Anticipated acquisition by Permira Holdings Limited of TL JerseyCo Finance Limited

Decision on relevant merger situation and substantial lessening of competition

ME/6609/16

The CMA's decision on reference under section 33(1) of the Enterprise Act 2002 given on 27 June 2016. Full text of the decision published on 6 July 2016.

Please note that [✂] indicates figures or text which have been deleted or replaced in ranges at the request of the parties for reasons of commercial confidentiality.

SUMMARY

1. Permira Holdings Limited (**Permira**) has agreed to acquire TL JerseyCo Finance Limited (**Towry**) (the **Merger**). Permira and Towry are together referred to as the **Parties**.

2. The Competition and Markets Authority (**CMA**) believes that it is or may be the case that the Parties' enterprises will cease to be distinct as a result of the Merger, that the turnover test is met and that accordingly arrangements are in progress or in contemplation which, if carried into effect, will result in the creation of a relevant merger situation.

3. The Parties overlap in the supply of investment management services, financial planning and execution only services within the wider wealth management sector in the UK. However, while investment management services and financial planning constitute significant components of the Parties' business, execution-only services do not. [✂]. Given the negligible size of the overlap, execution only services have therefore not been considered in the CMA's competitive assessment.

4. Investment management services and financial planning services respond to different customer needs and the level of demand-side substitutability between them is limited. From the supply-side, third parties told the CMA that the skill set required was different between the two types of services and that significant

costs may be required to switch between them. The CMA therefore assessed the impact of the Merger separately for the provision of investment management services and the provision of financial planning services. Given that the Parties are active across the whole of the UK and third parties told the CMA that the competitive conditions are similar across the UK for both of these markets, the CMA conducted its assessment on a UK-wide basis.

5. The CMA believes that both these markets are highly fragmented, and that in both markets the Parties have a small share of supply based on either revenues or number of advisers. There are also a significant number of larger firms that will continue to constrain the Parties post-merger. As a result, the CMA believes that the Merger does not give rise to a realistic prospect of a substantial lessening of competition (**SLC**) as a result of horizontal effects in the supply of investment management services and financial planning services in the UK.

6. The Merger will therefore **not be referred** under section 33(1) of the Enterprise Act 2002 (the **Act**).

ASSESSMENT

Parties

7. Permira is a European private equity management and advisory business engaged in the provision of investment management and investment advisory services to a number of investment funds. Permira has two portfolio companies active in the UK wealth management market: Tilney Bestinvest Group Limited (**TBI**) and Ingenious Asset Management Group Limited (**Ingenious**). TBI is a UK private-client wealth management firm founded in 1986. It provides a range of services including portfolio management, investment advice, financial planning and an online investment platform. Ingenious is a London based investment management and financial planning group. The turnover of Permira in the year ending December 2015, was around [✄] worldwide and around [✄] in the UK. For the year ended 31 December 2015, TBI's worldwide revenue was around £69 million, all of which was generated in the UK. For the year ended 31 March 2015, Ingenious' worldwide revenue was £12 million all of which was generated in the UK.

8. Towry is a UK private wealth management firm founded in 1968, it provides a range of financial planning, wealth advice and investment management services. For the year ended 31 December 2015, Towry's worldwide turnover was [✄], all of which was generated in the UK. Towry is ultimately owned by private equity group Palamon Capital Partners (**Palamon**). Palamon is engaged

in the provision of investment management and investment advisory services to a number of investment funds.

Transaction

9. The agreement between the Parties was signed on 1 April 2016. It provides for the acquisition of the entire issued share capital of Towry by Permira through its investment vehicle Alexlux (with TBI acting as the purchasing entity). Closing is conditional on merger control clearance by the CMA and change of control approval by the Financial Conduct Authority (**FCA**).

Jurisdiction

10. As a result of the Merger, the enterprises of Permira and Towry will cease to be distinct.

11. The UK turnover of Towry exceeds £70 million, so the turnover test in section 23(1)(b) of the Act is satisfied.

12. The CMA 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.

13. The initial period for consideration of the Merger under section 34ZA(3) of the Act started on 20 May 2016 and the statutory 40 working day deadline for a decision is therefore 15 July 2016.

