

INVESTMENT CONSULTANTS MARKET INVESTIGATION

Summary of response hearing with bfinance UK Ltd (bfinance) held on 3 October 2018

Mandatory Tendering

1. bfinance said that the markets are complicated and there are not clear dividing lines between the activities carried out in each. For example, Investment Consultants offer asset management services as well as Fiduciary Management services. Also, asset managers are increasingly offering asset management services with a greater 'advisory' element.
2. In relation to Remedy 1,¹ bfinance said that while many firms are concerned about the prospect of open tendering that is because fiduciary managers have largely been selected through closed tenders or no tenders to date. bfinance supports the remedy, recommends the use of open tenders, and believes that issues are surmountable.
3. It said that the Provisional Decision Report was unclear as to what the CMA meant by the term 'open tender' and that some market participants appear to be interpreting this as something like the OJEU procurement process, which is relatively lengthy and resource-intensive.
4. bfinance explained that they understood that 'open tender' means that:
 - (a) The broadest possible list of providers should be notified and given the opportunity to bid;
 - (b) Everyone is provided with the same information and timeframe, and
 - (c) The tender procedures should be clear to all parties.
5. bfinance also said that the tender process should not be rigid and that schemes should be able to flex requirements to meet their needs.

¹ **Remedy 1:** mandatory competitive tendering on first adoption of fiduciary management.

6. bfinance said that a scheme should run a competitive tender whenever seeking an asset management service where the fund's consultant may have a product to offer. This subject is not restricted to fiduciary management: bfinance observes consultants seeking to win mandates in private equity, real assets, credit, multi asset, smart beta and other areas.
7. bfinance explained that they believed that the steps that should be taken to ensure a competitive tender include:
 - (a) Identifying the full universe of potential providers – bfinance pointed out that there is help to assist with this identification (such as from TPEs);²
 - (b) A suitable request for proposal (RFP) needs to be created which will allow for those providers to be compared effectively on both a quantitative and a qualitative basis. Good channels of communication should be established so that clients can seek the views of suppliers when refining an RFP and so that prospective providers can seek clarification from clients regarding the RFP, and
 - (c) Clients need to be able to dedicate sufficient resources to consider the responses received or appoint a third party to assist, though bfinance did not believe this would be a large number of responses in the case of fiduciary management given the landscape of providers.

bfinance's view is that recent tenders for fiduciary management do not all meet these criteria.

8. bfinance said that, if the tender resulted in a large number of bids, then the client should adopt a process to screen providers against a range of suitability criteria. The client can then give a more detailed consideration to those who pass this test.
9. bfinance said that third-part evaluators (TPEs) provide a service to cover those areas where trustees do not have the requisite knowledge and experience to evaluate tenders. This can vary between giving trustees a little advice (such as identifying prospective providers) to running the tender process for the client.
10. bfinance said that some firms that are paid to give independent advice are actively pushing their own asset management products (as noted in point 6)

² bfinance suggested that a platform could be developed to allow clients and providers to have full sight of all tenders and potential firms or that existing newswires, e.g. iisearches, Mandatewire, could be utilised.

and that this has led to clients increasingly seeking independent advice to review the advice they are given.

Other proposed remedies

11. On Remedy 2,³ bfinance said that they strongly support the clear marking of marketing materials, including any content relating to the subject of fiduciary management where the firm offers fiduciary management services. bfinance recommends going further and applying clear marking to any content relating subjects where the firm may have an asset management service (see 6).
12. On Remedy 7,⁴ bfinance said that this remedy appears straightforward, but that it should be sufficiently granular to allow trustees to assess the provider's performance across the different services they provide. Identifying weak spots gives firms the option of moving to a new consultant or employing additional advice (specialists) in areas where their advisers are weak. bfinance suggested that the CMA should provide guidance on the range of features which could be used to judge an Investment Consultant's performance.
13. On Remedy 8,⁵ bfinance was concerned that fund manager product selection was the only area of investment consulting where a tool was being proposed and that "what gets measured, gets managed" so it could lead to a disproportionate focus on this aspect of investment consulting. They said that clients currently don't take much notice of how managers on consultants' "buy-lists" have performed.
14. bfinance was concerned that a standardised model for assessing fund manager product recommendations would not be suitable for all firms and that innovative firms could suffer as a consequence. For example, bfinance do not use a 'buy-list' and this could lead to them being overlooked in tenders where the performance of "buy-lists" is given prominence, reinforcing the position of the largest firms.

³ **Remedy 2:** mandatory warnings when selling fiduciary management services.

⁴ **Remedy 7:** Duty on trustees to set their investment consultants' strategic objectives.

⁵ **Remedy 8:** Standardised reporting of asset management products.