The CMA Final Report on Investment Consultancy and Fiduciary Management

7 February 2019

Next steps for Trustees.

1. Background

In December, the Competition and Markets Authority (CMA) published its final report on the investment consultant (IC) and fiduciary management (FM) markets. The next step will be a consultation on the suggested remedies in mid-February, and it is expected that a 'final order' will be made around the end of March.

Whilst some of the detail is yet to be finalised, in our view there is now sufficient clarity and certainty for trustees to start reviewing their own arrangements to check that they are consistent with the new 'regime' being proposed. In addition, those trustees who have put off reviews pending the CMA's findings can now take action.

In this article we summarise the CMA's main recommendations and highlight the actions that pension trustees could now take.

2. What the CMA has said

The changes required by the CMA include the following:

- Trustees delegating investment decisions for more than 20% of their scheme assets to a fiduciary manager must run a competitive tender with at least three firms. If a fiduciary manager has already been appointed without a tender process, then the service must be put out to tender within five years.
- There is a requirement for trustees to set objectives for their investment consultant, in order to assess the quality of investment advice they receive.
- Investment consultants must separate marketing of their fiduciary management service from their investment advice, and advise customers of their duty to tender in most cases before buying fiduciary management.
- Fiduciary management firms must provide better and more comparable information on fees and performance for prospective customers, and on fees for existing customers.
- Investment consultancy and fiduciary management providers will be obliged to report performance of any recommended asset management products or funds using basic minimum standards.
- The Pensions Regulator (TPR) will give greater support to trustees when running tenders for investment consultancy and fiduciary management services, as well as guidance for trustees to support the CMA's other recommendations.

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3. What should trustees do next?

Trustees should review the CMA's recommendations and identify any findings that are relevant to their scheme. Key considerations or actions may include:

- If your scheme's investment strategy is not clear and up to date, it should be refreshed. Without a clear investment strategy, it will be difficult to set appropriate objectives for your IC or FM, and to measure their effectiveness. And if you have an obligation to conduct a tender process, having a well-defined set of objectives will help make the process more efficient.
- You should also consider the effectiveness of your investment governance model, and identify any changes needed. In particular, you should consider if an advisory or fiduciary implementation model is appropriate for your scheme – this will largely depend on the complexity of the strategy required and the amount of time and resources you have to dedicate to investment matters.
- As investment arrangements are reviewed, some schemes may find that in order to implement change, it might be necessary to establish a dedicated investment committee or working group. This may also be a good time to review the composition of the trustee board and its committees, to ensure the availability of individuals with appropriate skills and experience, as well as the ability to dedicate sufficient time.
- Schemes that are required to conduct a tender in relation to their existing FM provider should take care not to treat this as a compliance exercise, nor to automatically put the tender off for the maximum allowable period (five years). Instead, the process will provide many trustees with an opportunity to add value by re-affirming the reasons for appointing an FM, to sense check how their scheme's needs have changed, and to assess the effectiveness of the incumbent provider and their competitors. In addition, FM fees have fallen significantly over the last few years so reviewing sooner rather than later is very likely to reduce ongoing costs.
- If you do not already have a set of objectives for your IC, then you will need to put them in place and demonstrate how you measure the effectiveness of your consultant in achieving them. Again, a clear scheme investment strategy that reflects both your funding strategy and sponsor health will be essential to enable you to do this.
- Although more detailed regulatory guidance is awaited, we anticipate that there will continue to be a requirement to conduct regular reviews of your IC, and a similar obligation for FMs. Many schemes will conduct these reviews every three to five years, but most will also find it useful to conduct an annual 'light touch' review.

4. Conclusion

In our view the CMA recommendations are broadly sensible and consistent with the requirements of good scheme governance. If implemented correctly, they provide a valuable opportunity to improve standards across the industry, and ensure trustees obtain better advice from providers as well as value for their pension schemes.

Many schemes will be affected by these changes, and trustees should act sooner rather than later to identify the impact on their scheme and develop an action plan. And finally, given the range and potential complexity of the issues to be considered, many trustees will find it helpful to use an independent third-party evaluator to support the planning and execution processes.