

COMPLETED ACQUISITION BY FNZ (AUSTRALIA) BIDCO PTY LTD (FNZ) of GBST HOLDINGS LIMITED (GBST) Issues Statement

7 May 2020

The reference

1. On 8 April 2020, the Competition and Markets Authority (CMA), in exercise of its duty under section 22(1) of the Enterprise Act 2002 (the Act), referred the completed acquisition by FNZ (Australia) Bidco Pty Ltd (FNZ) of GBST Holdings Limited (GBST) (the Merger) for further investigation and report by a group of CMA panel members (the Inquiry Group).
2. In exercise of its duty under section 35(1) of the Act, the CMA must decide:
 - (a) whether a relevant merger situation has been created; and
 - (b) if so, whether the creation of that situation has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the United Kingdom for goods or services.
3. The CMA sets out the main issues that it is likely to consider in reaching its decision in this statement. This does not preclude the consideration of any other issues which may be identified during its inquiry into the Merger.
4. We are publishing this issues statement during the coronavirus (COVID-19) pandemic, which is having significant impacts on consumers and business across the world.
5. The CMA has published a [statement](#) on its website on how it has adjusted its working arrangements in response and [guidance](#) on key aspects of its practice during the pandemic. Our approach to evidence-gathering will take into account the difficulties that the pandemic may be causing for market participants in this sector. If appropriate, we will also take into account the impact of the pandemic in our assessment of the competitive effects of the

Merger, although we are required to look beyond the short-term and consider what lasting structural impacts the merger might have on the markets at issue.

Background

6. FNZ is a global wealth management technology and investment administration services firm, set up in 2003 and headquartered in London since 2005.
7. In the UK, FNZ is active in the supply of technology solutions, including: software to support pension and investment administration; software to support trade settlement and clearing services; transaction processing and custody services. These solutions enable its customers to provide investment management platforms, either directly to consumers or via financial advisers and employers.
8. In 2018, FNZ had worldwide turnover of £ [X]million, of which £[X] million was generated in the UK.
9. GBST is a company headquartered in Brisbane, Australia which was ASX-listed before being acquired by FNZ. GBST is a specialist financial technology company which provides software to support pension administration, wealth management and stockbroking.
10. GBST has two businesses active in the UK:
 - (a) an investment management solutions business that provides software to investment platforms to support the provision of wealth management services to consumers; and
 - (b) a capital markets solutions business that provides software to stockbroking firms to enable the settlement and clearing of trades in listed securities and margin lending in the same.
11. In the year to 30 June 2019, GBST had worldwide turnover of £[X] million, of which £[X] million was generated in the UK.
12. On 5 November 2019, FNZ acquired, via its indirectly wholly-owned subsidiary, FNZ (Australia) Bidco Pty Ltd, the whole issued share capital of GBST. The Merger was structured via a scheme of arrangement in which all GBST shares were transferred to FNZ Australia (Bidco) Pty Ltd.
13. Prior to FNZ's acquisition of GBST, GBST had been engaged in negotiations with a number of other parties regarding a potential sale and had received bids from both Bravura and SS&C.

14. In this document and in this inquiry the CMA will refer to FNZ and GBST together as the Parties and together as the Merged Entity.

The markets in which the Parties operate

15. The purpose of market definition is to provide a framework for the analysis of the competitive effects of a merger. The relevant market contains the most significant competitive alternatives available to customers of the merging firms and includes the most relevant constraints on the behaviour of the merging firms.¹
16. However, the boundaries of the market do not determine the outcome of the CMA's analysis of the competitive effects of the merger in any mechanistic way. In assessing whether a merger may give rise to an SLC, the CMA may take into account constraints outside the relevant market, segmentation within the relevant market, or other ways in which some constraints are more important than others.²
17. In general, the CMA notes that market definition and the analysis of competitive effects may overlap³ since both are driven by considerations relating to the 'closeness' of substitution between the Parties' offers and those of alternatives.
18. The CMA will take account of all relevant constraints, whether in- or out-of-market, in its analysis of competitive effects.

