CMA Working Paper – Information on fees and quality

Please find below the comments of Hyman Robertson LLP relating to the CMA's Working Paper: information on fees and quality ("Working Paper"). As part of these comments, we have (in section B below) also provided high-level responses to some of the specific questions raised in the Working Paper.

We would be very happy to participate in relevant workshops and roundtable discussions conducted by the CMA over the next few months.

A. General comments on the Working Paper

We have examined the Working Paper and have a few general comments to make at this stage in respect of what we believe to be the key issues.

1. We are concerned that the references in the Working Paper to transparency of fees for Fiduciary Managers do not recognise the need to distinguish between strategic advisory services and asset management.

   The "Summary – Emerging Findings" (on page 6 and page 24 of the Working Paper) refers to a lack of transparency for Fiduciary Management fees, but that appears to be specifically regarding transaction costs and third party asset management fees. The Working Paper makes no mention of transparency around the strategic advice provided by fiduciary managers that is wrapped around the fiduciary services (which we raised in our Initial Hearing Statement to the CMA).

   Trustees require strategic advice even if they have appointed a Fiduciary Manager. Indeed within the CMA's own Statement of Issues scoping document, the CMA defines investment consulting services as including provision of strategic advice and fiduciary management services as covering delegated implementation (see page 5, "Scope of the reference"). This is not the same as advice provided under a potential oversight role.

   However, most Fiduciary Managers will build the provision of strategic advice and asset management into their single fee structure, which means the provision of strategic advice and fiduciary asset management has become a bundled product under the Fiduciary Model. As a result, Fiduciary Managers are providing strategic advice within their "all in" fiduciary fee (i.e. seemingly for free), whereas an advisory consultant would make an explicit additional charge. It is worth noting that Fiduciary Manager fees will be many multiples of advisor fees.

   If there is no explicit additional charge for strategic advice, due to the nature of a bundled fiduciary fee model, the trustee is incentivised to take the advice from the Fiduciary Manager (who is essentially acting as a tied agent in this capacity) and not incentivised to pay for independent advice. Unless this lack of transparency is specifically addressed, there is not a level playing field which will, over time, reduce the level of existing competition and availability of independent advice provided by consultants.

   In short, we believe there is a real need for full transparency and that this means the unbundling of the strategic advisory services and asset management services within Fiduciary Management services, and associated fees. Further, any element of cross-subsidy should be transparent. We consider that this is necessary to enable trustees to assess separately the provision of strategic advice and asset management, and to appoint separate firms for these two roles if they wish to do so. This is extremely important for retaining and enhancing the competitive landscape, and is our biggest concern.

2. We do not agree with the conclusions on page 27 of the Working Paper. Information relating to manager fees may be provided in a number of ways. While we agree that more can and should be done (see section B2 below), in our experience we believe many clients have sight of the impact of fees and/or carry out a regular review of fee levels and benchmarking.

In the table below we provide a summary for our trustee DB clients of a) the proportion that receive performance reports showing both gross and net of fees (and hence have sight of the impact of fees); and b) those who receive a regular analysis of fees paid or who carry out regular fee benchmarking. Combining a) and b), 43% of the DB funds included have access to regular information or analysis on the impact of third party fees.

Performance reports show both gross and net of fees	Regular review or benchmarking of fees
32%	30%

3. We believe that the conclusion in the first bullet under “Section 3: Prospective clients – information on fees” on page 7 of the Working Paper, and also bullet point 1 on page 62 of the Working Paper, is inconsistent with the data on pages 60 and 61.

   81% of all trustee boards state that the level of fees quoted in tenders by the investment consultant for advisory services are “very easy” or “fairly” easy to understand and compare. This is an identical total to the same question asked of Fiduciary Managers, although interestingly, a higher proportion found it “very easy” to understand and compare advisory fees than in respect of Fiduciary Managers.

   However, the stated conclusion on page 7 of the Working Paper is that it is difficult for prospective clients to compare advisory providers and that information on fees is generally poor in advisory tenders, whereas it is easy to compare Fiduciary Manager quotes.

   We suspect that the above conclusion is due to inclusion of third party or asset manager fees. However, unlike fiduciary management, investment consultants are providing advisory services and do not control money, so there are no third party fees.

We have limited our comments in this section to the above key observations, but would be very happy to expand on these and any other points should you consider this helpful.

B. Comments on specific questions and remedies

Please find below our high-level comments on specific questions asked in different sections of the Working Paper.

Potential remedy approaches

We see little evidence in the Working Paper of substantive issues relating to advisory fees, and hence see little benefit from standardisation.

As noted above, our primary concern in respect of Fiduciary Management fees is the need for greater transparency, especially in terms of unbundling fees for strategic advisory services and asset management.

We see more evidence in the Working Paper of the need for better information on overall performance reporting, covering existing advisory clients and prospective clients. Our preference is for minimum, common baseline information rather than standardised reporting.

