
Anticipated acquisition by Resolution plc of Friends Provident plc

The OFT's decision on reference under section 33(1) given on 12 October 2007. Full text of decision published 19 October 2007.

Please note that square brackets indicate text or figures which have been deleted or replaced with a range at the request of the parties for reasons of commercial confidentiality.

PARTIES

1. Resolution plc (Resolution) is a primarily a purchaser and operator of closed life funds, although it is also active in open life insurance. Resolution also operates an asset management business, which in addition to managing the assets of its closed life funds, provides asset management services to third party institutional customers and a range of retail asset management products.
2. Friends Provident plc (Friends) provides life insurance, pension products and asset management services. Friends' UK turnover for the year ended 31 December 2006 was £[] million.

TRANSACTION

3. Resolution intends to acquire the entire issued share capital of Friends. The parties submitted a merger notice to the OFT on 14 September 2007. The OFT's statutory deadline expires on 12 October 2007.

JURISDICTION

4. As a result of this transaction, Resolution and Friends will cease to be distinct. The UK turnover of Friends exceeds £70 million, so the turnover test in section 23(1)(b) of the Enterprise Act 2002 (the Act) is satisfied.

5. The OFT therefore believes that it is or may be the case that arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

FRAME OF REFERENCE

6. Resolution and Friends overlap in the provision of life insurance products and in the provision of asset management services.

Life insurance

Product scope

7. The insurance sector encompasses three main types of insurance products: life insurance, non-life insurance and reinsurance. These products have been considered in previous cases as separate product frames of reference.¹
8. Life insurance or a life fund is an investment fund that an individual can participate in through the purchase of a policy. The fund might be invested in a number of ways including equities, property, fixed interest, securities and cash deposits. Policy holders in a life fund have the choice of a number of different policy contracts, which can broadly be categorised as protection policy, investment policies and pensions. However, most life insurance products have been regarded in previous decisions as satisfying similar consumer needs and have therefore been considered as substitutes.²
9. Among life insurance policies, a further distinction may be made between open life and closed life funds. An open life fund is one which continues to write new business and accept new customers. The fund can grow through new customers buying policies or existing customers topping-up their policies. A closed life fund is one that no longer accepts new business. It is managed for the existing policyholders, which can continue to top-up their policies, allowing the fund to continue growing in value.

¹ Anticipated acquisition by Old Mutual plc of Forsakringsaktiebolaget Skandia (30 November 2005); Resolution / Abbey National Life Business (24 July 2006).

² Anticipated acquisition by Old Mutual plc of Forsakringsaktiebolaget Skandia (30 November 2005); Anticipated acquisition by Resolution plc of the Abbey National Life Business (3 August 2006).

10. In respect of the relationship between closed and open life funds, the OFT, in past decisions, has considered two possible approaches:³ (i) that it might be relevant to treat open and closed life funds as forming part of the same product frame of reference on the basis that the availability of competitively priced policies offered by open life funds may constrain the conduct of operators of closed life funds; and (ii) that high switching or termination costs for policy holders could indicate that each closed life fund is in a separate frame of reference.
11. The OFT has also previously considered whether there is a market for 'consolidators' of closed life funds.⁴ In the present case, Resolution is a specialist 'consolidator' in the acquisition of closed life funds, whereas Friends is not an active consolidator.
12. The OFT has considered the various frames of reference described above in the context of the present case. However, given that the transaction raises no competition issues (nor attracted any third party competition concerns) even on the narrower frames of reference, the OFT does not consider it necessary to conclude on the appropriate frame(s) of reference in this case.

Geographic scope

13. Even though the parties note that the life insurance market is increasingly becoming EU wide due to the harmonised Community legislation in the insurance sector, they submit that the relevant geographic frame of reference is the UK, in line with previous decisions regarding the insurance sector.⁵
14. In the absence of evidence in this case to suggest that a sufficient number of individuals look beyond the UK for life assurance suppliers, the OFT considers that the relevant geographic frame of reference is the UK.

³ Completed acquisition by Britannic Assurance plc of Allianz Cornhill Insurance plc's life operations (6 May 2005); Anticipated acquisition by Britannic Group plc of Resolution Life Group Limited (10 August 2005).

⁴ See completed acquisition by Britannic Assurance plc of Allianz Cornhill Insurance plc's life operations (6 May 2005).

⁵ Anticipated acquisition by Resolution plc of the Abbey National Life Business (3 August 2006). Completed acquisition by Britannic Assurance plc of Allianz Cornhill Insurance plc's life operations (6 May 2005); Anticipated acquisition by Britannic Group plc of Resolution Life Group Limited (10 August 2005).

Asset management services

Product scope

15. Asset management services include the creation, establishment and marketing of retail pooled funds (mutual funds, unit trusts, investment trusts and open ended investment companies) and the provision of portfolio management services to pension funds, institutions, international organisations and private investors.⁶
16. Previous OFT decisions considered that asset management services can be divided by types of customer (institutional or retail) and by types of fund.⁷ The parties submit that such segmentation is not appropriate. However, in the absence of any competition concerns resulting from the present transaction even on the narrowest market definition, the OFT does not consider it necessary to conclude on the product frame of reference.

Geographic scope

17. The parties have submitted data on a national and on a global basis. Resolution submits that clients and suppliers of asset management services operate on a global basis, and that if there were differences in national regulatory rules, such differences would be of limited relevance as the main players are already present and active in a significant number of countries across the world.
18. As the present transaction does not raise competition issues, the OFT does not consider it necessary to conclude on the geographic scope. However, taking a cautious approach, the OFT assesses the impact of the transaction on the narrowest definition *i.e.* the UK.