Product market

19. The Parties are both active in the UK in the supply of technology solutions to investment platforms.
20. Investment platforms provide the services by which consumers and their intermediaries, such as financial advisers, are able to transact and obtain administrative and other services to support their investment activities. These platforms enable consumers to invest in a range of products, including funds, shares, bonds, structured products and other securities from different asset managers and hold them together in one account. They typically allow the investor or intermediary to see and analyse their overall investment portfolio.

¹ [Merger Assessment Guidelines](#), paragraph 5.2.1.

² [Merger Assessment Guidelines](#), paragraph 5.2.2.

³ [Merger Assessment Guidelines](#), paragraph 5.1.1.

Providers of investment platforms include banks, insurers, asset managers and wealth managers.

21. Providers of investment platforms need software and servicing (Platform Solutions). These may be provided in-house by the provider of the platform or outsourced to a third party.
22. FNZ and GBST are both active in the supply of software-only Platform Solutions and those which combine software and servicing:
 - (a) Software-only Platform Solution: GBST offers a software-only platform solution. FNZ also offers a software-only platform solution through a subsidiary, JHC.
 - (b) Combined software and servicing Platform Solution: FNZ's primary delivery model is a combined solution. GBST also offers a combined solution via its partnership with Equiniti.
23. The CMA understands that investment platforms may use different models for Platform Solutions, including third-party software provided in combination with either third party or in-house servicing. In its phase 1 investigation, the CMA found that investment platforms generally consider developing software in-house to be more difficult and less beneficial than in-house servicing. The CMA will consider the extent to which competitive constraints may differ between sellers of software-only Platform Solutions and those of software and servicing Platform Solutions.
24. In its phase 1 investigation, the CMA found that there may be differentiation across investment platforms and that those platforms which are aimed at consumers with lower amounts to invest may have different requirements for Platform Solutions than those operated by private-client investment managers and private banks and stockbrokers and aimed at consumers with much larger sums to invest.
25. The CMA notes that there do not appear to be clear lines of delineation between types of investment platforms, and it will consider the constraints from suppliers of Platform Solutions to all types of investment platform in its competitive assessment.
26. The CMA will also take into account differences in delivery models and the extent to which in-house software and/or servicing as an option varies by customer.

Geographic market

27. On the basis of the information obtained to date (including during the CMA's initial Phase 1 investigation), the evidence indicates that:
- (a) Platform Solutions have to meet specific requirements resulting from the tax, legal and regulatory regimes in the UK.
 - (b) Suppliers of Platform Solutions outside the UK cannot easily and quickly enter the UK, given the need to adapt to the different legal and regulatory requirements in the UK and the importance of experience and reputation in serving customers in the UK.
28. The CMA therefore considers a useful starting point for the geographic market definition to be the UK.

Assessment of the competitive effects of the Merger

Counterfactual

29. The CMA will consider the possible effects of the Proposed Merger on competition compared with the degree of competition in the counterfactual situation (that is, the situation that would have arisen in the short to medium term absent the Merger).
30. For completed mergers, such as the Merger, the CMA generally adopts the pre-merger conditions of competition as the counterfactual against which to assess the impact of the merger.
31. The CMA may examine several possible scenarios, one of which may be the continuation of the pre-merger situation but ultimately only the most likely scenario will be selected as the counterfactual.⁴ The CMA will typically incorporate into the counterfactual only those aspects of scenarios that appear likely on the basis of available facts and its ability to foresee future developments. The CMA seeks to avoid assessment of any spurious claims to accurate prediction or foresight.⁵
32. On the basis of the information obtained to date including during the CMA's Phase 1 investigation, the CMA's preliminary view is that the most likely counterfactual to the Merger is the pre-merger conditions of competition. However, as other suppliers of Platform Solutions sought to acquire GBST,

⁴ [Merger Assessment Guidelines](#), paragraph 4.3.6.

⁵ *Ibid.*

the CMA may consider whether GBST's purchase by another bidder could constitute the most likely counterfactual.

