swisspartners
Advisors

LIABILITIES OUT OF INVESTMENT CONTROL FUNCTIONS - WE CAN HELP

Trustees, directors and lawyers all accept their fiduciary duties to the clients they serve. This encompasses a commitment to act with loyalty and in the best interests of the client, but also to act with care and diligence.

When it comes to financial accounts and mandates issued to professional broker-dealers and investment advisers, professionals in the field of asset protection, tax and wealth planning – and certainly trustees – might take on responsibilities, for example when acting as a fiduciary, that are not usually part of their core competencies.

This may be the case when clients are supported and assisted in the selection process to find a suitable and appropriate asset manager to whom a discretionary investment mandate is assigned or when a trustee, director or lawyer needs to supervise, control and check on such investment portfolios. Such professionals are required to fulfil their fiduciary duties and consequently could incur potential liabilities should the manager violate investment instructions including guidelines, possible restrictions and contractual agreements.

In order to alleviate such situations, an experienced financial expert could be entrusted with an investment analysis and control mandate so as to ensure that the portfolio is managed in compliance with the relevant investment contract.

An investment analysis and control mandate would typically include:

- Risk analysis

Reviewing the level of risk the manager runs in the portfolio in terms of the allocation to nominal assets (bonds) versus real assets (equities) and/or alternative assets (real estate, commodities, hedge funds and private equity). Within bonds, the analysis looks at currency, duration and credit risk. Also of interest are the various types of issuers such as government, agency, corporate and municipal bonds.

- Return analysis

Is the portfolio meeting the client's return expectations in absolute terms and/or relative to a predefined benchmark? And what is the level of risk the manager was willing to incur to achieve or surpass the return objective?

- Compliance with investment guidelines

Has the manager adhered to the set of investment ranges for the various asset classes, and also in terms of how much was allocated to reference and non-reference currency investments? And do the fixed income securities meet the minimum rating requirement – for example investment grade? Did the manager follow certain restrictions such as "do not invest in certain sectors" or "stay away from hedge funds"?

- Review of overall fees

To whom were fees paid (manager, custodian, trustee and/or other parties)? Were the fees congruent with the terms that were contractually agreed?

- Review of transactions costs

What fee model did the custodian and/or broker-dealer and the client agree on? Which fees are included in a model such as this? What is the commission rate built into FX transactions? Does the broker/dealer have a "best execution" policy in place?

- Review of product and/or mutual fund costs

Did the manager acquire exposure to proprietary products? If so, are they competitive in terms of performance and price? If third-party mutual funds are held, did the manager buy the institutional tranche or the more expensive retail tranche? Is the manager receiving fee kickbacks and, if so, were they disclosed?

The preceding catalogue of tasks gives you an idea of how vast and extensive an investment control mandate such as this can be. It serves the sole purpose of supporting you in your endeavours and fiduciary duty to act in the client's best interests.

If you think that a process needs to be in place to ensure that the preceding topics are addressed periodically, we are more than happy to assist you. We have experience in providing such services for other clients.

As seasoned investment specialists and experienced asset managers, we are well versed and positioned to monitor and review portfolios and know how to conduct analysis with a view to spotting possible inconsistencies.

In an executive summary, we will report our findings in a timely fashion in line with the frequency you prefer, typically on a semi-annual or annual basis.

The report's objective is, firstly, to raise and address issues at a stage when they still can be mitigated and, secondly, to offer possible options and solutions if required.

If the investment analysis does not reveal any unexpected findings, which hopefully is the case most of the time, you and your client can feel reassured that an independent third party has reviewed the portfolio. The fact that a mandate is monitored by another investment professional helps to avoid possible unexpected outcomes.

Feel free to reach out to us, even if it is only to evaluate the situation and advise on whether and how we could be of help. We would recommend starting the process before errors occur and complaints are voiced.

GERHARD GOTTET
Head Portfolio Management