Counterfactual

14. The CMA assesses a merger's impact relative to the situation that would prevail absent the merger (ie the counterfactual). For anticipated mergers the CMA generally adopts the prevailing conditions of competition as the counterfactual against which to assess the impact of the merger. However, the CMA will assess the merger against an alternative counterfactual where, based on the evidence available to it, it believes that, in the absence of the merger, the prospect of these conditions continuing is not realistic, or there is a realistic prospect of a counterfactual that is more competitive than these conditions.[1]

15. In this case, there is no evidence supporting a different counterfactual, and the Parties and third parties have not put forward arguments in this respect.

[1] *Merger Assessment Guidelines* (OFT1254/CC2), September 2010, from paragraph 4.3.5. The *Merger Assessment Guidelines* have been adopted by the CMA (see *Mergers: Guidance on the CMA's jurisdiction and procedure* (CMA2), January 2014, Annex D).

Therefore, the CMA believes the prevailing conditions of competition to be the relevant counterfactual.

Frame of reference

16. The CMA considers that market definition provides a framework for assessing the competitive effects of a merger and involves an element of judgement. The boundaries of the market do not determine the outcome of the analysis of the competitive effects of the merger, as it is recognised that there can be constraints on merger parties from outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others. The CMA will take these factors into account in its competitive assessment.[2]

17. The Parties overlap in the supply of investment management services, financial planning and execution only services within the wider wealth management sector in the UK.

Product scope

Parties' views

18. The Parties submitted that there are two main forms of service within the wider wealth management sector:

    (a) **Financial planning**, provided by independent financial advisers (**IFA**s), wealth managers, integrated investment managers and banks, is a form of advice that typically provides a holistic view of a client's life plans and financial aspirations, often resulting in a financial plan which serves as a route map to achieve the client's stated objectives.

    (b) **Investment management**, provided by many of the wealth management firms, is the tactical implementation of the client's formal plans, if working with a financial planner, or informal goals based on their expressed wishes/goals.

19. The Parties argued that the level of substitution between these services is often driven by a client's circumstances or needs.

20. The Parties submitted that, irrespective of the various business models and types of players (considered further below), wealth management services should be considered to form one frame of reference as a result of the high

[2] *Merger Assessment Guidelines*, paragraph 5.2.2.

degree of demand and supply-side substitutability between the various sub-segments within the wealth management sector.[3]

Third party views

21. Competitors that responded to the CMA's market testing generally considered that investment management services, financial planning and execution only services responded to different customer needs, and were complementary rather than substitutes. According to a third party, [✂], stricter regulation (especially following the Retail Distribution Review by the FCA in 2012) has reduced the profitability of both pure advice and investment firms. This in turn has driven the emergence of vertically integrated firms, the growing use of lower-cost investments, the emergence of lower cost delivery models (eg online 'robo-advice' firms) and increased industry consolidation in both the advice and investment parts of the wealth management sector. Many of these trends, however, are at an early stage and the industry is still fragmented, with a large number of players.

22. Most competitors told the CMA that, while there are firms that offer all types of services and the distinction between 'adviser' and 'product provider' is blurring, firms typically focus on one or two of the three groups of services. Moreover, competitors considered that the skill sets involved were different, implying that switching between these services would require significant investments. One third party competitor[4] told the CMA that, for example, in order to provide advice a firm must have a population of qualified financial advisers as well as the infrastructure to manage them (sales quality reviewers, training and competence, line management, complaints handers in the event of an advisory complaint, etc.). Another competitor[5] told the CMA that it could be complex and challenging to introduce any of these services from scratch into a firm, especially if the new activity was to be carried out on a large scale. The competitor told the CMA that a new service often introduces a requirement to comply with new regulations (potentially with a need to apply for additional regulatory permissions), new skills and new technology and there can be a significant upfront investment with uncertain future returns. It was also noted that advisory services required a different level of qualification and were more heavily regulated than execution-only services.