⁶ Case IV/M.1067 – Merrill Lynch/Mercury.

⁷ Anticipated acquisition of ISIS Asset Management and Foreign & Colonial Group Holdings Ltd (19 August 2004); Anticipated acquisition by Old Mutual plc of Forsakringsaktiebolaget Skandia (30 November 2005).

HORIZONTAL ISSUES

Life insurance

Market shares

19. The parties provided market share data on the UK life insurance market as a whole, within each of the identified product segments as well as within the open and closed life funds segments. In that respect, they submitted two sets of market share data respectively based on net written premiums data and on new business Annual Premium Equivalent. Both sets of data rely on the parties' own estimates and on those of the Association of British Insurers.
20. According to the net written premiums data, the merged entity's market share in the UK life insurance market amounts to some [5-10] per cent with a minor increment of less than [0-5] per cent. The data provided also show that the merged entity will become the seventh largest player in the UK life insurance market, competing with other strong players such as Prudential (around 10 per cent), Lloyds TSB (around 10 per cent), AVIVA (around 10 per cent), Standard Life (around nine per cent), HBOS (around nine per cent) and Legal & General (around eight per cent).
21. Data provided by the parties per product segment also show that the merged entity combined shares range from less than [5-10] per cent in life policies and pension segments to less than [10-15] per cent in the protection policies segment, with minor increments ranging from [0-5] to [0-5] per cent. A number of other (larger) sized competitors exist in each of those segments.
22. The parties submit that the new business Annual Premium Equivalent data set provides the best estimate for the open life funds segment. According to those estimates, the merged entity would hold a combined share of around [5-10] per cent of new life business in the UK and on a segment basis, a combined segment share of just over [10-15] per cent in protection policies and substantially less than [5-10] per cent in the other two segments.
23. Finally, in respect of closed life funds, the parties submit that the transaction does not give rise to any significant accretion in share given

that Resolution's business has to date been operating primarily as a consolidator of closed life funds while Friends is not a specialist consolidator. Moreover, the parties submit that specialist consolidation of closed funds in the UK is still a relatively new and dynamic segment of the UK life insurance market in which the merged entity will face strong competition for future acquisitions of closed life funds from other established specialists such as Swiss Re, Pearl Group, Reliance Mutual Insurance, and Chesnara.

24. The parties submit that the importance of brokers and Independent Financial Advisors, who act as sophisticated and knowledgeable intermediaries, further strengthens the competitive environment in the UK life insurance market.

Barriers to entry and expansion

25. The parties submit that entry into the UK life insurance market is relatively easy for life insurance companies established in the EU.
26. More specifically on the closed life funds segment, the parties submit that specialist consolidation of closed life funds in the UK is still a relatively new and dynamic segment of the UK life insurance market in which a number of specialist companies have entered and established themselves as strong players in a short space of time. Moreover, the parties submit that there are no substantial barriers to other existing life insurance providers and other financial institutions engaging in acquisitions and consolidation of other parties' closed funds, a recent example being the acquisition by Deutsche Bank of Abbey Life's closed life fund business from Lloyds TSB in July 2007.

Asset management

27. The parties provided market share data in relation to the global asset management market and the UK asset management market. These data sets originate respectively from the '*Top 400 Asset Managers Survey*' and the UK Investment Management Association (IMA).
28. At the global level, the data provided show that the merged entity's estimated share does not reach [0-5] per cent, with an increment that is clearly *de minimis*. According to the market shares' estimate, the asset

management market is highly fragmented, with a large number of strong international players (Barclays being the leader with an estimated share of 4.3 per cent, followed by State Street Global Advisor with four percent and Allianz Global Investors with 2.9 per cent). Furthermore, on a segment based approach, the parties submit that the merged entity would hold a share below [0-5] to [0-5] per cent in any of the identified segments (*i.e.* by customer types or by fund types).

29. At the UK level, the parties provided a list of the ten largest UK-based asset managers by value of the assets managed in the UK, with their respective estimated market shares, ranging from [0-5] to [5-10] per cent. On the basis of the IMA data and taking into account the total value of the assets globally managed by Friends and Resolution, the parties estimated their combined share post transaction at less than [0-5] per cent of the UK asset management market. In addition, the parties submit that their combined segment share estimates will not exceed [5-10] per cent in any particular UK segment previously identified.

THIRD PARTY VIEWS

30. One third party expressed a concern about the transaction. However, as the concern did not relate to the competitive assessment of the transaction it was not considered further.

ASSESSMENT

31. Friends and Resolution overlap in the provision of life insurance and asset management services.
32. For the purposes of this assessment, the impact of the present anticipated transaction has been considered in relation to the UK life insurance market, as well as on the various product segments and separately on the open and closed life funds segments. Furthermore, the impact of the present transaction has also been considered on the UK asset management market as well as on the various possible segments by funds and by customers. Whichever the appropriate frame(s) of reference, both the merged entity's market share and the increment arising from the transaction is so small as to raise no competition concerns.

33. Consequently, the OFT does not believe that it is or may be the case that the merger may be expected to result in a substantial lessening of competition within a market or markets in the United Kingdom.

DECISION

34. This merger will therefore not be referred to the Competition Commission under section 33(1) of the Act.