

Peter Swan  
Project Manager  
Markets and Mergers Group  
Competition and Markets Authority  
Victoria House  
37 Southampton Row  
London  
WC1B 4AD

23<sup>rd</sup> August 2018

Dear Peter,

**Investment Consultants Market Investigation,  
Provisional Decision Report – Feedback**

In its Provisional Decision Report, the Competition and Markets Authority (CMA) makes a number of proposals designed to be ‘effective and proportionate’, the main proposals being:

- Mandatory tendering for fiduciary management services
- Support from The Pensions Regulator (TPR) for tendering
- Standardised performance reporting for fiduciary managers and investment consultants
- Standardised, disaggregated fee disclosure for fiduciary managers
- Financial Conduct Authority (FCA) to widen remit in overseeing investment consulting and fiduciary services

Broadly, Charles Stanley Asset Management agrees with the findings of the CMA and supports the proposed measures. As with all new regulation, however, the key to successful implantation of the measures will be in getting the detail right.

**Mandatory tendering**

We support the conclusion that appointments of a fiduciary manager should be conducted through a competitive tender process. This is simply normal business practice and would be expected for other pension services – such as actuarial or administrative services. Section 12.30 of the decision report poses a number of specific questions.

**Open vs closed tenders.** These terms are not defined. However, we assume an ‘open’ tender in this context would follow a similar process to the OJEC tendering of public services; ie tenders are published in a central forum for any fiduciary manager to participate. In a closed tender, only a ‘long-list’ of managers are invited.

While an open tender process may be appropriate for large organisations with significant resources, we can see no reason why pension schemes should not choose to long-list managers based on their own or a consultant’s research. It is important that trustees consider a range of options when appointing a fiduciary manager – but too much information does not necessarily improve the decision-making process. In an open tender, unless the criteria were specific enough to rule out many providers, schemes could well receive lengthy proposals from a dozen or more firms. Assessing

these documents would not be straight forward or practical. As a result, we believe that no preference should be expressed between open or closed tenders. Instead, TPR should provide clear guidelines on what makes a good tender process. This could include;

- Supporting trustees to determine what level of support they need or would be cost effective, deciding between:
  - Appointing an independent firm to support the tender process
  - Appointing an independent firm to make a formal recommendation
  - Running the tender process themselves
- Supporting trustees to decide between an open or closed process, specifically;
  - For an open process, identifying an accepted forum for publishing tenders
  - For a closed process, providing guidelines on how to approach the long-listing of providers
- Providing practical guidance and/or templates for the tender document

In all cases, minimum standards should be clearly defined. In terms of the tender contents, we believe it is important for all parties that a more consistent approach is taken. We have seen tenders that range from requiring a 100-page response to those that require a 1-page response. While there is no right or wrong answer, we believe it is important that trustees manage a process that is appropriate to their experience and resources. There is no point in trustees requesting 100-page submissions from 10 suppliers if they do not have the resources to effectively assess the information contained. In summary, written tenders designed to reduce a long-list to a short-list should focus on the key differentiating factors that the trustees have already identified are important to them, rather than a requiring a lengthy generic summary of the manager's service. Given the complexity and depth of most fiduciary services, we believe detailed explanations are best done in a face-to-face presentation with a short list of managers.

Responding to other questions:

- Should firms be prohibited from accepting new mandates if no such competitive tender process has taken place?

The requirement to tender should be an obligation for FCA regulated firms. In addition there should be appropriate guidance from TPR to pension scheme trustees. Minimum standards for tendering should also be clear to avoid the scenario in which trustees go through the motions of following a tender process without effectively evaluating their options. Failure to follow the requirements should be dealt with by the FCA and TPR in their usual way.

- Should there be a minimum threshold either for size of schemes or scope or scale of the mandate?

No. But it is more likely that smaller schemes will run a closed tender themselves. As a result this form of tendering will require more practical support from TPR in the form of template documents and procedures.

- Should trustees be required to hold an additional tender process for any expansion in the scope of fiduciary management?

As part of the requirement, the definition of both a ‘tender’ and ‘fiduciary management services’ will need to be clear to avoid confusion. In some cases an ‘expansion’ may require tendering.

- How should trustee compliance be monitored?

As suggested, TPR should require trustees to tender and the FCA should require Fiduciary Managers to only accept new business from a tender process that meets clearly defined minimum standards (eg by way of an amendment to COBS). Monitoring should be in the same manner that FCA and TPR currently monitor the compliance of the firms and pension schemes that they supervise.

### **Standardised performance reporting**

We believe that establishing a standardised method of reporting past performance is extremely important for any tender process and will also support fiduciary service clients on an ongoing basis. Considerable work has already been undertaken by the industry in this area through the IC Select FM Performance Standard supported by the CFA Institute. We suggest that additional resources are provided where appropriate to continue this work, with an intended goal of the standard falling within the GIPS regime. While the standard currently focuses on the presentation of composite performance, we believe a compatible methodology can also be determined for the benefit of client performance reporting. Alternatively or in addition minimum, standards of performance reporting could be defined and fall within the FCA’s remit.