23. Some competitors[6] told the CMA that execution-only services imposed some constraint on wealth managers, as they forced firms offering a broader service

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[3] Merger Notice, paragraph 87.
[4] [✂]
[5] [✂]
[6] [✂],[✂], [✂], [✂].

to justify the cost of their additional services. Other competitors,[7] however, did not think that execution-only services acted as a competitive constraint on wealth management firms.

CMA analysis and conclusion

24. Third party responses to the CMA's market testing show that investment management services, financial planning and execution only services respond to different customer needs and the level of demand-side substitutability between them is limited. Moreover, the evidence received indicates that there may be no significant degree of supply-side substitutability, as firms typically focus on one or two of these groups of services and significant costs may be incurred in switching from one to the other, although the CMA notes that recent regulatory changes[8] may mean that firms are increasingly bundling investment management and financial planning. Therefore, on a conservative basis, the CMA believes that investment management services, financial planning and execution only services constitute separate frames of reference.[9]

25. The Parties overlap in all three frames of reference. However, while investment management services and financial planning constitute significant components of the Parties' business, this is not the case for execution-only services. Both Parties are small players in execution-only services, particularly Towry: [✂]. Moreover, the number of execution-only transactions for Towry in the year up to 30 April 2016 was [✂]. This number is very small compared to the [✂] transactions for TBI in 2015, [✂]. Given the negligible size of the overlap, execution only services have not been considered further.

26. However, it has not been necessary for the CMA to reach a conclusion on the product frame of reference, since, as set out below, no competition concerns arise on any plausible basis.

Possible segmentation by provider

27. There is a wide variety of business models and intermediary players that offer various combinations of wealth management services. These include:

Global banks: offer a broad range of services, including transaction banking, lending, advice and investment solutions, leveraging links to investment or merchant banks or global networks;

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[7] [✂], [✂].
[8] See paragraph 21 above.
[9] This is consistent with the approach adopted in the 2003 OFT decision on Barclays Bank Plc / Gerrard Management Services Ltd.

Retail 'bank-led' private banks: offer a broad range of services, including transaction banking, lending, advice and investment solutions, benefitting from their parent bank's retail franchise as a source of client referrals;

Independent financial advisers (**IFA**s): specialise in the provision of financial advice with particular focus on advising clients on financial planning matters and implementing financial solutions through third party investment managers, insurance companies and other financial institutions;

Independent wealth managers (**IWM**s): are not linked to any domestic or international banking entity. They often source clients through direct distribution and referrals from intermediaries such as IFAs, accountants and solicitors.

Vertically integrated firms (**VIF**s): offer services including investment management services, financial planning and investment platform administration services.

28. No official classification of wealth management firms exists, however, [✂],[10] VIFs are defined as 'firms with presence across the wealth management value chain including investment management, financial planning and investment platform administration'. The Parties are included in this category. IWMs are defined as 'investment management firms not linked to any domestic or international banking entity; sourcing clients through direct distribution and referrals from intermediaries such as IFAs, accountants and solicitors'. The CMA notes that the classification of different firms in the various categories will inevitably involve a degree of subjectivity.[11]

29. The Parties submitted there is no clear distinction between VIFs and IWMs since both provide similar services. For example while some IWM players, such as Brewin Dolphin, Investec Wealth or Cazenove have an investment management focus they also provide financial planning services. The Parties said that [✂].[12]

30. [✂]. [✂].[13]

31. [✂].[14] [✂].[15]

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[10] [✂].
[11] The conservative nature of this approach is illustrated by the exclusion of [✂] from the relevant set of competitors, despite them telling the CMA that they compete with the Parties and with several of the largest firms in this set.
[12] [✂].
[13] [✂].
[14] [✂].
[15] [✂].

Third party views

32. Competitors' views were mixed. Some, such as [✂], told the CMA that they competed mainly against a relatively homogeneous peer group of VIFs and IWMs'. All third parties (either VIFs or IWMs) included both VIFs and IWMs in their list of main competitors; others, such as [✂], listed as competitors all the major providers of investment management, irrespective of their business model.

