

DETERMINATION OF MERGER NOTIFICATION M/21/036 – MONTAGU/WAYSTONE

Section 21 of the Competition Act 2002

The proposed acquisition by Montagu Private Equity LLP, through Sigma Irish TopCo Limited and Sigma Irish AcquiCo Limited, of sole control over Waystone.

Dated 27 August 2021

Introduction

1. On 20 July 2021, in accordance with section 18(1)(a) of the Competition Act 2002, as amended (the “Act”), the Competition and Consumer Protection Commission (the “Commission”) received a notification of a proposed acquisition whereby Montagu Private Equity LLP (“Montagu”), through Sigma Irish TopCo Limited (“Sigma TopCo”) and Sigma Irish AcquiCo Limited (“Sigma AcquiCo”), proposes to acquire sole control over Cashel Compliance Topco Limited and its subsidiaries, trading as Waystone (“Waystone”) (the “Proposed Transaction”).

The Proposed Transaction

2. The Proposed Transaction is to be implemented pursuant to a share purchase agreement dated 28 June 2021 between Sigma AcquiCo and Sigma TopCo, MML Capital Europe VI Equity II SA and MML Capital Europe VI S.A., the management sellers (as identified in Schedule 1 of the SPA), [...] and Maurant Trustees (Cayman) Limited (the “SPA”). Pursuant to the SPA, Sigma AcquiCo and Sigma TopCo will acquire the entire issued share capital of Waystone and thus, Montagu will acquire indirect sole control over Waystone.

The Undertakings Involved

The Acquirer – Montagu

3. Montagu is a private equity firm, headquartered in the United Kingdom. It focuses on arrangements and investments in buyouts of companies (in particular in Northern Europe) that operate in stable markets with transaction values ranging from [...]. Montagu has investments in companies across different sectors including the manufacturing, transport, logistics, healthcare, waste management, business services, and web-hosting services sector,

as well as the real estate sector. Montagu controls the following three portfolio companies which are active in the State:¹

- i. Universal-Investment Ireland Fund Management Limited ("Universal-Investment Ireland")² is a portfolio company of Montagu. Universal-Investment Ireland is part of the Universal-Beteiligungs-und Servicegesellschaft mbH group ("Universal-Investment Group") within the overall Montagu portfolio of investments. Universal-Investment Group currently manages more than [...] in investment funds (as of September 2020) in over [...] special and mutual funds. Universal-Investment Group focuses on three main product lines namely, securities, alternative investments (including real estate funds) and portfolio management. With respect to the latter product line, Universal-Investment Ireland is involved in the provision of management company services ("ManCo Services").
 - ii. Offsite Archive Storage and Integrated Services Holdings Limited ("OASIS Group") is a records and information management company that operates in 30 locations across six countries, managing information for over [...] clients. OASIS Group is headquartered in Dublin.
 - iii. Open GI is a technology partner to the general insurance industry in the United Kingdom and the State. As an insurance software specialist, it offers a range of configurable solutions to insurance brokers, underwriting agencies, insurers and managing general agents.
4. For the financial year ending 31 December 2020, Montagu's worldwide turnover was [...], of which approximately [...] was generated in the State.

The Target – Waystone

5. Waystone is a provider of institutional governance, risk and compliance services, including ManCo Services, to the investment funds industry. In addition to the State, Waystone operates in Switzerland, the USA, Singapore, Hong Kong, the United Kingdom, Luxembourg and the Cayman Islands.
6. For the full twelve months ending 31 December 2019, Waystone's worldwide turnover was approximately [...], of which [...] was generated in the State.

Rationale for the Proposed Transaction

7. The parties state in the notification:

¹ Some of Montagu's portfolio companies also generated (limited) turnover in the State in their respective last financial year (but not individually exceeding [...]).

² Universal-Investment Ireland was previously known as Metzler Ireland Limited, a company acquired as part of Universal-Beteiligungs-und Servicegesellschaft mbH group in December 2020. The acquisition took effect as of 31 May 2021. <https://www.universal-investment.com/en/topics/press-edo/takeover-metzler-ireland>.

“For Montagu, the Proposed Transaction will provide it with an opportunity to invest in Waystone and to support its growth ambitions across Europe and in other key jurisdictions such as the USA, Hong Kong, Singapore and the Cayman Islands.

For Waystone, the Proposed Transaction will support its own growth ambitions across Europe and in other key jurisdictions such as the USA, Hong Kong, Singapore and the Cayman Islands.”

Third Party Submissions

8. No third party submission was received.

Market enquiries

9. During its investigation the Commission conducted market enquiries which included issuing questionnaires to a number of providers of ManCo Services and the Central Bank of Ireland (“Central Bank”). The third parties contacted did not raise concerns with the Proposed Transaction.

