

Briefing

# CMA – spotlight on fiduciary management

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On 12 December 2018, the Competition and Markets Authority (CMA) published its final report in relation to its review of the market for investment consulting and fiduciary management services.

This briefing focusses on the implications of the review for pension funds using or considering using a fiduciary manager to manage some or all of the fund's assets.

In 2017, as part of its Asset Management Market Study, the Financial Conduct Authority (FCA) referred the market for institutional investment advice to the CMA for investigation, covering both investment consulting and fiduciary management services.

The CMA's investigation commenced in late 2017, the purpose of which was to consider whether any features of the market prevents, restricts or distorts competitions in connection with the supply or acquisition of services provided by investment consultants and fiduciary managers.

The investigation was in-depth, with the CMA obtaining a significant amount of information from a wide range of stakeholders, including independent investment consultants such as Barnett Waddingham, all fiduciary managers, and pension scheme trustees. The process included numerous consultations on interim findings and culminated in a final report published by the CMA in December 2018.

## Overview of the CMA's findings and remedies

### Key findings

- there is a low level of engagement by some trustees when first entering into fiduciary management
- this creates an incumbency advantage for investment consultancy firms which also offer fiduciary management
- there is evidence of these firms steering trustees to their own fiduciary management service
- trustees do not have access to comparable information on fiduciary manager performance or fees to make an informed decision
- changing fiduciary managers can be costly and, as such, the initial appointment should be taken with 'great care'
- these features are expected to result in a 'substantial customer detriment' in the fiduciary management market

## Remedies

- trustees must carry out a competitive tender exercise – involving at least three providers – before awarding a fiduciary management mandate of 20% of the pension fund's assets for the first time
  - where this level of fiduciary mandate has previously been put in place without a competitive tender, it will need to be retendered within five years of the appointment (with a two year grace period where this term has already expired)
  - The Pensions Regulator (TPR) is expected to provide a guidance document for trustees on competitive tendering
  - various requirements have been placed on fiduciary management firms to provide better information to trustees notably regarding reporting of fees and performance track record
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## Our view

Overall, we are supportive of the CMA's findings. Although we believe standards in the industry have improved in recent years, we have come across numerous cases where pension funds have appointed a fiduciary manager without fully understanding their options.

This could have materially impacted the financial outcomes for those funds. The investment approaches of fiduciary managers vary greatly so it is vitally important that trustees select a fiduciary manager that is most suited to their pension fund's needs.

How competitive tender exercises are undertaken in practice in future will, in part, depend on TPR's guidance, although steps can be taken now to ensure the minimum requirements are met.

We therefore recommend that trustees which have previously appointed or are in the process of appointing a fiduciary manager consider what actions should be taken to meet the new requirements.

### Possible actions for pension schemes:

- Where you already have a fiduciary mandate in place:
  - Review your initial appointment process to check whether it meets the CMA's requirements
  - Consider whether your approach to monitoring your fiduciary manager meets the CMA's requirements and involves sufficient scrutiny
- If you are required to retender your mandate – consider the timing of this retendering exercise in the context of the required timeframes, TPR's expected guidance and any other governance matters relevant to your pension fund.
- If you are in the process of selecting a fiduciary manager – review your selection process to check it will meet the minimum requirements.

## Our Fiduciary Management Oversight team

Our Fiduciary Management Oversight (FMO) team has significant experience in advising trustees on fiduciary manager appointments. Our service was launched in 2014 and since then we have advised over 25 pension funds which aggregate assets in excess of £3.5 billion.

We know the UK fiduciary management market extremely well and have undertaken extensive research of each fiduciary manager's delivery model.

As investment consultants, we speak the same language as the fiduciary managers and act as a catalyst for informed debate.

### Our main areas of expertise are:

- selection of a fiduciary manager (including both full assets or partial mandates)
- reviewing the fiduciary manager's investment mandate and investment agreement
- ongoing monitoring and scrutiny of the fiduciary manager's investment performance and activity
- periodic reviews of manager performance and suitability
- training trustees on investment governance and delegation models, including fiduciary management

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively get in touch via the following:

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