

Private & Confidential

Peter Swan
Project Manager
Investment Consultancy Market Investigation
Competition and Markets Authority
Victoria Row
London
WC1B 4AD

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Dear Peter

Response to Consultation on Draft Definitions of Investment Consultancy services and Fiduciary Management services

Thank you for asking for high level comments on the draft definitions to be used in any Order that may be imposed following the publication of the final report on the Investment Consultancy Services and Fiduciary Management Services Investigation. We are pleased to provide our comments below.

In general, we agree with the principles of the way the definitions are set out. However, we do not think the definitions are entirely clear, as internally we have had different individuals interpret them slightly differently. We have two substantive comments that we believe would improve the clarity of the definitions:

1. On the definition of fiduciary management, we believe it is important that advice in relation to the investment strategy is included. It is typical for a fiduciary manager to advise on the appropriate level of return to target and risk to take, and the parameters for the fiduciary mandate e.g. a target or maximum allocation to equities to achieve the overall return objective. They may not actually advise on any specific "investments that may be made" as this would be part of their delegated authority. Therefore, we believe the definition of advice that the Fiduciary Manager is giving needs to be wide enough to capture strategic advice.
2. Secondly, we are slightly concerned with the wording of 4.b. and whether this could be used as a loophole to exclude certain services that are in fact considered to be fiduciary management even though they may be technically outside of this definition. For example, if a provider gives advice on "investments that may be made", they can continue to provide strategic advice and move the client into a full fiduciary solution 12 months and one day later and this would not count as Fiduciary Management under this definition. Of course, if our concern from point 1. above is addressed, this would be resolved.

Further, it is quite common for a client to appoint a fiduciary manager as adviser first, so they can provide advice on the appropriate strategy before the full Investment Management Agreement is signed.

Therefore 4.a. needs to be clear whether it is

- i. the appointment of adviser (or the date from which this type of advice begins to be given from);
or
- ii. the incidence of specific advice given /investments to be made

that needs to be within 12 months.

If it relates to the (i) and then there is a 12 month gap, would this then not count as fiduciary management, which we do not believe is the intention.

We understand the principle of what this 12 month window is aiming to achieve, but we do not believe it is necessary. If it is retained, we think it needs to be carefully worded to ensure it cannot be used as a loophole.

We hope the above comments are useful as you work on finalising the report and setting out these draft definitions. We would be happy to discuss our thoughts on this further if that would be of use. We also recognise we will get a further opportunity to comment on any draft Order before it is published.

Yours sincerely

Ross Leach

Managing Director