

Financial Conduct Authority launches investigation of UK annuities market

The Financial Conduct Authority (FCA) has initiated a market study of the market for retirement income in the UK, following a year-long "thematic review" of the sector. If the FCA's initial competition concerns are confirmed, it may seek remedies to enhance competition and to encourage or facilitate shopping around for annuities.

Annuity adversity

The FCA's initial conclusions are that consumers often fail to secure the best rates for their annuities. The FCA found that around 60% of consumers do not switch providers when they buy an annuity, and that 80% of those consumers could get a better deal on the open market, resulting in an estimated loss of benefits of between £115 million and £230 million in value.

The FCA also found limited competition for consumers with small pension pots, a lack of awareness among consumers that higher rates may be available to them due to their individual lifestyle circumstances, and a lack of clarity on price comparison websites.

The market study - launched on 14 February 2014 - will test these concerns, through a process of information gathering and dialogue with industry stakeholders. The ability to launch such studies is derived from the FCA's recently acquired competition objective and duty. This is the third FCA market study, alongside market studies into general insurance add-ons and cash

savings, and is a further example of the FCA's growing involvement in the application of competition law to the financial services sector.

The study will:

- seek to identify ways of prompting consumers to shop around;
- probe what drives the high levels of concentration observed in some parts of the market;
- examine how pension provider sales and retention teams conduct themselves when selling to existing customers; and
- look at how the annuities market is likely to develop in the future in response to changing retirement patterns and needs.

Part of the exercise will involve interaction with other public bodies with activities in this area, including the Office of Fair Trading (which recently carried out a study of workplace pensions), the Treasury, and the Department of Work and Pensions.

Market studies can be demanding on the resources of industry participants. It will be important for stakeholders to consider carefully their substantive

Key issues

- Why is the FCA investigating the annuities market?
- How long will the study take?
- What are the potential outcomes?

input and the strategic implications in terms of likely outcomes.

The FCA aims to complete the study and identify any remedies it considers necessary within 12 months, with interim findings in the summer of 2014.

Potential outcomes

There are a range of potential outcomes of the market study:

- The FCA has wide ranging regulatory powers which it may decide to use to address some or all of any concerns that may be identified. In particular, it has indicated that if it identifies poor sales practices, it will not wait until it has finalised the study before asking firms to make changes.
- The FCA may refer the market to the Competition and Markets Authority (CMA) for a detailed

market investigation of up to two years. The FCA will not have the power to make such a reference until April 2015, but in the meantime it could ask the CMA to consider launching its own independent investigation on the basis of the results of the FCA's market study. The CMA is the successor as from 1 April 2014 of the Office of Fair Trading and the Competition Commission. It will have extensive powers to impose structural or behavioural remedies to address competition concerns that it identifies as a result of a market investigation.

- The FCA might also exert pressure on the industry to accept reforms in order to avoid a CMA market investigation, as a further two years of investigation, (in addition to the two years of evidence gathering that the FCA would have undertaken by that time), may be an unattractive option for the FCA.
- Any evidence of individual breaches of the antitrust prohibitions on anticompetitive agreements or abuse of dominance that the FCA

uncovers can be passed on to the CMA for further investigation, which could potentially result in large financial penalties (the FCA will itself have powers to investigate breaches from April 2015).

- Additional scrutiny or developments during the course of the study might also allow the FCA to give the industry a clean bill of health, as happened with the Competition Commission's review of the market for movies on pay-TV in 2012.

In the past, the types of concern identified so far by the FCA have often been remedied by measures to encourage or facilitate shopping around by consumers, such as obligations on providers to provide certain information. Experience of other FCA market studies suggests that insights from behavioural economics – the study of how consumers make economic decisions in the real world – will influence its analysis and approach to crafting any remedies it considers necessary.

Contacts



Greg Olsen
Partner,
Antitrust Practice

E: greg.olsen@cliffordchance.com



Alastair Mordaunt
Partner,
Antitrust Practice

E: alastair.mordaunt@cliffordchance.com



Katherine Coates
Partner, Head of
Global Insurance
Sector Group

E: katherine.coates@cliffordchance.com

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