33. A third party[16] commented that: VIFs and IWMs primarily target those with savings between £50,000 and over £1 million, but typically £200,000 to £1 million. Retail bank-led private banks target broadly the same client segments; however, some UK banks have a broader range with some significantly wealthier clients. On the other hand, global wealth managers primarily focus on high and ultra-high net worth investors and access these client segments via their global networks. The minimum investment required for a traditional global wealth manager is in excess of £1 million.

CMA conclusion

34. The variety of services and business models make it particularly difficult to draw clear distinctions between firms that compete directly with the Parties and firms that impose a weaker constraint. For the purpose of the analysis, the CMA has adopted a cautious approach, including in the competitor set only VIFs and IWMs. This approach excludes not only those firms that focus on execution-only services, but also global wealth managers and retail bank-led private banks. As the merger does not give rise to concerns even when assessed in the context of this narrow set of competitors, the precise definition of the boundaries of the competitive set can be left open.

Geographic scope

Parties' views

35. The Parties noted that in the 2003 OFT decision on Barclays Bank Plc / Gerrard Management Services Ltd the relevant geographic frame of reference was considered to be the UK. The Parties also told the CMA that there are no material differences in the services supplied to customers in different parts of the UK and no regional aspects.[17]

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[16] [✂].
[17] Merger Notice, paragraph 89.

Third party views

36. Competitors generally considered that the conditions of competition are similar across the UK.

37. Most competitors thought that, for firms offering financial planning or investment management, having a local presence through a physical office is an advantage for building brand awareness and growing a customer base. On the other hand, [✂] did not see local presence as a key driver of service. Furthermore, [✂] told the CMA that they had clients throughout the UK, despite operating from a single office.

38. [✂] told the CMA that most financial advice firms have a spread of clients across the country even if they have a broad base within 50-100 miles of their main office. Moreover, [✂] submitted that for wealth managers offering a remote (eg by telephone) or online service the need for a physical location depends on customer preference. It believes that customer behaviour is changing, with customers more at ease with online or remote wealth management services.

39. [✂] observed that there tends to be more competition in London and in the South East, given the higher concentration of wealth.

CMA analysis and conclusion

40. The importance of a local presence for wealth managers depends on the types of services offered. While local presence is largely irrelevant for the provision of execution-only services, it appears to be more important for the provision of investment management and in particular for financial planning. However, even in these cases, the development of remote and online business models is making the need for a local presence less pressing.

41. The Parties are active across the whole of the UK and third parties noted the similarity of the competitive conditions across the country in the provision of investment management and financial planning services. Therefore, the CMA has considered the impact of the Merger on a UK-wide basis,

Conclusion on the frame of reference

42. For the reasons set out above, the CMA has considered the impact of the Merger in the following frames of reference:

- The provision of investment management services provided by VIFs and IWMs in the UK; and

- The provision of financial planning provided by VIFs and IWMs in the UK.

Competitive assessment

Horizontal unilateral effects

43. Horizontal unilateral effects may arise when one firm merges with a competitor that previously provided a competitive constraint, allowing the merged firm profitably to raise prices or degrade quality on its own and without needing to coordinate with its rivals.[18] Horizontal unilateral effects are more likely when the merger parties are close competitors. The CMA assessed whether it is or may be the case that the Merger may be expected to result in an SLC in relation to unilateral horizontal effects in either the provision of investment management services or the provision of financial planning in the UK.

Investment management market

44. Market shares in the industry are usually measured in terms of Asset under Management (**AuM**), that is, the total market value of the financial assets that a firm manages on behalf of its clients. An important industry publication is the annual PAM report, which includes estimates of the AuM for dozens of wealth management firms in the UK. The 2015 PAM Report was used by [✂],[19] along with companies' annual reports to estimate the AuM of the various firms in 2014, for its report for Towry.[20] Through this analysis, they estimated the total AuM for VIFs and IWMs to amount at approximately £400 billion. The CMA has found that the figures estimated by [✂] for 2014 are broadly in line with those that it has received from third parties.

