

## **INVESTMENT CONSULTANTS MARKET INVESTIGATION**

### **Summary of response hearing with Cardano Risk Management Limited (Cardano) held on 27 September 2018**

#### **Introduction**

1. Cardano said that they welcomed the CMA's Provisional Decision Report as it shone a spotlight on the main issues affecting the market. They generally support the proposed remedies, but believe that some of them could be improved.

#### **The CMA's finding of an AEC**

2. Cardano said that advising clients on the move to Fiduciary Management is a separate issue to competition for a firm's mandate. Cardano said that the biggest decision a client makes is the decision about whether to adopt an Investment Consultancy or a Fiduciary Management approach.
3. Cardano explained that the CMA should consider the competition between Investment Consultants and Fiduciary Management in its Final Report, Cardano emphasised that this competition should be reflected particularly as firms who only offer Investment Consultancy are incentivised not to advise clients to take up Fiduciary Management services.
4. Cardano explained that they would welcome further analysis by the CMA of the data we have received during the investigation to demonstrate whether Fiduciary Management has produced better outcomes for clients.

#### **Definition of Investment Consultancy and Fiduciary Management**

5. Cardano said that they believe that the definitions should provide clarity for clients and not allow providers to pick or choose what they call themselves. In their response to the Provisional Decision Report, Cardano submitted their thoughts on the definition which added clarity around the definitions in the FCA handbook.
6. Cardano said that the definitions need to take account of agreements that develop over time and not allow the development of a position where an

Investment Consultant is effectively operating a Fiduciary Management service, whilst still operating under the original banner of an Investment Consultant. The CMA should be clear that:

- (a) Investment Consultancy covers the provision of advice and nothing else; Firms can offer advice and other services, such as implementation services, but this should not be under the banner of investment consultancy;
- (b) The definition of Fiduciary Management should cover 'implemented consulting' ie the provision of advice and subsequently taking action on behalf of the client regardless of whether an Investment Management Agreement (IMA) is in place or not. It should also cover relationships where the client has delegated the management of a single asset class to their investment consultant; and
- (c) The CMA should take care that the definition also captures the activities of IC/FM firms;

## **Mandatory Tendering**

7. In relation to Remedy 1,<sup>1</sup> Cardano said that a large part of the cost of tendering is the opportunity cost. Typically, a tender exercise would involve the client sending out a Request for Proposal (RFP). The client will have spent time working out what questions they want to ask the providers and which providers to ask prior to issuing the RFP. The additional cost is the time spent to review the RFP responses from the providers. These costs will be familiar to trustees who carry out similar approaches to a wide variety of different appointments.
8. Cardano said that if the CMA were to adopt a closed tender remedy, then the minimum number of firms invited should be at least six. This will ensure that at least one firm from outside of the five current large IC/FM providers are invited to tender.
9. Cardano suggested that the threshold for mandatory tendering should be set at schemes with £50m of assets under management (AUM) as this will avoid imposing large fixed costs on smaller schemes.
10. Cardano were comfortable that the industry could cope with the volume of tenders in the market if a mandatory retendering of existing appointments,

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<sup>1</sup> **Remedy 1:** mandatory competitive tendering on first adoption of fiduciary management.

which did not go through a competitive tender process, was imposed. Cardano believed that 3 to 5 years would be more realistic.

11. Cardano did not see a difficulty in applying Remedy 1 to DC schemes.

### **Third-party evaluators (TPEs)**

12. Cardano recognised that there is a conflict for firms who are both TPEs and Investment Consultancy providers. Cardano said that many TPE firms do not have separation of personnel and cannot give assurances that confidential information provided to them as part of their TPE function will not be passed to their Investment Consultancy teams. Cardano believes that TPEs should have clear segregation of their TPE activities from different parts of the company.
13. Cardano also said that firms operating as a TPE should not be able to provide other services to that client, TPEs should be restricted from cross selling to avoid these conflicts arising. As a minimum, TPEs should be clear to trustees about its conflicts as the trustees are not in a position to know the TPE's conflicts.

### **Comments on other proposed remedies**

14. On Remedy 2,<sup>2</sup> Cardano said that the warning should be clear about the type of service that is being offered. Whilst MiFID II requires a level of disclosure in the market it does not cover, for example, strategic advice.
15. On Remedy 6,<sup>3</sup> Cardano said that they have no concerns about the content of the proposed IC Select solution, there are just a few differences of opinion on the finer detail outstanding. However, most firms need to agree to this and then use it, so, it needs to be mandatory.
16. On Remedy 7,<sup>4</sup> Cardano said that one of the main challenges is that many of the other factors used to set objectives look very different on different schemes. This remedy is considering what factors make a good investment relationship, however, different clients value different skill sets from their advisers. Cardano said that, as a minimum, performance objectives need to be set in the strategic objectives to allow the client to supervise the adviser.

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<sup>2</sup> **Remedy 2:** mandatory warnings when selling fiduciary management services.

<sup>3</sup> **Remedy 6:** Standardised methodology and template for reporting past performance of fiduciary management services to perspective clients.

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

## Regulation

17. Cardano said that FCA should be responsible for regulating TPEs. TPEs should be held to a higher standard than is currently the case and should meet minimum knowledge and skill thresholds in order to adequately appraise the Fiduciary Managers they are assessing. TPEs are recommending a Fiduciary Manager or an Investment Consultant and so are providing advice, or at the very least influencing the outcome.