FCA FINANCIAL CONDUCT AUTHORITY

FCA fines Henderson £1.9m for fund failings

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The Financial Conduct Authority (FCA) has fined Henderson Investment Funds Limited (HIFL) £1,867,900 for failing to treat fairly more than 4,500 retail investors in two of its funds, the Henderson Japan Enhanced Equity Fund and the Henderson North American Enhanced Equity Fund (the Japan and North American Funds). This was in contravention of Principle 6 of the FCA's Principles for Business.

In November 2011, HIFL's appointed investment manager, Henderson Global Investors Limited (HGIL), decided to reduce the level of active management of its Japan and North American Funds. The subsequent treatment of retail investors in these funds was substantially different from its treatment of the institutional investors in the same funds.

HGIL informed nearly all of the institutional investors who were affected by this change and offered to manage these two funds for those investors without charge. In contrast, HGIL did not communicate the change in investment strategy to any of the retail customers either by amending the funds' prospectus or otherwise. This meant that for nearly five years HGIL charged these investors the same level of fees as it had before the decision was made without providing the same level of active management.

Mark Steward, Executive Director of Enforcement and Market Oversight at the FCA, said:

'The FCA requires firms to treat all its customers fairly, not just some customers. In this case, retail investors paid fees for active investment management they did not receive. For retail clients, the Japan and North American Funds were in effect operating as "closet trackers" as the fees charged to them were inappropriate given the diminished level of active management. The matter is aggravated by the length of time HIFL took to identify the harm being caused to the retail investors and to fix it.'

HIFL charged investors £1,784,465.32 more than if they had invested in a passive fund. HIFL has now disclosed the matter to all affected customers and compensated them for the additional costs they incurred.

The situation revealed serious weaknesses in HIFL's systems and controls in relation to the management, oversight and governance of an area of its business which included the Japan and North American Funds. This was in contravention of Principle 3 of the FCA's Principles for Business. These weaknesses resulted in the issue not being identified and resolved for a considerable amount of time.

4,713 direct retail investors, 75 intermediary companies with underlying non-retail investors and two institutional investors in the Japan and North American Funds were affected by HGIL's decision not to reduce their level of fees.

HIFL agreed to resolve this matter and qualified for a 30% (stage 1) discount under the FCA's executive settlement procedures. Were it not for this discount, the FCA would have imposed a financial penalty of £2,668,547.40.

three operational objectives: to secure an appropriate degree of protection for consumers; to protect and enhance the integrity of the UK financial system; and to promote effective competition in the interests of consumers.

4. Find out more information about the FCA's ongoing work on closet trackers as part of our ongoing supervision of UK authorised funds.
5. Find out more information about the FCA's Asset Management Market Study.
6. Find out more information about the FCA.

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