Investment Consultancy Services and Fiduciary Management Services Market Investigation Response to Statement of Issues

Prepared for: The Competition & Markets Authority

Prepared by: Jude Bennett FIA, Director

10 October 2017

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1 Introduction

1.1 Addressees

This paper is addressed to the Competition & Market Authority ('CMA') in relation to their market investigation into investment consultancy and fiduciary management services ('the Investigation').

1.2 Purpose of Paper

The paper is written on behalf of BBS Consultants & Actuaries Ltd ('BBS') and sets out our response to the Statement of Issues published by the CMA in relation to the Investigation on 21 September 2017.

1.3 Confidentiality

We understand it is the CMA's intention to publish this paper on their website and it therefore contains no confidential information.

1.4 Format of Paper

The paper provides any comments we have on the Statement of Issues using the numbering of the Statement.

1.5 Queries on Proposal

Any queries or responses to this response should be made to:

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2 Response to Statement of Issues

Any material comments we have relating to the Statement of Issues are set out in the table below.

Where we have not provided any comments or explicit agreement, it can be taken that we either have no objection to or are otherwise in agreement with the CMA's proposed approach.

Section	Comment
18	We agree that it is reasonable to focus on pension schemes for the purpose of the Investigation, on the basis that such clients will tend to dominate the client-base of firms that offer investment consultancy services.
19	We agree that the focus should be on a wide range of schemes, as quality of advice is as important for smaller schemes as it is for larger cases. Indeed, our expectation is that the issues being investigated may be of greater relevance in the case of smaller schemes than for larger arrangements.
20	We agree that the consideration of vertical integration and 'cross-selling' of other services is important to the Investigation.
21	Whilst the Investigation has a focus on 'adverse effect on competition', we take the view that key considerations should also be outcomes for clients and satisfaction with services, given the specific nature of the market. Investment consultancy and wider services to pension scheme clients are often on a long-term 'trusted relationship' basis. Given the complexity of pension schemes (being, in effect, mini-insurance companies) it is often a time-consuming and difficult task to review, compare and change providers. Services are often bundled/integrated using a limited number of providers (sometimes one) because this offers material practical benefits. Whilst it is easier to change investment adviser than, for instance, actuarial or administration services, the complexity and long-term nature of the issues involved often has the effect that it is not straightforward to judge outcomes for many years. Taking account of the above factors, the market for the provision of services to pension schemes might be expected to be less dynamic than other markets, and the CMA may wish to take the specific nature and complexity of the market into advice in its determinations. The ultimate quality of advice, client experience and outcome is likely to be significantly more important than more marginal differences in costs between different investment consultancies/providers.
22	We agree with the choice of impacts the CMA proposes to use.

Section	Comment
25	The CMA may care to exercise caution in simply using returns as a measure of outcomes. As noted above, the provision of investment advice to a pension scheme Is complex, taking account of the very specific nature of the scheme, the employer covenant, the risk capacity and appetite of the organisations and people involved, the funding plan, long-term objectives and softer issues around governance and tolerance of complexity. Using crude measures such as return and/or contributions payable by the employer are unlikely to bring clarity as to the quality of advice provided within the market. For instance, one scheme's strategy may provide a lower return than another's, but this may be achieved with a much lower tracking error relative to changes in the valuation of the liabilities – this may be completely in line with the client's objectives and tolerance of risk.
30	We have no issue with the approach proposed.
34 (a)-(e)	We agree with the listed complexities in assessing the market. As noted above, we consider that input from clients will be of key importance to the Investigation, particularly given the trusted advisor relationship noted above. We would suggest that professional trustee firms would be of significant help to the CMA in its investigations; as such firms will have exposure to a broad range of different consultancies and advisory styles. That said, the CMA should note that professional trustees could have their own potential conflicts in terms of their reciprocal relationships with consultancies, which should be taken into account in considering evidence.
37	Again, we note that an assessment of 'how pension schemes are performing' is non-trivial and the CMA might wish to avoid using crude measures.
38 (a)-(e)	We agree with the proposed criteria, but noting that the key determinant of outcomes for pension schemes is strategy advice and, in particular, the extent and nature of hedging against liability-related risk together with the broad risk/return characteristics of the remaining holdings. Consequently, in our view, the quality of this advice, in the context of a scheme's full circumstances, should be the key focus of the CMA's investigation. The CMA may wish to refer to The Pension Regulator's guidance in relation to investment strategy and integrated risk management in this regard.
39	We agree that a focus on the reasonableness of profits should be an important consideration of the Investigation.