Competitive Analysis

Horizontal Overlap

10. There is a horizontal overlap in the State between the activities of Montagu and Waystone in the provision of ManCo Services.

Relevant product and geographic definition

Merging parties’ views

11. The parties submit in the notification that the relevant product market is the provision of ManCo Services. The parties submit that ManCo Services are services defined under Directive 2011/61/EU of the European Parliament and of the Council of Ministers of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EU and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010 (the “AIFM Directive”) and of Directive 2009/65/EU of the European Parliament and of the Council of Ministers of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (“UCITS”) (the “UCITS Directive”). According to the parties, these services include; (i) risk management; (ii) portfolio management; and, (iii) distribution.
12. In relation to the geographic market, the parties submit that:

“The parties believe that the relevant geographic market definition is at least European Economic Area (“EEA”)-wide. In other words, funds domiciled

anywhere in the EEA may be serviced by a ManCo Services provider located anywhere in the EEA. The reason for this is that the relevant EU legislation enables Irish ManCo Services providers to offer services across the EEA.”

Commission’s Views

13. The Commission defines markets to the extent necessary depending on the particular circumstances of a given case. In this instance, however, the Commission does not need to come to a definitive view on the precise relevant product and geographic markets as its views on the likely competitive impact of the Proposed Transaction are unaffected regardless of the precise definition of the relevant markets adopted. For the purpose of its assessment of the likely competitive impact of the Proposed Transaction, the Commission has considered the potential product and geographic markets described below.
14. The AIFM Directive and the UCITS Directive prescribe the regulatory responsibilities of directors of fund managers organised as UCITS or alternative investment fund Managers (“AIF”). The boards of funds may establish an internal ManCo Services provider or outsource some of the functions to an external ManCo Services provider (known as Fund Management Companies or FMC). According to the Central Bank of Ireland’s ‘*Fund Management Company Guide of December 2016*’, it is common in Ireland for certain tasks to be delegated externally.³ However, the AIFM Directive and the UCITS Directive limit the extent to which delegation is legally permissible as the ultimate responsibility for the day to day running of the fund cannot be delegated.⁴ ManCo Services providers are not regulated fund managers but instead are responsible for ensuring that the investment funds comply with regulatory obligations. This was also confirmed to the Commission by a competitor of the parties which submitted that:⁵

“When acting as management company, an FMC does not have control of the fund itself. All material decisions and control are retained by the board of the fund”

15. According to the competitor, areas of management can be divided into: (i) regulatory compliance; (ii) investment management; (iii) investment risk management; (iv) operational risk management; (v) capital & financial management; and, (vi) distribution. However, the board of the fund manager decides which responsibilities are delegated externally and therefore ManCo Services providers tend to provide expertise across all categories.⁶ This suggests that the potential product market can be defined broadly by considering all the categories under a single potential market for ManCo Services.

³ <https://www.centralbank.ie/docs/default-source/regulation/industry-market-sectors/funds/ucits/guidance/fund-mancos-guidance.pdf>

⁴ Regulation 23(2) of the EC (UCITS) Regulations 2011 and Regulation 21(4) of the EU (AIFM) Regulations 2013.

⁵ Response from [...].

⁶ The parties provide ManCo Services across the various categories for Waystone see https://www.waystone.com/?gclid=EAlalQobChMI5LqmpOa68gIV6-jtCh3QnAwxEAAAYASAAEglygvD_BwE and for Universal Investment see <https://www.manco-services.com/#fund-sales>.



16. The Commission considers that it is not necessary to come to a definitive view on the relevant product markets as the Proposed Transaction is unlikely to raise any competition concerns regardless of the potential product market adopted. For the purpose of its assessment, the Commission has assessed the likely competitive impact of the Proposed Transaction based on a potential market for the provision of ManCo Services.
17. In relation to the relevant geographic market, a competitor of the parties submitted to the Commission that:

“Customers of ManCo Service Providers are global based but traditionally have been mainly based in the United Kingdom and United States of America, some promoters in the State. Funds targeted at domestic investors are generally established in the local market whereas offshore funds targeted global markets generally establish funds in offshore locations such as Luxembourg and Ireland.”⁷

18. The parties submit that Waystone personnel based in the State currently provide ManCo Services to [...]. The Commission notes that there might be some international aspects to the geographic market. However, the Commission considers that it is not necessary to come to a definitive view on the precise definition of the relevant geographic markets in this instance. For the purpose of its competitive assessment of the Proposed Transaction, the Commission has assessed the likely competitive impact of the Proposed Transaction in the State.

