

12th April 2018

Alison Gold
Project Director
Competition and Markets Authority
Victoria House
Southampton Row
London
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Dear Ms. Gold,

PLSA RESPONSE: CMA WORKING PAPER 3 – THE SUPPLY OF FIDUCIARY MANAGEMENT SERVICES BY INVESTMENT CONSULTANTS

We welcome the decision of the CMA to focus its third Working Paper on the supply of fiduciary management services by investment consultants. The potential for misalignment of interests in this space – and how well any conflicts are managed – has been of concern to our members for some time. The decision as to whether to take a fiduciary management approach is also a technical one – and once the decision is made, it can be difficult to unwind – so it may be particularly challenging for trustees to engage with decisions in this area.

We are responding to the principle of the findings rather than the minutiae, drawing upon input from senior industry executives in our membership, including from professional trustees, pension scheme investment managers and investment consultants. We would welcome the opportunity to provide a forum for members to share further views with the CMA – particularly those of the investment practitioners at pension schemes who often have significant expertise and understanding of the dynamics on both the demand- and the supply-side of the investment consultancy market over recent years.

The CMA's Working Paper addressed and explored many of the most pressing issues in the market but we would emphasise the need to ensure any analysis and potential remedies consider the likely future shape and trends in the sector; for instance, although DC investment advice is currently still a small proportion of investment consultants' business, it is growing and this should be an important consideration in the investigation.

Evidence and emerging findings

Fiduciary management (FM) as an approach can offer many benefits to schemes, including the ability to take investment implementation decisions nimbly in response to market

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developments and a reduced governance burden more generally. There are also benefits to this service being offered by a scheme's incumbent investment consultant (IC) as they may have a good understanding of the history and objectives of their clients.

However, the CMA's conclusion that there is "some evidence of practice and behaviours that could be consistent with some customers being steered towards the FM services of their incumbent IC" is in line with concerns expressed by members. It also aligns with some of the anecdotal evidence we have received on this issue from members in engagements with some IC-FMs in the past, including a lack of comparison with other FM providers when an incumbent IC-FM is trying to sell their own services. Some members were very happy with the way in which IC-FMs had managed any potential conflicts, in some instances going out of their way to highlight the services provided by competitors.

One point not covered by the CMA in its paper, and which we would like to highlight, is the challenges in presenting performance information which accurately isolates the benefits of FM; often those schemes who can pursue FM also pursue sophisticated investment techniques such as liability-driven investment (LDI) which has done well in recent years. It can therefore be hard to assign any outperformance to the particular decision to pursue FM.

Potential remedies

The nature of the CMA's analysis and conclusions are still emerging, however we think that the following areas might be worthwhile exploring further when thinking about possible remedies:

- Guidance or templates for trustees around Requests for Proposals (RFPs) and other initial tender documents. Although we think there are often misperceptions around how granular, lengthy and detailed tender documents need to be, designing RFPs can be a difficult and time-consuming process. This is particularly in the case of RFPs for an FM service which, as previously stated, is a complex approach. We think that a range of off-the-shelf templates could be helpful, together with some best practice case studies.
- Encouraging use of a third-party evaluator (TPE) or other independent advice when considering moving to FM. We think receiving advice from a non-conflicted party is good practice but would be cautious about mandating the use of a TPE as it can be costly and may present a particular challenge to smaller schemes.
- Reporting to TPR as to how actively they have considered the choice of a FM provider, especially on first appointment. We think this may have merit in incentivising trustees to document their thought process and journeys but trustee boards are already under a significant burden in terms of reporting requirements and which is likely to increase in the wake of recent high-profile events at Carillion and BHS. Consideration should therefore be given to how any such requirements could be done in a proportionate way; one way in which this could be done is through the DB Chair's Statement – a proposal currently under consideration in the DB White Paper and which we examined in our DB Taskforce work. Such a document could also capture trustees' thinking on other aspects

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such as the decision process regarding re-tendering. We do not think that reporting to members would be an effective way of encouraging trustees to engage with the issue at present as it is unlikely that scheme members would fully understand or engage with information on fiduciary management.

We believe that there would need to be compelling evidence both of systemic conflicts of interest issues as well as an extremely robust argument for the likely effectiveness of the following remedies:


- Mandatory switching. We believe this would potentially lead to adverse outcomes for schemes, as a given scheme may already be happy with their chosen provider of FM services if it was the optimal choice for them. Making switching compulsory could also potentially reduce the choice available to schemes, as well as impose additional costs.
- Mandatory tendering. Although there is merit in trustee boards having a policy to review all their appointments regularly and consider whether it is appropriate to re-tender, making such an approach compulsory may impose disproportionate costs on trustee boards which are already dealing with a significant compliance burden.
- Legal separation of advisory and consultancy practices. There is benefit to some clients from having integrated services so this would further reduce choice for pension schemes. We think that a combination of greater transparency on fees and quality information and clearer delineation of the boundaries between the various IC and FM teams could be sufficient.

If you would like further information or any clarification, I hope you will not hesitate to get in touch.

Yours sincerely,

Caroline Escott
Policy Lead: Investment and Defined Benefit

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