Section	Comment
40	Ultimately, a good outcome for a pension schemes is if it meets the trustees' objectives – typically to meet benefits as they fall due, generating a return in excess of the discount rates and controlling funding risk to a desired extent. The CMA may wish to factor the individuality of these factors by scheme into their considerations.
41-80	We have no specific comments on the theories of harm.

Our comments on Sections 94(a)-(g) are provided separately in the Appendix. We have not provided detailed responses at this stage given the hypothetical nature of the questions, given that the Investigation has not been concluded. We would be happy to provided further input on formalised proposals.

3 Final Comments

We look forward to working with the CMA in its Investigation.

SIGNED

Jude Bennett FIA

Director

10 October 2017

Appendix – Comments on Sections 94 (a)-(g)

Proposed remedy	Comments
99. Clear, consistent information to trustees in relation to all fees	We are supportive of reporting fees on a clear, consistent basis and consider that this can be implemented relatively easily. We are of the view that such transparency would potentially be effective in remedying AEC and should not be time-limited.
100. Consistent reporting of fees charged compared to those quoted or estimated	Again, we are supportive of such an approach and do not consider that it should be time-limited.
101. Reporting of fees to an independent benchmarking services	We would be supportive of this provided that, as a smaller firm, it is not excessively time-consuming or costly to our business.
102. Require investment consultants, when providing advice, to be clear on impact on their own future fees	Confirming potential impact on all fees should form part of any investment advice and we would be supportive of such an approach.
103. Ban certain pricing practices	Our response to this would depend on the specific proposals put forward. We consider the main issue to be transparency.
104. Require to report on pension fund returns against agreed benchmarks	We think there are significant practical difficulties around this proposal, which could lead to significantly misleading disclosures. Pension scheme returns are most heavily influenced by the decisions made by trustees/employers (under but not always in line with advice) and may be driven by risk considerations as much as return requirements.

Proposed remedy	Comments
105. Require investment consultants to report the fees of asset managers selected and give details on the extent to which they have reduced fees for clients	We support this type of proposal.
106. Require investment consultants to report the performance of their manager recommendations based on standardised performance metrics	We have no objections to this type of proposal. Noting that clients generally receive a significant amount of information already on how managers are performing relative to their target and to the wider universe of managers.
107. Require schemes and employer to provide reviews of investment consultants, shared on websites	We are very much in favour of client feedback and much of the ability to win business within the market is already determined by professional reputation (within the professional trustee community, for instance).
108. Introduce mandatory tendering	Tendering comes at significant cost – both to clients and to consultancies. This is particularly the case for smaller firms. We regard the key issue here to be trustee education, both in terms of their general knowledge of the market and their ability to know when a relationship is not working. We would therefore tend to support regular tendering as a best-practice guideline rather than being a mandatory requirement.
109. Rules on tendering process	We are sceptical about the need to prescribe rules for tendering processes. In our view, most exercises are genuinely competitive and ask appropriate questions. Schemes should be able to set up processes that are appropriate to them and have a variety of different advisers to seek third-party assistance.