Specifically, while we believe the broad direction of the potential remedies focuses on the delivery of an enhanced level of information to existing and prospective clients, we also consider that remedies should be relevant and proportionate. Adopting a single, standardised solution to all aspects of the review does not to us seem the most effective way to make lasting improvements to competition in the industry. There is a risk of unintended consequences insofar as overly directive guidance on assessment and standardised information could lead to less diversity and competition in the advisory sector and deter new entrants.

1. Current clients: information on fees

As referred to in our summary of key points (A3 above), the Working Paper refers to the potential remedy of introducing mandatory information on advisory fees even though there does not appear to be any evidence in the Working Paper that this a concern.

On the contrary, around 90% of respondents state that they find it "very easy" or "fairly easy" to monitor investment consultant fees.

However, we agree that there is more that can be done for trustee boards to monitor investment manager fees, although even under this scenario nearly 75% of respondents state that monitoring is either "very easy" or "fairly easy". In practice, we believe that all that is required in this case is for Trustee Boards to ask for and receive information. (We suspect many of the “not very easy” responses simply reflects a lack of information rather than unclear information.)

Hence, we consider the use of mandatory or off the shelf templates disproportionate and unnecessary in respect of both consultant and manager fees.

With regard to Fiduciary Management fees, again most respondents state that these are "very easy" or "fairly easy" to monitor. As mentioned above, we believe that the mandatory separation of advisory and asset management fees would be constructive. We also believe there should be mandatory transparency in terms of distinguishing between fees paid to Fiduciary Managers, third party fees and any rebates paid to Fiduciary Managers.

2. Current clients: information on performance

The analysis in this section of the Working Paper highlights that trustee boards are very able to monitor the performance of their funds and their manager performance. This is especially true of advisory clients.

We therefore think any consideration of “standard baseline level of scheme performance information” should focus on the performance at the overall scheme level, and not manager level.

We agree that advisory firms should be responsible for reporting on the performance of decisions, and that this should capture risk adjusted value add metrics. We would however prefer to avoid a mandatory single approach to the analysis as trustee boards will have differing needs and approaches. We examined this in more detail in our initial response to the Statement of Issues, Section 6: Assessment and Switching.

As referred to in our Initial Hearing Statement to the CMA ("Initial Hearing Statement") any measures must reflect the long-term nature of the decisions and relationship. A focus on short-term measures would lead to an industry focused on short-term advice.

3. Prospective clients: information on fees

As referred to in our summary of our key comments above, 81% of all trustee boards state that the level of fees quoted by the investment consultant for advisory services are "very easy" or "fairly easy" to understand and compare. Therefore, in our view, there seems little need for a template or standardised format for the provision of advisory fees in tenders.

We acknowledge that trustee boards may benefit from having a clearer understanding of implied asset manager fees. However, in contrast to Fiduciary Management, investment consultants are providing advisory services and do not take decisions or control money, so we consider that a fixed template including manager fees would not be appropriate.

As regards Fiduciary Management, where the FM controls asset manager appointments, a more standardised format for illustrating fees - including third party fees - would seem sensible. As referred to above, we believe mandatory separation of advisory and asset management fees would be constructive. We also believe there should be mandatory transparency in terms of distinguishing between fees paid to Fiduciary Managers, third party fees and any rebates paid to Fiduciary Managers.

4. Prospective clients: information on performance

We agree that some enhancement to information on track record performance of advisory firms, with a common baseline level of information, would be helpful to trustee boards.

Although certain common features would seem sensible (e.g. analysis covering strategic, tactical and manager selection, gross and net of fees, risk adjusted returns as well as absolute/relative returns), we do not think the methodology should be standardised. In particular, for some firms it may be easier to consider model portfolios while for others they may calculate the average outcome of their client base. As referred to above and in the Initial Hearing Statement, any measures must reflect the long-term nature of the decisions and relationship.

We recognise the attractions of a tender toolkit, and consider that it could be helpful in providing guidance to trustee boards, especially those not using a TPE. However, making this mandatory risks focusing all tenders (and hence solutions) on the same factors irrespective of client-specific needs. We believe this is a common shortcoming of any standardised peer group approach to assessing the provision of differentiated services. We examined this in more detail in our initial response to the Statement of Issues, Section 6: Assessment and Switching.

5. Other information on quality

We agree that objective client feedback is a useful component in terms of helping prospective clients assess competition. In our opinion, this is no different from any form of marketing and tendering in any industry, and therefore we do not see the need for a centralised collection of information. It should be for trustees to judge the level of ‘soft’ quality that satisfies their own requirements, rather than adopting a 'one size fits all' approach. Where required, the already well-established use of independent and professional trustees provides trustee boards with additional capability to do this.

We highlight that, as with all measures, any pressure or guidance to appoint firms with defined minimum levels of response does, of course, raise barriers to any new firms wishing to enter the sector.