Competitive Analysis

19. The parties provided estimated market shares based on data monitored by [...] which, according to the parties, only includes ManCo Services providers based in the State but covers their activities/customers both within and outside the State.⁸ The parties further submit that the market shares are based on data that shows the value of assets under management in funds serviced by ManCo Services providers based in the State. Table 1 below shows the estimated market shares of ManCo Service providers for the provision of ManCo Services in the State for 2020.

Table 1: Market shares of suppliers in the provision of ManCo Services in the State in 2020

ManCo Services Providers	Estimated Market Share
Montagu/Universal-Investment Ireland	[0-10] %
Waystone	[0-10] %
Combined post-merger estimated market shares	[0-10] %
Blackrock Asset Management Ireland	[15-25]%
Vanguard Group (Ireland)	[0-10] %

⁷ Response submitted to the Commission dated 16 August 2021. See also [...].

⁸ Independent investment fund industry research company detail available on <https://www.montereyinsight.com/ireland>.



Insight Investment Management (Europe)	[0-10] %
Goldman Sachs Asset Management Fund Services	[0-10] %
Carne Group Limited	[0-10] %
KB Associates	[0-10] %
Link Group	[0-10] %
The Asset Management Exchange Management Limited	[0-10] %
Davy Global Fund Management	[0-10] %
Others	[60-70] % ⁹
Total	100%

Source: The parties, based on [...]

20. On the basis of the information available to the Commission during its review of the Proposed Transaction, the Commission considers that the Proposed Transaction raises no horizontal competition concerns in the potential market for the provision of ManCo Services in the State, for the reasons set out below.
21. Firstly, the Proposed Transaction would result in a minimal increase in Montagu's pre-transaction market share. As shown in Table 1 above, following implementation of the Proposed Transaction, the parties' estimated combined market shares would be [0-10]%. In addition, Montagu's existing limited presence in the supply of ManCo Services in the State is based on legacy business so any market share accretion is likely to be minimal.
22. Secondly, Montagu, through Universal-Investment Ireland, is a new entrant in the provision of ManCo Services in the State. Montagu entered the potential market for the provision of ManCo Services in the State on 31 May 2021 following Universal-Investment Ireland's acquisition of Metzler Ireland Limited.¹⁰ Prior to the acquisition by Montagu, Metzler Ireland Limited, [...]. Therefore, at the time of the notification of the Proposed Transaction, Metzler Asset Management was the only customer of Montagu.
23. Finally, the parties submit that according to the [...] there were approximately 205 entities providing ManCo Services in Ireland in 2020. These competitors include [...]. These competitors will continue to exert a competitive constraint on the parties following implementation of the Proposed Transaction.
24. In light of the above, the Commission considers that the Proposed Transaction will not give rise to any horizontal competition concerns in the potential market for the provision of ManCo Services in the State.

Vertical relationship

25. The parties submit that there is a potential vertical relationship between their activities as OASIS Group (a portfolio company controlled by Montagu), is a provider of record and

⁹ [...].

¹⁰ See footnote 2.



information management services in the State and Waystone is a purchaser of record and information management services in the State. Based on the information available to the Commission, the Commission considers that the Proposed Transaction is unlikely to raise any input and/or customer foreclosure concerns for the reasons set out below.

26. Firstly, in relation to input foreclosure, there are a number of alternative providers of record and information management services active in the State such as Cyclone Archive (“Cyclone”), Eneclann Limited, Kefron Limited, Wincanton Records Management (Ireland) Limited and Glenbeigh Records Management Limited. Customers could continue to source record and information management services from these competitors of OASIS Group following implementation of the Proposed Transaction.
27. Secondly, in relation to customer foreclosure, Waystone is a small purchaser of record and information management services, specifically document storage services, in the State. Waystone currently has [...] of documents stored with [...]. There are a number of other customers that will continue to procure record and information management services from competitors of OASIS Group active in the State following implementation of the Proposed Transaction.
28. Accordingly, the Commission considers that the potential vertical relationship between OASIS Group and Waystone raises no vertical foreclosure concerns in the State.

Conclusion

29. In light of the above, the Commission considers that the Proposed Transaction will not substantially lessen competition in any market for goods or services in the State.

Ancillary Restraints

30. No ancillary restraints were notified.

Determination

The Competition and Consumer Protection Commission, in accordance with section 21(2)(a) of the Competition Act 2002, as amended, has determined that, in its opinion, the result of the proposed acquisition, whereby Montagu Private Equity LLP, through Sigma Irish TopCo Limited and Sigma Irish AcquiCo Limited, proposes to acquire sole control over Cashel Compliance Topco Limited and its subsidiaries, trading as Waystone, will not be to substantially lessen competition in any market for goods or services in the State, and, accordingly, that the acquisition may be put into effect.

For the Competition and Consumer Protection Commission

Brian McHugh
Member
Competition and Consumer Protection Commission