### **Standardised fee disclosure**

MIFID II is already introducing more detailed requirements for investment managers in terms of reporting of fees and charges. It is important that fee disclosure requirements are the same for all fiduciary managers – irrespective of whether they are asset managers or investment consultants. We agree that is important for trustees to evaluate in a consistent manner between providers:

- The total fee received by the fiduciary manager for fiduciary management services, unbundled from any other services the firm may supply (such as actuarial consulting)
- This fiduciary management service fee should be broken down into fees generated from investing in internal funds and fees generated outside of this for the fiduciary service itself
- Additional fees incurred by the client for investing in external funds (ie where the fiduciary manager does not benefit from the fee). This should be defined as the total cost of those funds (eg OCF)
- Transition costs
- Other costs incurred (such as custody)

Considerable debate is ongoing as to how investment managers (including fiduciary managers) should report ‘implicit costs’ – such as trading spreads. As previously, we believe that whatever standards are ultimately required of investment managers should be applied to all fiduciary managers equally.

## Widening the remit of the FCA

The regulation of institutional investment management and institutional advisory services has been for too long a grey area. While clear standards are required for retail business, the regulation of advice to and investment management services for institutional pension funds has been unclear. We welcome the proposal to widen the FCA's regulatory perimeter.

### Summary of our responses to consultation questions

#### 12.30

- Should trustees be required to hold a competitive tender process when first choosing fiduciary management? **Yes**
- Should the tender process be open? In what circumstances would a closed tender process be an effective alternative and how should we define the minimum standard for a tender process?  
**Both can be suitable – closed tenders can be just as effective, if not more so. Should be appropriate for the scheme, providing the right balance of information.**
- Should firms be prohibited from accepting new mandates if no such competitive tender process has taken place? **Monitoring of the standard should be as usual for FCA**
- Should there be a minimum threshold either for size of schemes or scope or scale of the mandate?  
**No – so long as guidance from TPR is sufficiently practical**
- Should trustees be required to hold an additional tender process for any expansion in the scope of fiduciary management? **Possibly – this should be clarified in the definition of 'fiduciary management services'**
- How should trustee compliance be monitored? **Monitoring of the standard should be as usual for TPR**

#### 12.41

- Should trustees be required to hold a competitive tender process if they did not previously do so?  
**Yes – but 'competitive tender' should be clearly defined**
- Should the nature of the competitive tender process be the same as for those schemes adopting fiduciary management for the first time (eg should this be an open or closed tender process)?  
**Yes – and can be open or closed**
- What should be the qualifying criteria of a previous competitive tender process, such that trustees are not required to hold an additional tender process?  
**Requires more detailed consultation. The thrust should be that a range of viable options should have been considered by the scheme.**

#### 12.85

- Should fiduciary management firms be required to provide disaggregated fee information and how should they do this? **Yes. As illustrated above.**
- Should asset manager fee information be based on the IDWG templates? **Yes, so long as the output is in a format that trustees can readily understand**
- What should the frequency of reporting such fee information to customers be? **At least annually**

#### 12.95

- Should firms be required to provide a fee breakdown to prospective customers? **Yes**

- Should any other fees or costs be disclosed in addition to those mentioned in this remedy? **Further work is underway to define implicit costs as part of industry wide initiatives**

#### 12.107

- Should there be a fiduciary management performance standard? **Yes**
- Who would be best placed to develop and implement a fiduciary management performance standard? **IC Select-CFA Institute**
- How do you envisage the implementation group working: how should it be funded, who should be part of it, etc? **Ultimately should be owned by the CFA Institute as part of GIPS**
- What backstop would be appropriate in the event that the group is unable to agree on the standard in the required period? **FCA could impose interim standards**

#### 12.138

**Detailed standards are required in this area – but needs considerable work. It is unclear, for instance, to what extent Fiduciary Managers ‘recommend’ investments as opposed to selecting investments as part of a discretionary management service.**

#### 12.149

**The regulatory perimeter of the FCA should be extended. The cost to firms should be assessed to ensure no detriment to the consumer.**

#### 12.152

- Would trustees benefit from enhanced guidance? **Yes, this is essential to enable the measures proposed to be effective**
- What should the scope of any guidance include? **It should include all measures that are taken forward as part of this review – particularly tendering**
- How detailed should guidance be and what form should it take? **It must be of genuine practical benefit to pension schemes and in a format that non-professional trustees can use and understand**

#### 13.77

- Is our package of remedies effective and proportionate in addressing the AECs and resulting customer detriment? **Yes, overall**
- What are the expected costs to schemes and firms of implementing our remedies and reporting compliance? **There will be a significant cost to all firms. It is impossible to determine at present but further research is required to establish that costs are not prohibitive**
- Are any transition provisions needed? **Yes, if the measures take time to embed**
- How should compliance with remedies be demonstrated and how should they be supervised by the relevant regulators? **They should be owned by the FCA and TPR and enforced in the same way that enforcement takes place for those firms**
- Are there any relevant considerations in relation to remedies which would impose additional requirements to those in existing regulatory provisions (FCA conduct rules and MiFID II)? **The remedies should avoid duplicating industry wide work ongoing on elsewhere (eg cost disclosure)**
- Are there any relevant customer benefits in either market that we should consider as part of our assessment of a remedy package? **The benefits to consumers of the remedy package should be weighed against the potential determinant of fewer service providers and/or higher fees passed through if the cost is onerous**

Yours,



**Bob Champion**  
**Senior Portfolio Manager & Head of Fiduciary Management**  
**Charles Stanley Asset Management**

