

Agenda Item 6

**Pension Committee 29
January 2021**

Review of Objectives for the Independent Adviser

Report of the Head of Pensions

Introduction

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.

On 12 December 2018, the CMA published its report on the market investigation reference entitled Investment Consultants Market Investigation Final Report (the report).

In the report, the CMA decided (among other matters) that:

(a) features of the investment consultancy market, 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) features of the fiduciary management market, 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; and

(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.

On 11 February 2019, in accordance with section 165 of, and paragraph 2(1)(a) of Schedule 10 to, the Act, the CMA published a Notice of its intention to make an Order and the proposed Order as part of a package of remedies to remedy, mitigate or prevent the AECs and resulting customer detriment which it had found in the report. In accordance with paragraph 2(1)(b) of Schedule 10 to the Act, the CMA has considered representations made in accordance with the Notice and not withdrawn.

On 5 April 2019, this Order was notified to the European Commission pursuant to Article 24(12) Directive 2014/65/EU (on markets in financial instruments) in respect of additional requirements intended to be imposed by the Order and the two-month period under that Article for the European Commission to provide its opinion on the proportionality of and justification for the additional requirements has concluded.

Impact on the Pension Fund

Part 7 of the Order, 'Investment Consultancy Services – objective setting', prohibited Pension Scheme Trustees (whose definition in the Order included LGPS Committees) from entering into a contract with an Investment Consultancy Provider for the provision of Investment Consultancy Services or from continuing to obtain Investment Consultancy Services from an Investment Consultancy Provider unless the Pension Scheme Trustees had set Strategic Objectives for the Investment Consultancy Provider.

Under the Order, and considering the accompanying explanatory note issued by the CMA, the objectives were required to be:

- 'closely linked' to the Fund's investment objectives
- reviewed at least every three years and after a significant change to the investment strategy or objectives
- established no later than 10 December 2019 (i.e. 6 months following the date of the final Order published by the CMA) or prior to appointment of a new investment consultant.

As the Pension Fund's contract with MJ Hudson Investment Advisers Limited for the services of an Independent Adviser (IA) fell under the definition of the provision of Investment Consultancy Services under the Order, objectives for the IA were agreed as the services as defined in schedule 1 of the Services Agreement, and therefore, more operational in nature.

As required by Part 9 of the Order, the Fund is currently required to provide an annual compliance statement and certification of that compliance, based upon the previously set objectives. This compliance statement, completed by the Chairman of the Pension Committee and certification, provided by the Head of Pensions, was submitted to the CMA on 7 January 2021.

Review of IA Objectives

As part of the above process, a review has been undertaken by the Head of Pensions and the following objectives are proposed to be included in the IA contract alongside the already agreed services defined under schedule 1, as strategic objectives:

Provide strategic investment advice focused on:

(a) delivering the Pension Fund's target of achieving and maintaining a 100% funding level, balancing risk and return in the achievement of this objective and having regard to the Fund's Investment Strategy Statement

(b) ensuring there are sufficient liquid resources available to meet the Fund's current liabilities and investment commitments as they fall due

(c) achieving the target investment return as set out in the Fund's Investment Strategy Statement, as amended from time to time.

As part of the annual review of the IA, the objectives will be reviewed for appropriateness and performance against these will be assessed. These objectives will now form the basis of compliance with the Part 7 of the Order.

Recommendation

The Committee are asked to agree the revised strategic objectives for the IA as set out in this report, for inclusion in the IA services agreement.

Contact Officer

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