

SS&C OBSERVATIONS ON THE CMA'S REMEDIES NOTICE IN THE FNZ / GBST MERGER INQUIRY

1. Introduction

- 1.1 As requested by the CMA, this submission sets out SS&C Technologies, Inc.'s ("SS&C") observations on the CMA's notice of possible remedies issued on 5 August 2020 (the "**Remedies Notice**") in respect of its investigation into the completed acquisition by FNZ (Australia) Bidco Pty Limited ("**FNZ**") of GBST Holdings Limited ("**GBST**") (the "**Merger**").
- 1.2 The Remedies Notice follows the CMA's provisional findings, issued on 5 August 2020, (the "**PFs**") that the Merger has resulted, or may be expected to result, in a substantial lessening of competition ("**SLC**"). SS&C acknowledges the CMA's conclusion of a provisional SLC. Capitalized terms used herein and not defined have the meanings set forth in the PFs and Remedies Notice.
- 1.3 The Remedies Notice sets out, at paragraph 22, four possible remedies that CMA considers could be capable of remedying the SLC:
- (a) a full divestiture of GBST (the "**Full Divestiture**");
 - (b) a partial divestiture of GBST. The three potential permutations of this are:
 - (i) divestiture of global wealth management business ("**Partial Divestiture 1**");
 - (ii) divestiture of all of GBST's UK business ("**Partial Divestiture 2**"); or
 - (iii) divestiture of GBST's UK wealth management operations ("**Partial Divestiture 3**").

2. SS&C's views on the remedy options

Full Divestiture

- 2.1 SS&C believes a Full Divestiture would be an effective remedy to the provisional SLC if a suitable buyer can be found.

Partial Divestiture

- 2.2 SS&C believes a partial divestiture may also be an effective, and more proportionate, remedy to the provisional SLC if reasonably constructed and a suitable buyer is found. SS&C believes that a partial divestment remedy could be a realistic option if it included GBST's customer contracts for the supply of Retail Platform Solutions in the UK, as well as any relevant software, technology and supporting capabilities and infrastructure required both to provide these services and for the continued development of the business.
- 2.3 The scope of the required divestment would ideally encompass all elements of the GBST business that are used to supply Retail Platform Solutions in the UK and continue development of the business, even if these underpin other areas of GBST's

global wealth management business. This would ideally include relevant software, technology and IP (including GBST Composer), the supporting team with relevant programming and development capabilities and expertise (whether located in the UK or elsewhere), as well as the full underlying source code (together the "**GBST Wealth Management Suite**").

- 2.4 The support team with relevant programming and development capabilities and the source code are important for the buyer to continue GBST's R&D efforts and would enable a buyer to operate the business with the autonomy to continue to develop the existing GBST offering as it considers most appropriate.
- 2.5 For example, without control over the GBST Composer programming and development team and source code, the buyer would remain, at least in part, dependent on a direct competitor in FNZ for elements of its product offering to Retail Platform Solutions customers in the UK, and in particular for delivery of the Evolve technology upgrade.
- 2.6 As the CMA notes in its PFs, GBST is midway through implementing Project Evolve, a major R&D programme and upgrade of its Composer platform.¹ A divestment buyer may want to continue that programme of investment. Without the relevant programming and development expertise relating to GBST Composer, the ability of a buyer to complete the Evolve programme, and to deliver ongoing innovation and development of GBST Composer, could be impaired.
- 2.7 SS&C believes that a partial divestiture could be an effective remedy if its scope includes the full GBST Wealth Management Suite.
- 2.8 SS&C considers additional elements of the CMA's possible divestiture options below.

Partial Divestiture 1 (global wealth management business)

- 2.9 Partial Divestiture 1 could be an effective remedy to the provisional SLC if it includes the GBST Wealth Management Suite. In terms of relevant software and technology, if GBST's capital markets business is underpinned by a different platform to the wealth management business, then the GBST Wealth Management Suite should, in principle, be severable within GBST's operational and technological structure. If so, it would in principle be possible to divest the global wealth management business (including the GBST Wealth Management Suite) without significant disruption or deterioration in its competitive capabilities, while leaving behind the capital markets business. Further, if GBST's wealth management business is profitable on a standalone basis, then it would likely be separately attractive to buyers.

