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UK

Volume 2018 | Issue 38 | 23 July 2018

Investment Consultants Market Investigation Provisional Decision Report – Key Points

On 18 July the Competition and Markets Authority (CMA) published its long awaited proposals with regards to its "Investment Consultants Market Investigation".

The provisional decision report on the investment consultancy market runs to 330 pages and is generally to be welcomed.

The CMA found that there was evidence of 'material customer detriment' in both the Investment Consultancy and Fiduciary Management Services they investigated. They also found that the strength of the big three consultancies did not pose a threat to competition, finding that the:

- Investment Consultancy market is not highly concentrated, that concentration is particularly low for smaller schemes, and that there are a large number of providers active in this market; and
- Fiduciary Management market is also not highly concentrated, and that customers have access to a sufficient number of suppliers.

We provide below a brief summary of the key points. For further information please speak to your investment consultant.

What is Fiduciary Management?

It is important to note that the CMA definition of Fiduciary Management is a little more restricted than some may use, their definition was that:

- Fiduciary Management may include investment advice, but also includes the legal delegation to the fiduciary manager of some or all investment decisions based on the strategy agreed by the pension trustees, and further, the level of delegation may vary.

CMA Findings

The CMA considered, but rejected, the idea that firms offering Investment Consulting and Fiduciary Management services be separated in some way. Equally, it rejected a challenge that firms offering Investment Consulting only were conflicted as they were unlikely to recommend a fiduciary model.

It also noted that where trustee engagement (as measured by switching; tendering; carrying out a formal review of fees and/or quality; commissioning an external review of these) is low the schemes appear to end up paying higher charges.

They also noted that engagement was lower in both smaller defined benefit (DB) and defined contribution (DC) schemes generally, with the latter causing the CMA to note that:

> ‘A defining feature of DC schemes is that individual members bear the risk of poor investment outcomes, rather than employers. This makes it even more important that DC schemes take good investment decisions. However, there are some indicators that DC schemes spend less time on investment matters than DB schemes.’

In response to its findings the CMA has proposed 8 Remedies, 7 to tackle the Adverse Effects on Competition (AECs) it had identified with the Fiduciary Management market and 2 Remedies for the AECs it identified in the Investment Consultancy business. In addition, it has also made three Recommendations for the FCA, TPR and the asset management industry to act upon. These are set out in the following table.

Summary of Proposed Remedies

Remedy	**Applies to Fiduciary Management**	Applies to Investment Consulting
1. Mandatory competitive tendering on first adoption of Fiduciary Management.	👍	
2. Mandatory warnings when selling Fiduciary Management services.	👍	
3. Enhanced trustee guidance on competitive tender processes.	👍	
4. Requirement on firms to report disaggregated Fiduciary Management fees to existing customers.	👍	
5. Minimum requirements on firms for fee disclosure when selling Fiduciary Management	👍	
6. Standardised methodology and template for reporting past performance of Fiduciary Management services to prospective clients.	👍	
7. Duty on trustees to set their investment consultants strategic objectives.		👍
8. Establish basic standards for how investment consultants and fiduciary managers’ report performance of recommended asset management ‘products’ and ‘funds’.	👍	👍

CMA Recommendations

The CMA then goes on to make three recommendations:

A. Extension of FCA regulatory perimeter.

This aims to remove any ambiguity that the provisions of services like, advice on strategic asset allocation, manager selection or Fiduciary Management, are regulated activities.

B. Enhanced trustee guidance and oversight of remedy 1 (Mandatory competitive tendering).

C. Improving information on underlying asset management fees and performance.

These remedies and recommendations are now up for consultation which will end in October 2018.

Comment

We now have a much clearer view of the future direction of Investment Consulting marketplace. The provisional decisions will lead to an evolution of the marketplace as greater pricing and product transparency emerges and both Fiduciary Management and Investment Consulting mandates are more customarily reviewed by competitive tender. There will not be the widespread disruption a more revolutionary approach of breaking up Fiduciary Management and Investment Consulting provision would have driven.

Nonetheless we welcome the report and look forward to engaging with trustees as they review their Fiduciary Management mandates via our independent fiduciary management oversight proposition.

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