

INVESTMENT CONSULTANTS MARKET INVESTIGATION

Summary of response hearing with Charles Stanley and Co. Ltd (Charles Stanley) held on 8 October 2018

Introduction

1. Charles Stanley said that they are looking for the Investigation to produce a more level playing field for firms operating in the markets.
2. They were concerned that the remedies that are implemented should not be so onerous that they could dissuade trustees from moving into Fiduciary Management.

Definition of Fiduciary Management

3. Charles Stanley said that the definition of Investment Consultancy and Fiduciary Management is very difficult. If a client buys a diversified growth fund, they are buying a product which is the same for all of its investors, while Fiduciary Management is a bespoke product for each investor as it is designed to match their investment strategy. The investment strategy will be very different for each client, so the services provided by the Fiduciary Manager will be very different.
4. In Fiduciary Management, the main goal is to work with the client to develop their investment strategy; this is a long-term service.
5. Charles Stanley said that an Investment Consultant advises clients on their investment strategy and which products to invest in while a Fiduciary Manager acts in a discretionary role: they advise clients on investment strategy, but they have delegated authority to choose investment products for the client.

Third-Party Evaluation

6. Charles Stanley recognised the potential conflict of interest where a TPE also has an Investment Consultant or Fiduciary Management business. They said that there was a clear conflict of interest when third-party evaluators (TPEs) advise a client on a tender whilst also bidding for it. Charles Stanley thought the CMA should consider whether TPEs should that they should be clear on

their conflicts (where they exist) and should not act as TPE when their own firm is tendering.

7. Charles Stanley said that there needed to be clear guidance around the nature of mitigation of this conflict of interest, such as 'Chinese Walls' for TPEs to have in place.

Mandatory Tendering

8. In relation to Remedy 1,¹ Charles Stanley said that tendering was generally a good idea. They said that even smaller schemes will carry out some form of competitive tender when they are appointing an actuary or scheme administrator, so firms are used to the practice of tendering when being appointed.
9. Charles Stanley said that, if mandatory tendering is introduced, it should be introduced for the appointment of both an Investment Consultant or a Fiduciary Manager.
10. Charles Stanley explained that clients find that open tenders can be very difficult and that a closed tender would be easier.
11. They find that the most onerous tenders are those where the client is very vague about their requirements – “give us a proposal”, or where they require too much information from a longlist of providers when this kind of due diligence could wait until a shortlist has been reached.
12. Charles Stanley said that there needs to be some flexibility in the procurement process. Clients will quite often have a firm idea about what they are looking for from a provider and this is often best addressed by allowing the prospective Fiduciary Manager to present and discuss their proposals face-to-face.
13. However, many clients find it difficult to produce a shortlist of companies to invite to tender. Clients would welcome guidance from The Pensions Regulator (TPR) about the whole tender process, but especially in relation to the production of a shortlist.
14. Charles Stanley explained that open tenders are only used by local authorities, who use the OJEC procurement process. More typically, clients will use an advisor to produce a shortlist of about three firms.

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

15. They often see tender process run by a professional trustee and this means that the cost of running a tender is typically very low.
16. Charles Stanley said that around a third to half of its clients have gone through a competitive process to choose their current provider, in that they have considered more than one option for fulfilling the mandate.
17. Charles Stanley explained that whatever remedy is settled on, there needs to be guidance to provide clarity for schemes and providers. Charles Stanley suggested that TPR could produce a range of template documents for smaller schemes to use and guidance, for example on what a suitable minimum number of firms to invite to tender would be. (Charles Stanley thought this number should be three.)
18. Charles Stanley said that the requirement to test the market for existing mandates which did not originally tender needs to be carefully defined.

Comments on other proposed remedies

19. On Remedy 4,² Charles Stanley said that there was an underlying principle that trustees should be able to understand what they are paying their providers and that this transparency is in line with MiFID.
20. On Remedy 6,³ Charles Stanley said that it was a good idea for firms to report performance in the same way. They recommend that the CMA should build on the work of IC Select in taking this forward.
21. Charles Stanley said that the work of IC Select was not yet completed, but is a good foundation. Charles Stanley thought that the CFA should oversee the final stages of agreeing the standards, this would help avoid any risks that the process is not derailed by firms with vested interests trying to make last minute changes.

Regulation

22. Charles Stanley said that the main area that should be brought under FCA regulation is strategic investment advice. Some firms who operate as investment consultants can avoid FCA approval if they offer strategic investment advice, but avoid making asset recommendations.

² **Remedy 4:** Requirement on firms to report disaggregated fiduciary management fees to existing customers.

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