference point and grounds to complain to the DIM.

This document itself provides clarity on responsibilities but the protection for the client can be roughly grouped as follows:

- Potential FOS + FSCS in relation to the assets held on the wrap platform
- Potential FOS + FSCS in relation to underlying funds within the portfolios
- Potential FOS + FSCS in relation to the suitability of the investment portfolio and related advice from the adviser
- Potential FOS in relation to the DIM specifically in relation to the operation of the portfolio to investment and risk mandate



Roles & responsibilities

The key to all of this is clarity, culpability and clearly defined roles and responsibilities. This section will cover the roles and responsibilities of all parties, but to begin with, we will address our responsibilities and obligations as the Discretionary Investment Manager.

The Discretionary Investment Manager – Our roles and responsibilities

Investment mandate formation

We are responsible for the formation of a clear, well-articulated and actively policed investment mandate that services the retail investors of UK based financial adviser firms. This investment mandate uses Dynamic Planner's definition of investment risk and aligns with the Dynamic Planner risk profiling structure. This will not be specific to any one client.

The mandate is also set out clearly and referenced in addition to the agreement with the adviser, making the DIM responsible for any mandate breaches in relation to their service to the adviser.

Initial model portfolio construction

We are also responsible for the construction of model portfolios that align with the investment mandate set out in Section 4 and represent investors grouped by Dynamic Planner into a range of risk profiles. Both fund selection and asset allocation must fall in line with the prescribed investment mandate, that aims to serve retail investors.

On-going model portfolio management and maintenance

Investment selection and asset allocation changes will be made in line with the investment mandate formed at the outset. Each model is also risk target managed by Dynamic Planner to ensure consistent adherence to the risk profile.

To meet our obligations as raised in the FCA's Thematic Review TR 15/12 "Wealth Management Firms and Private Banks; Suitability of investment portfolios", the model portfolios are monitored monthly in accordance with our mandate with Dynamic Planner.

All ongoing activity, and efforts made by the DIM to ensure continued suitability, will be communicated to the adviser every month. These communications will show that the mandate is being met in accordance with the initial agreement. Examples can be found in the investment mandate section (pages 10-11).

Adviser suitability checklist

The Adviser - Your roles and responsibilities

You, as the adviser, have obligations to fulfil regarding the suitability of the service (MPS), the service provider (DIM) and the specific model the client is invested in (Risk 3, Risk 4 etc.). Here is a list of suitability checks required of the adviser. Clear dataflow between all parties means that these responsibilities are essentially automated and form part of the wider ongoing process performed between the adviser and DIM.

Selecting a Discretionary Investment Manager (DIM suitability)

These models are Risk Target Managed by Dynamic Planner. Therefore, as long as the client's risk profile remains the same, the model will remain suitable in risk output.

It is the role of the adviser to regularly

assess the client's risk profile in light of

a change in circumstance or otherwise

to clarify

Selecting	a Discretionary investment Manager (D	olm suitability)			
Specific check	Selection of DIM	Appropriateness of DIM for specific client The adviser shall perform an assessment of the; client's attitude to risk, level of return required, capacity for loss, other investments held and overall financial planning objectives in order to determine a model portfolio discretionary investment service is appropriate for the client.			
Notes to clarify Underlyin	The Adviser will conduct sufficient research and due diligence on DIM to recommend DIM as appropriate to provide a Model portfolio discretionary investment management service. g investment / model suitability				
Specific check	Suitability of portfolio risk profile	Suitability of portfolio holdings	Suitability of portfolio transactions		
Notes to clarify	All of the CleverMPS portfolios are risk rated and targeted by Dynamic Planner. Therefore the role of the adviser is simply to select the risk profile and associated portfolio for their client based on the output of their client's attitude to risk, capacity for loss and any time horizon variables ideally performed via the Dynamic Planner profiling tool. Specific data and descriptions of each risk profile are available direct from Dynamic Planner.	The DIM will build and maintain the models in line with the investment mandate, providing communications and data to the adviser to confirm that this mandate and the advisers expectations are being met.	Portfolio transactions will be made in accordance with the Investment Mandate and implemented and calculated via the chosen platform. The transactional charging structure execution and settlement policy of your platform should be available to download via your platform login or direct from your platform representative. The rationale for investment selection and changes can be found as part of the monthly reporting pack and via the CleverMPS web portal.		
Ongoing s	ultability				
Specific check	Ongoing suitability of portfolio (risk profile, objectives etc.)	Ongoing monitoring of DIM service	Ongoing monitoring of DIM selection		

model portfolio service, including

holdings, remains

asset allocation and

The Adviser will monitor the performance and service standards of the DIM to ensure the ongoing appropriateness of the selection of the DIM as the model portfolio

service Discretionary Investment Manager.

The investment mandate

Here we outline the specific responsibilities of 8AM Global LLP and the role they perform in the management and administration of the 8AM CleverMPS portfolio suite.

The 8AM CleverMPS aims to deliver long term capital growth by investing in funds monitored and recommended by the Clever investment process. Each portfolio has a consistent risk profile as defined and monitored by Dynamic Planner.

Each portfolio must adhere to its respective risk profile at all times based on data submissions from 8AM Global LLP to Dynamic Planner as part of the ongoing rolling monthly portfolio review process.

8AM Global LLP may only use unit trusts and OEICs deemed appropriate for a retail investor within the portfolios.

8AM Global LLP will review the monthly output of the Clever fund selection and monitoring system and apply its expertise and oversight and will consider:

- Liquidity of the potential new funds
- Size of existing funds held in the portfolio and overall exposure
- · Availability of funds across all retail platforms
- Analysis of the Clever calculations and data to ensure output is accurate
- Cost implications of making a portfolio adjustment including platform trading costs and time out of the market for trades to settle.
- Legal structure and governance of the potential new funds is satisfactory
- Suitability of potential funds for connected client wrapper types

Once the 8AM Global LLP investment team is satisfied, the new portfolio shapes are submitted to Dynamic Planner to ensure adherence to the risk profile and (if required) asset allocations are altered based on Dynamic Planner feedback to ensure adherence to risk profile.

The strategic asset and sector allocation has been created and is maintained based on Dynamic Planner recommendations and is reactively adjusted in order to best utilise the Clever investment process whilst maintaining the respective risk profile.

This asset allocation is decided by a quarterly review formed of members of the 8AM Global LLP investment team and Clever Adviser as consultants. If reactive changes are required as a result of a specific fund pick or extreme market conditions, an ad hoc meeting will be called.

8AM Global LLP is responsible for portfolio fund switches and rebalance instructions being issued on a single business day across all platforms. Settlement of the underlying trades are then the responsibility of the respective platforms and underlying dealing infrastructure.

8AM Global LLP is responsible for ensuring reasonable adherence of connected client wrappers to the portfolio templates across all platforms over time. If at a given rebalance point there is an issue with placing the instruction, 8AM Global LLP will attempt the instruction again five working days later and then every two working days until the instruction is successful.

Only on the direct instruction from the adviser may 8AM Global LLP omit an individual client wrapper from rebalance and issue the rebalance instruction at a later date (platform dependent).

8AM Global LLP will produce monthly factsheets which provide information on overall model performance and costs.

8AM Global LLP will produce any and all portfolio and/or transaction data required by the adviser for the fulfilment of their oversight responsibilities under the *Agent as Client* agreement within a reasonable timeframe.

8AM Global LLP is responsible for ensuring that the accuracy of the data reported on FE Fundinfo Transmission is in adherence with the master models.

