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The Competition and Markets Authority's Report on Investment Consultancy and Fiduciary Management Services

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Following a referral by the Financial Conduct Authority (FCA), the Competition and Markets Authority (CMA) has published a report on its market investigation into investment consultancy and fiduciary management services.

The CMA found that there is an adverse effect on competition in the investment consultancy market and the fiduciary management market from which substantial customer detriment may be expected to result.

Pension fund trustees in the UK manage over £1.6 trillion of investments on behalf of members and these services have a major influence on pension schemes outcomes.

The CMA has suggested a number of remedies for trustees to address the problems identified in an effective and proportionate way. It recommends the Pensions Regulator be given powers to oversee these remedies. It also recommends extending the FCA's regulatory perimeter to include all of the main activities of investment consultants.

Background

Following its Asset Management Market Study launched in November 2015, the FCA referred this matter to the CMA in September 2017. The CMA has now published an extensive report comprising over 440 pages. It has concluded there is an adverse effect on competition and therefore the CMA must decide whether remedial action should be taken, and if so, to identify effective and proportionate remedies.

Markets investigated

This investigation covered two types of services:

- **Investment consultancy services** - the provision of advice in relation to strategic asset allocation, manager selection, fiduciary management, and to employers in the UK, and
- **Fiduciary management services** - the provision of a service to institutional investors where the provider makes and implements decisions for the investor based on the investor's investment strategy in the UK. The service may include responsibility for all or some of the investor's assets. This service may include, but is not limited to, responsibility for asset allocation and fund/manager selection.

Particular concerns

The CMA's investigation covered both defined benefit and defined contribution schemes. Customers, in this context, are pension scheme trustees.

In relation to investment consultancy they were concerned about:

- the low level of engagement by some customers in monitoring their provider
- the lack of clear information for customers to assess the quality of their existing investment consultants and their value for money

In relation to fiduciary management they were concerned about:

- the low level of engagement at the point of first moving into fiduciary management
- firms providing both investment consultancy and fiduciary management services could be steered by investment consultants towards the firm's own fiduciary management service. Thus customers remained with firms that provided investment consultancy services even when a better fiduciary management deal was available elsewhere
- the lack of clear information for customers to assess the quality of their existing fiduciary manager and their value for money

The CMA asked the government to consider whether employee benefit consultants' provision of products, such as master trusts, gave rise to broader risks in relation to the quality of employees' pension benefits.

Remedies

The CMA's remedies to address the adverse effect on competition are:

- The introduction of mandatory tendering when pension scheme trustees first purchase fiduciary management services and a requirement to run a competitive tender within five years if a fiduciary management mandate was awarded without one.
- A requirement on investment consultants to separate marketing of their fiduciary management service from their investment advice and to inform customers of their duty to tender in most cases before buying fiduciary management.

- The Pensions Regulator to give greater support for pension trustees when running tenders for investment consultancy and fiduciary management services and guidance for pension trustees to support the other remedies.
- Requirements on fiduciary management firms to provide better and more comparable information on fees and performance for prospective customers and on fees for existing customers.
- A requirement for pension trustees to set objectives for their investment consultant, in order to assess the quality of investment advice they receive.
- A requirement on investment consultancy and fiduciary management providers to report performance of any recommended asset management products or funds using basic minimum standards.

To support these remedies the CMA recommended:

- HM Treasury should pass the necessary legislation to extend the FCA's regulatory perimeter to include all of the main activities of investment consultants.
- The Pensions Regulator should develop guidance to support pension scheme trustees in asking for and enhancing information they will be able to access as a result of the above remedies.
- The FCA should maintain oversight of the transparency of asset management fee reporting.
- The Department of Work and Pensions should pass the necessary legislation to enable the Pensions Regulator to oversee the remedies which impose requirements on pension scheme trustees.

The remedies are expected to be in force by the end of 2019.

Buck comment

The requirement to conduct a competitive tender prior to selecting a fiduciary manager is a long-awaited, expected and welcome change to the regime. The decision to invest most or all of the pension scheme's assets with a single provider is a critical one, and a decision that may not be easily reversed. We therefore support the CMA's remedial action on this.

There is, however, no specific requirement for trustees to take advice as to whether a fiduciary product is a suitable investment solution, meaning that trustees risk entering into an arrangement which may not satisfy their investment objectives in the first place.

We believe trustees should take care when making both decisions – whether an investment product is appropriate in meeting the trustees' objectives as well as the process of selecting a manager to fulfil a specific investment mandate.

We have experience in helping trustees conduct a suitability assessment as well as select a fiduciary manager. If you would like more information, please contact your consultant.

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