

Financial Conduct Authority launches a review of competition in the wholesale financial services sector

The Financial Conduct Authority ("FCA") has published a "call for inputs" ("CFI") which seeks industry-wide views on the functioning of competition in the wholesale financial services sector. The CFI covers a wide-range of areas within wholesale finance and could lead in the first instance to one or more detailed market studies by the FCA. The FCA has asked for submissions by 9 October 2014.

A Call for Inputs

Since the FCA's creation in April 2013, with an operational objective of promoting competition, it has opened a number of market studies into financial services. The FCA has completed a market study of insurance add-ons and continues to investigate cash savings and retirement income. A review of credit cards has also been announced. On 9 July 2014, the FCA initiated a review of the wholesale financial services sector.

Scope of the Review

The FCA has published a CFI seeking feedback on the functioning of competition in a wide-range of areas within wholesale finance. The FCA's review will focus primarily on competition in wholesale securities and investment markets and related activities such as corporate banking. In particular, the FCA will focus on:

- **Markets and Market Infrastructure**, including primary markets, secondary markets, and post-trade activities. The FCA will examine whether there are any concerns relating to the production and dissemination of trade data and whether all market participants have access to essential data on fair and reasonable terms. The FCA will

also examine the structure of the various trading and clearing markets and associated concentration levels. In particular, the FCA will examine the competitive effects on standalone providers of vertical integration between trading venues and clearing houses and whether such integration can raise barriers to entry. It will also consider similar issues in relation to the packaging of trading and clearing services by dealers. The FCA will review client clearing and will also consider whether access to colocation trading facilities provides an unfair competitive advantage to some dealers and whether access to such services is offered on a non-discriminatory basis.

- **Investment Banking**, including a wide range of activities in the primary markets (*i.e.*, equity and debt capital markets, M&A services and other financing activities) and secondary markets (*i.e.*, equity/FICC sales, agency broking, research, and other ancillary activities). The FCA will examine in particular whether various cross-selling and bundling practices within this sector represent a barrier to entry or expansion. The FCA will also examine whether skewed

Key issues

- What areas are covered by the call for inputs?
- Who can respond to the call for inputs?
- What are the potential outcomes?

incentives within the market for client order execution result in raised costs for consumers. The FCA will consider the costs of equity and debt underwriting and may revisit some of the findings of the Office of Fair Trading's 2011 review of equity underwriting.

- **Asset Management and Fund Services**, including fund management, collateral management, custody banking, fund administration, depositary services and ancillary services. The FCA will examine whether sufficient incentives exist for asset managers to negotiate the best deal for their clients and whether investors are always able to monitor whether or not an asset manager is investing funds or purchasing services in the most efficient way.

■ **Corporate Banking**, including deposits/lending, treasury and transaction banking, and risk solutions. The FCA will examine, in particular, any potential barriers to entry or expansion. The FCA has specifically referenced the ongoing review of SME banking, currently being conducted by the Competition & Markets Authority ("CMA") with the FCA's participation, and has stated that many of the issues being reviewed by the CMA will also be considered by the FCA in the context of corporate banking.

The FCA has excluded other areas of financial services such as payment systems, credit rating agencies, and wholesale insurance.

The review will also not focus on specific trading practices, including benchmarking activities, which are within the scope of the Fair and Effective Financial Markets Review, a joint review by the Bank of England, HM Treasury and the FCA. The FCA has indicated, however, that it is open to receiving submissions on areas of competition that are not specifically identified in the CFI.

Who can respond to the call for inputs?

The CFI is open to the public. The FCA has specifically invited written submissions from suppliers and purchasers of products and services in the wholesale financial sector. The FCA has also invited comments from

any other stakeholders who interact with wholesale market participants, or may indirectly be affected by the review, such as retail investors or any other consumers. The FCA intends to hold a series of workshops at which interested parties can make submissions.

What are the potential outcomes?

The deadline for submissions is 9 October 2014. The FCA has indicated that it will publish a Feedback Statement by the end of 2014. This may lead to the launch of one or more market studies, the scope of which will be outlined in the Feedback Statement.

In determining whether or not to launch a market study, and the areas that are most appropriate for a market study, the FCA will consider the scale of any potential harm and the extent to which the FCA has the regulatory powers to address any perceived harm. The FCA will also consider the possibility and likely impact of any intervention and the extent to which current or forthcoming regulation or market forces may address any issues identified; and how any potential market study would fit with other work being undertaken by the FCA, including current and forthcoming thematic work.

Any market study would be launched in early 2015. It is worth noting that from 1 April 2015, the FCA will be able to use its new enforcement powers under the Competition Act

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1998 in relation to any suspected competition law infringements identified during this work (it will have the power to issue firm-specific directions, penalties, or accept commitments). It will also be able to make a Market Investigation Reference to the CMA.

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

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