Theories of harm to be investigated by the CMA

33. Theories of harm describe the possible ways in which an SLC may be expected to result from a merger and provide the framework for analysis of the competitive effects of a merger. The CMA sets out below the theory of harm that it is currently planning to investigate.
34. The CMA may revise its theories of harm as the inquiry progresses. The identification of a theory of harm does not preclude an SLC being identified on another basis following further work by the CMA, or its receipt of additional evidence.
35. The CMA is currently considering a horizontal unilateral effects theory of harm. The concern under this is that the removal of one of the Parties as an independent competitor could allow the Merged Entity to increase prices, lower quality, reduce the volume or range of their services and/or reduce innovation to some or all clients, relative to the counterfactual.

Theory of harm: horizontal unilateral effects in the supply of Retail Platform Solutions in the UK

36. Under this theory of harm, the CMA will explore whether the effect of the Merger is an SLC as a result of reduced competitive constraints on the Merged Entity in the supply of Platform Solutions in the UK.
37. FNZ and GBST compete when customers are seeking a Platform Solution, including: when customers consider purchasing only the software and not the servicing; when customers consider purchasing a combined software and servicing Platform Solution; when customers are undecided whether to purchase a software only or combined solution (see paragraph 22 above). The CMA will consider the importance of the software component to investment platforms and the extent to which suppliers of Platform Solutions compete through innovation and improvement of their technology.
38. As the customer incurs costs when switching to a new Platform Solution, the CMA will consider changes to the lifetime value of customers when assessing any changes in the relevant competitive constraints.
39. Some customers benchmark suppliers of Platform Solutions against each other in order to obtain better terms. We will consider the extent to which the Parties are benchmarked against each other by these customers. To the

extent that such benchmarking includes the Parties, the merger may lead to worse outcomes by removing one of the Parties as an independent comparator.

40. The CMA will assess whether and how the Merger may strengthen FNZ's market position and weaken the negotiating position of customers, by reducing the alternative options available.
41. The CMA will also consider whether and how the Merger may weaken the Merged Entity's incentives to continue to offer existing and new customers GBST's software on a standalone basis on competitive terms and to continue to develop it to remain competitive.

Countervailing factors

42. The CMA will consider whether there are countervailing factors which are likely to prevent or mitigate any SLC that it may find.

Entry and expansion

43. The CMA will consider whether entry or expansion by effective competitors would be timely, likely and sufficient to prevent any SLC that it may find.
44. To do this, the CMA will:
 - (a) look at any history of entry, expansion including acquisition, and exit by the Parties and their competitors and review any future plans and projections of market growth;
 - (b) consider the costs, time and other requirements (such as technological or other capabilities) necessary to enter and/or expand for competitors or new entrants;
 - (c) examine other factors that might inhibit entry or the expansion of existing competitors, such as the importance of reputation, the need for the Parties and their competitors and their customers to comply with FCA regulation in reporting and other functions, and any impediments to switching amongst customers.

Buyer power

45. As part of our assessment of the competitive effects, the CMA will examine whether investment platforms have countervailing buyer power, and whether this power, post-merger, would be sufficient to prevent, or address any effects of, any SLC that it may find.

Efficiencies

46. The CMA will examine any evidence put to it in relation to merger-specific, rivalry-enhancing efficiencies arising from the Merger such that it may not be expected to result in an SLC.

Possible remedies and relevant customer benefits

47. Should the CMA provisionally conclude that the Merger may be expected to result in an SLC in one or more markets, it will consider whether, and if so what, remedies might be appropriate, and it will issue a further statement on remedies.
48. In any consideration of possible remedies, the CMA may have regard to their effect on any relevant customer benefits that are put to it, that may be expected to arise as a result of the Merger and, if so, what those benefits are likely to be, and which customers would benefit.

Responses to the issues statement

49. The CMA notes that FNZ has made a submission to the Inquiry Group on market definition and other issues that it sees as core to the investigation. The Inquiry Group will consider this, together with further evidence on these matters from the Parties and others, carefully.
50. **The CMA welcomes views on the issues set out in this statement, as well as suggestions, supported by relevant evidence, as to any additional issues that it might consider.**
51. Any party wishing to respond to this issues statement should do so in writing by no later than 12:00 BST on Friday 22 May. Please email FNZ.GBST@cma.gov.uk.
52. Due to the ongoing COVID-19 outbreak, the CMA's offices across the UK are closed until further notice. We are not able to accept delivery of any documents or correspondence by post or courier to our offices.