¹ PFs, Appendix K: Product development, para. 1 notes "GBST submitted that Project Evolve is a 'key update of the GBST Composer software and involves replacing the legacy technology with a modern, simplified technology'", and that "after the completion of the project, Composer will be a highly competitive product that is attractive for prospective customers."

Partial Divestiture 2 (all of GBST's UK business)

- 2.10 As noted above, if the GBST Wealth Management Suite underpins parts of GBST's global business other than Retail Platform Solutions in the UK, it could be difficult to implement an effective separation of GBST's UK business. This is because the GBST Wealth Management Suite may also be required for the operation of the ex-UK business that will remain with FNZ. A similar issue could also arise in respect of any attempted geographical separation of GBST's capital markets business.
- 2.11 For the reasons explained above, Partial Divestiture 2 would ideally include the GBST Wealth Management Suite regardless of where the relevant software, technology, and programming and development team and capability is located.
- 2.12 It would be suboptimal for FNZ to retain ownership of the programming and development team and source code of GBST as doing so would likely impinge on the attractiveness, and potentially the viability, of a partial divestment. As described above, this could lead to the buyer being dependent on FNZ for completion of the Evolve programme (as well as further updates), new product development, and innovation that are important to the ongoing competitiveness of the divested UK business.
- 2.13 In this regard, the PFs note that "GBST had a strategy for growth and was planning significant investment in its technology, absent the Merger,"² and that "GBST invested in Project Evolve to make it more competitive, particularly with regard to FNZ."³ A divestment buyer may want to continue that programme of investment. However, the PFs indicate that FNZ's plans will be implemented "more incrementally than proposed by GBST".⁴ FNZ's more incremental, and potentially differing, plans (which it may pursue in respect of GBST's ex-UK operations) may not be fully compatible with the plans of a buyer of GBST's wealth management business in the UK if, for example, the buyer plans to continue and complete the full Evolve programme and in a more expeditious manner.

Partial Divestiture 3 (GBST's UK wealth management operations)

- 2.14 Partial Divestiture 3 is a combination of Partial Divestiture 1 and Partial Divestiture 2. As such, SS&C's views in paragraphs 2.2 to 2.13 are equally applicable.

3. Suitable buyer

- 3.1 SS&C believes any divestiture remedy, including a full divestment, will be most effective if a suitable buyer is found. In particular, it would be helpful if the buyer were an experienced and knowledgeable industry player with a strong reputation, established customer relationships, and credibility with existing customers.
- 3.2 In addition, a buyer will be better able to compete in the medium term if they have the necessary scale and capital to invest in ongoing product development and R&D. The

² PFs, para 5.19.

³ PFs, para 7.199.

⁴ PFs, para 2.20(d).

supply of Retail Platform Solutions is dynamic and, as the CMA recognises in the PFs, "customers, consultancies and competitors all highlighted the important role of R&D."⁵ Adequate scale and financing will be important not only to complete the Evolve programme, but to continue to finance the develop the product offering on an ongoing basis. This is recognised by Aegon, which is quoted in the PFs as stating "[i]t is very important that there is suitable provision for R&D to keep the pace with the market and have an element of competitive edge if possible, so underlying investment is key."⁶

4. **Conclusion**

- 4.1 A Full Divestiture would be an effective remedy to the provisional SLC. However, it may be possible to construct a partial divestiture that is effective and proportionate too.
- 4.2 For the reasons described above, SS&C believes that Partial Divestiture 1 (which includes in its scope customer contracts relevant to GBST's UK Retail Platform Solutions business, supported by the GBST Wealth Management Suite) would be an effective remedy and an attractive divestment package for potential buyers.

⁵ PFs, para. 7.189.

⁶ PFs, para. 7.189(a).