45. Seen against the total AuM for VIFs and IWMs, post-merger, the Parties' combined market share would be less than [0-5]%. Considering only the 20 largest players, the Parties' combined market share remains low, at approximately [5-10]%, and the merged entity would become the sixth largest player among VIFs and IWMs, remaining significantly smaller than the five largest, with the largest player having a market share of [✂].

CMA's conclusion

46. The CMA has received no evidence suggesting that the Parties' business model makes them closer competitors to each other than other VIFs and IWMs.

[18] *Merger Assessment Guidelines*, from paragraph 5.4.1.
[19] See Annex 6(z) to the Merger Notice.
[20] See footnote 15.

Moreover, no third party has expressed any concerns about the Merger, observing that the market is still very fragmented following the Merger.

47. The CMA believes that the market is highly fragmented, that the Parties have a small market share based on revenues, and that there will remain a number of larger firms in the market following the Merger. As a result the CMA does not believe that the Merger gives rise to a realistic prospect of an SLC in the investment management market.

Financial planning market

48. The Parties' submitted evidence that shows that the market for financial planning is even more fragmented than that for investment management services. Despite a recent trend towards greater consolidation, approximately 11,000 IFAs operate in the UK, employing around 31,000 qualified advisers, and generating total revenues of more than £3.8 billion.[21] The average size of an IFA is therefore small, but the market includes several firms much larger than the Parties in terms of the number of qualified advisers, including Openwork, Tenet Group, Lighthouse, Sesame, Intrinsic and, among VIFs, St James's Place.[22]

49. As at August 2015, Towry employed 196 advisers. TBI has 140 advisers, of which 45 are financial planners.[23] Based on the number of advisers, following the Merger, the Parties would have an estimated combined share of [0-5]% with an increment of just [0-5]%. In 2015, TBI's financial planning revenue was [✂], less than [0-5]% of the £3.8billion revenues generated in the market. There is no precise estimate for Towry, as they consider advisory managed portfolios and financial planning services to be the same, however, Towry's total revenue in 2015 for its advisory managed portfolios was [✂], less than [0-5]% of the £3.8billion revenues generated in the market.

50. The CMA believes that the market is highly fragmented, that the Parties have a small market share based on revenues and numbers of advisers, and that there will remain a number of larger firms in the market following the Merger. As a result the CMA does not believe that the Merger gives rise to a realistic prospect of an SLC in the financial planning market.

[21] See Annex 6(x) and Annex 6(h), page 45, to the Merger Notice.
[22] See Annex 6(h), page 45, to the Merger Notice.
[23] Email from [✂] of 6 June 2015.

Conclusion on horizontal unilateral effects

51. As set out above, the CMA believes that both the market for financial planning and for investment management are highly fragmented, that the Parties have a small share of these markets based on revenues or number of advisers, and that there are a number of larger firms in both the financial planning and for investment management markets. Accordingly, the CMA has found that the Merger does not give rise to a realistic prospect of an SLC as a result of horizontal unilateral effects in relation to the provision of investment management services and financial planning services in the UK.

Barriers to entry and expansion

52. Entry, or expansion of existing firms, can mitigate the initial effect of a merger on competition, and in some cases may mean that there is no substantial lessening of competition. In assessing whether entry or expansion might prevent a substantial lessening of competition, the CMA considers whether such entry or expansion would be timely, likely and sufficient.[24]

53. However, the CMA has not had to conclude on barriers to entry or expansion as the Merger does not give rise to competition concerns on any basis.

Third party views

54. The CMA contacted competitors of the Parties. Comments were received from nine competitors, none of whom raised concerns about the Merger. Third party comments have been taken into account where appropriate in the competitive assessment above.

Decision

55. Consequently, the CMA 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.

56. The Merger will therefore **not be referred** under section 33(1) of the Act.

Stephanie Canet
Director, Mergers
Competition and Markets Authority
27 June 2016

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[24] *Merger Assessment Guidelines*, from paragraph 5.8.1.