

## **INVESTMENT CONSULTANTS MARKET INVESTIGATION**

### **The Investment Consultancy and Fiduciary Management Market Investigation Order 2019**

#### **Notice of making an Order under sections 138 and 161 of the Enterprise Act 2002, issued under section 165 of, and Schedule 10 to, the Enterprise Act 2002**

1. On 14 September 2017, in exercise of its powers under sections 131 and 133 of the Enterprise Act 2002 (the Act), as provided for by section 234I of the Financial Services and Markets Act 2000, the Financial Conduct Authority (FCA) made an ordinary reference to the Chair of the Competition and Markets Authority (CMA) for the constitution of a group to conduct a market investigation of the supply and acquisition of investment consultancy services and fiduciary management services to and by institutional investors and employers in the UK.
2. On 19 September 2017, the CMA appointed from its panel a group of four independent members to conduct the market investigation and publish a final report.
3. On 12 December 2018, the CMA published its report under section 136 of the Act, entitled Investment Consultants Market Investigation Final Report (the report), in which it decided in accordance with section 134(1), (2), (4) and (5) of the Act that:
  - (a) there are features of the investment consultancy market which, individually and in any combination, restrict or distort competition in connection with the supply and acquisition of investment consultancy services in the UK to and by pension scheme trustees and thereby have an adverse effect on competition (AEC) in respect of investment consultancy services;
  - (b) there are features of the fiduciary management market which, individually and in any combination, prevent, restrict or distort competition in connection with the supply and acquisition of fiduciary management services in the UK to and by pension scheme trustees and thereby have an AEC in respect of fiduciary management services;

- (c) the CMA should take action to remedy, mitigate or prevent each AEC and the detrimental effect on customers that may be expected to result from each AEC;
- (d) in order to address the AECs and resulting customer detriment, a package of remedies should be imposed consisting of:
  - (i) a prohibition on pension scheme trustees from receiving, and fiduciary management providers from providing, fiduciary management services in certain cases, unless the pension scheme trustees have carried out a competitive tender process;
  - (ii) a prohibition on the provision by IC-FM firms of advice and marketing material to pension scheme trustee clients within the same document and the setting of mandatory wording that must be used in all marketing material provided to pension scheme trustee clients;
  - (iii) a requirement that fiduciary management providers should provide to existing pension scheme trustee clients disaggregated fiduciary management fees and the setting of minimum requirements to be met by fiduciary management providers regarding disclosure of costs and charges when selling fiduciary management services;
  - (iv) a requirement for the use of a standardised methodology and template for providing information on past performance of fiduciary management services to potential pension scheme trustee clients;
  - (v) a prohibition on pension scheme trustees from receiving investment consultancy services unless the pension scheme trustees have set strategic objectives for their investment consultancy provider;
  - (vi) a requirement that investment consultancy providers and fiduciary management providers adhere to basic requirements when providing information to potential pension scheme trustee clients on the past performance of their recommended asset management or in-house funds or investment products (financial instruments); and
- (e) there should also be additional published guidance to assist pension scheme trustees in complying with the Order.

- 4. The CMA's package of remedies is implemented by: (a) the Investment Consultancy and Fiduciary Management Market Investigation Order 2019 (the Order) attached to this Notice and (b) recommendations to the Pensions

Regulator, the Department for Work and Pensions and the Financial Conduct Authority.

5. On 11 February 2019, the CMA published a Notice of Intention to make the Order.
6. The CMA received 21 responses to its Notice of 11 February 2019, non-confidential versions of which have been published on the CMA website and the CMA has considered carefully all representations it has received. In light of those representations the CMA has made some modifications to the proposed Order it consulted on. The CMA considers that the modifications are not material in any respect and has decided, in accordance with paragraph 5 of Schedule 10 to the Act, that the Order, as modified, does not require any further consultation.
7. The CMA now gives notice of the making of the attached Order. The Order is made in accordance with section 138 and in exercise of the powers conferred by section 161 of, and Schedule 8 to, the Act.
8. This Notice, the Order and the Explanatory Note accompanying the Order, which provides an explanation of how the Order is expected to operate, will be published on the CMA website.

(signed)

JOHN WOTTON

Group Chair

10 June 2019