

FCA announces terms of reference for asset management market study

On 18 November 2015, the UK Financial Conduct Authority (FCA) announced the terms of reference for a long-anticipated market study into the UK asset management industry. The study seeks to understand whether competition is working effectively, enabling all clients to obtain value for money when accessing asset management services. The terms of reference can be found [here](#)

The FCA considers that there are areas of the asset management sector that have not been analysed previously from a competition perspective and that would benefit from investigation.

What will the study examine?

The study will focus upon: (i) distribution (including platforms and investment consultants); (ii) investment products and providers (where such products are sold and managed in the United Kingdom); and (iii) third party service providers (particularly where they are remunerated directly by a fund). The terms of reference pose three main questions:

- How do asset managers compete to deliver value?

How do investors choose between asset managers? Does the current market structure support competition? How do charges and costs differ along the value chain?

- Are asset managers willing and able to control costs and quality along the value chain?

Can investors monitor cost and quality of services paid for out of a fund? Do service provider contracts mean that they are incentivised to deliver value to investors or to asset managers?

- How do investment consultants affect competition for institutional asset management?

How does advice given by investment consultants affect competition for asset management? How are conflicts within the investment consultant business model managed? How effectively can investors monitor services provided by consultants?

In addressing these questions, the FCA will also consider whether there any barriers to innovation and technological advances.

The following table identifies the products and services that are to be examined by the FCA. Certain areas, including research and execution services, private equity vehicles, CfD providers, stockbrokers and sovereign wealth funds, will not be considered as part of the study. Activities which are ancillary to the asset management sector, such as custody services, will be considered to the extent that they have an effect on the provision or consumption of asset management products or services:

Third party products and services	Administrative or ancillary services	Providers	Distribution	Investment products	Consumers
Investment and portfolio management systems	Custody	Mainstream asset managers	Wholesale advisers (investment consultants)	Pooled vehicles	Retail/high-net worth
Stock lending services	Fund administration	Private Equity funds	Retail advisers	Segregated mandates	Pension funds
Research* and execution	Risk management	Discretionary Private Client Managers		Contracts for difference	Insurance companies
Benchmarking data	Other	Other asset managers	Stockbrokers	Other	Sovereign wealth funds
Other		Contracts for difference providers	Platforms		Other institutional investors

	Partially in scope
	In scope
	Out of scope

What does this mean for the asset management industry?

This is the second FCA market study in the “wholesale” financial sector; the first (launched in May 2015) is considering corporate and investment banking. Both studies reflect the existence of the new competition law enforcement powers granted to the FCA with effect from 1 April 2015, that are applicable both in respect of regulated and unregulated activities involving the provision of financial services.

At the conclusion of the study, the FCA will decide whether or not competition is working well in the asset management sector. If the FCA concludes that this is not the case, it has a number of powers available to it, including:

- market-wide remedies, such as issuing guidance or making rules;
- firm-specific remedies, such as variation or requirement powers, cancelling permissions or imposing financial penalties. If the FCA suspects that there may have been a breach of competition law, it may take enforcement action against individual firms; and
- making a “Market Investigation Reference” to the Competition and Markets Authority (CMA) for a much more detailed examination of certain features of the industry.

A notable feature of the FCA’s expanded remit since 1 April 2015 is its ability to use information gathered using its powers under the Financial Services and Markets Act 2000 in enforcing the competition rules.

What will happen now?

The FCA will report its preliminary findings in summer 2016, with a final report in early 2017. There is an initial opportunity now for interested third parties to make representations to the FCA on any topics raised by the terms of reference. This opportunity closes on 18 December 2015. The FCA will also conduct a number of roundtables and bilateral meetings with stakeholders.

Following that, the FCA will begin to send information requests to industry participants. The responses received by the FCA may influence its subsequent actions, so careful consideration should be given by asset managers to their answers. Firms potentially affected by the market study should also take the opportunity to review their existing competition law compliance procedures.

Equally, any organisation which believes it is being prevented from competing effectively in the asset management sector may regard this study as an opportunity to present its concerns to the FCA.

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