Proposed remedy	Comments
110. Standardised tender documents	A template offered, e.g. by the Pensions Regulator, may be helpful to a variety of clients and we would support an initiative of this type.
111. Consolidation of pension trusts to benefit from economies of scale	We are sceptical about the practical ability of schemes to consolidate, given the requirements of the various different groups involved. We do think there is a role in investment consultants using scale to attract lower fees across their client base. However, this is an area where, as a smaller consultancy BBS is at a competitive disadvantage compared with larger fiduciary managers. In our view, the question asked in the FCA review around the higher costs applied by asset managers for retail clients compared with institutional clients also applies here – is it fully justified for an asset manager to charge a significantly different rate for £10m investment compared with a £100m investment in the same fund?
112-113. Impose value for money assessment requirements on trustees	In our view, trustees are likely to have difficulty in assessing value for money on a formal basis without third party advice. This will lead to a further increase in the cost burden on schemes. In our view, most trustees (especially professional trustees) have a strong practical feeling for whether their advisers are providing value for the cost of their services.

Proposed remedy	Comments
114-115. Require inclusion of at least one professional trustee	The quality of a trustee body is highly dependent on the specific individuals involved and we do not see the need for a professional trustee to mandatory unless the trustee body is deemed to be failing, e.g. as assessed by the Pensions Regulator. Whilst professional trustees can often be helpful in improving scheme governance, it is an additional cost and the quality of professional trustees varies enormously. Professional trustees also have specific issues and potential conflicts of interest with regard to this Investigation that need to be considered, e.g. they may defensively favour larger consultancies; they may favour specific consultancies if they are more likely to (or have in the past) obtained reciprocal appointments.
117. Requirement to inform clients of change in fundamental nature of service on move to fiduciary management	We would support this in principle on the grounds of transparency.
118-119. Mandatory tendering of fiduciary management/master trust services	Again, if a (long-term) strategy is deemed by a client to be working, we do not see added value in mandatory tendering that incurs unnecessary costs.
120. Prohibit investment consultants from providing fiduciary management/master trust services	Whilst there are arguments that can be used to support investment consultants providing such services, on balance we would support the separation of consultancy and what are de facto asset management services. We have a number of concerns regarding the way the fiduciary market has been created and the objectivity of advice once such a mandate is in place. We would support the treatment of fiduciary services as a ‘product’ that could not be recommended by the same firm, if this were deemed to be a suitable remedy.

Proposed remedy	Comments
121. Control prices in master trust services	We do not have any objection to the imposition of price caps per se, although it should be acknowledged that this may restrict the tools that can be used for default DC investment strategies, for instance, which could affect member outcomes adversely.
122. Bring supply of investment consultancy and fiduciary management services within FCA's regulatory parameter	We do not have an objection to this in principle. BBS is, in practice, regulated by the Institute and Faculty of Actuaries via its status as an exempt professional body. In our view, the fact that our advice is subject to technical actuarial standards and professional guidance arguably places a higher emphasis on quality and ethics than direct regulation via the FCA.
123. Require full disclosure of business interests to clients	We would support this remedy.
124. Ensure stronger separation of business areas within investment consultants	We would support this remedy.
125. Impose limits on value of hospitality that investment consultants are allowed to receive from asset managers	We would fully support this as a remedy.
126. Impose limits on type of hospitality	We would fully support this as a remedy.
127. Require full disclosure of hospitality received to trustees	We would fully support this as a remedy.

Proposed remedy	Comments
128. Impose on outright ban on hospitality	We would support this with the exception of legitimate business activity, e.g. attendance at investment manager conferences without additional hospitality.
130. Introduce mandatory tendering for investment consultancy services/fiduciary management services	Again, we do not see the need to require clients (and their advisors) to bear the costs of a mandatory re-tendering if the client is satisfied with the appointment. Pleas see our comments on 108 above.
131. Require divestiture of investment consultancy services	We would be willing to support this where asset management services are provided, if the CMA suggested it as a remedy.
132. Basic FCA accreditation to provide certification of smaller consultants	We would be willing to support this as a remedy, although we note that, as above, we do not necessarily think it will improve quality of advice (see our reply to 122 above).