

Chapter 16

Reporting information to clients (non-MiFID provisions)



16.6 Communications to clients – life insurance, long term care insurance and drawdown pensions

Disclosure for life insurance contracts: information to be provided during the term of the contract

- 16.6.1

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(1) This section applies to a *long-term insurer*, unless, at the time of application, the *client*, other than an *EEA ECA recipient*, was *habitually resident* outside the *United Kingdom* and he was not present in the *United Kingdom*.

(2) In addition, ■ COBS 16.6.8 R applies to an *operator* of a *personal pension scheme* or *stakeholder pension scheme* in relation to a *retail client* who elects to make *income withdrawals*.
- 16.6.2

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(1) The *policyholder* must be informed if during the term of a *life policy* entered into on or after 1 July 1994 there is any change in the following information:

(a) the *policy* conditions;

(b) the name of the *insurer*, its legal form or the address of its head office and, where appropriate, of the agency or branch which concluded the contract; and

(c) the information in (8) to (13) of ■ COBS 13 Annex 1 (The Solvency II Directive information) in the event of a change in the *policy* conditions or amendment of the law applicable to the contract.

(2) A notification in (1) must be made:

(a) in a clear and accurate manner and in writing; and

(b) in an official language of the *State of commitment* or in another language if the *policyholder* so requests and the law of the *State of commitment* so permits or the *policyholder* is free to choose the law applicable.

[Note: article 185(5) and (6) of the *Solvency II Directive*]
- 16.6.3

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If a *life policy* entered into on or after 1 July 1994 provides for the payment of bonuses and the amounts of bonuses are unspecified, the *long-term insurer* must, in every calendar year except the first, either:

(1) notify the *policyholder* in writing of the amount of any bonus which has become payable under the contract, and which has not previously been notified under this *rule*; or

		(2) give the <i>policyholder</i> in writing sufficient information to enable him to determine the amount of any such bonus.
		[Note: in respect of (1), article 185(5) of the <i>Solvency II Directive</i>]
16.6.3A	R	If a <i>firm</i> provides figures, on or after 1 January 2016, about the potential future development of bonuses under a <i>with-profits policy</i> it must inform the <i>policyholder</i> annually in writing of any differences between the actual bonuses payable to date and the figures previously provided. [Note: article 185(5) of the <i>Solvency II Directive</i>]
16.6.4	R	(1) When a <i>firm</i> provides information in accordance with this section, it must provide the information in a <i>durable medium</i> , unless (2) applies. (2) If the contract is being made by telephone, the <i>firm</i> may give the information orally to the <i>customer</i> . If the <i>customer</i> enters into the contract, a written version of the required information must be sent to the <i>customer</i> within five <i>business days</i> of the contract being entered into.
16.6.5	R	Where a <i>life policy</i> is effected jointly, the information required by this section may be sent to the first named <i>client</i> .
16.6.6	R	A <i>firm</i> must make an adequate record of information provided to a <i>customer</i> under this section and retain that record for a minimum period after the information is provided of five years.
		Long term care insurance
16.6.7	R	At each anniversary of the date on which a <i>long-term care insurance contract</i> which is based on single premium investment bonds was entered into, the <i>insurer</i> must: (1) provide the <i>retail client</i> with a table based on the format of ■ COBS 13 Annex 3 2.2R containing at least the current fund value and projected future <i>policy</i> values (as in column "What you might get back"); (2) where it is the case, inform the <i>retail client</i> of the possibility that future policy values may be insufficient to fulfil the original purpose of the contract; and (3) inform the <i>retail client</i> how to obtain advice on <i>investments</i> in respect of <i>long-term care insurance contracts</i> , and that it is in his best interest to do so.
		Drawdown pensions: annual statements
16.6.7A	R	In the rest of ■ COBS 16.6: (1) "annual statement" is the information required to be provided to a <i>retail client</i> on an annual basis at ■ COBS 16.6.8R;

- (2) “cash terms” means pounds and pence;
- (3) “cash-like investments” includes *cash* or *near cash*, units in a *regulated money market fund*, or units in a fund authorised as a money market fund for the purposes of the UK version of the European Parliament and Council Regulation on money market funds (2017/1131/EU), which is part of UK law by virtue of the *EUWA*; and
- (4) “drawdown fund” means either a *capped drawdown pension fund* or *flexi-access drawdown pension fund*;
- (5) a *retail client* is a “non-advised *retail client*” if a *firm* has not determined on reasonable grounds that the client has received a *personal recommendation* in relation to how to invest the sums or assets in their drawdown fund, in accordance with ■ COBS 19.10.10R (4);

Income withdrawals - annual statements

16.6.8

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At intervals of no longer than 12 months, beginning on the date a *retail client* first takes a *pension commencement lump sum* or an *uncrystallised funds pension lump sum payment*, or first makes an *income withdrawal*, the relevant operator of a *personal pension scheme* or *stakeholder pension scheme* must:

- (1) provide the *retail client* with such information as is necessary for the *retail client* to review the decision, including where relevant the information required by ■ COBS 13 Annex 2 2.9R (Additional requirements: drawdown pensions and regular uncrystallised funds pension lump sum payment), ■ COBS 16.6.8AR (pathway investments) and ■ COBS 16.6.10R (costs and charges disclosure); and
- (2) inform the *retail client* that if their circumstances or retirement objectives have changed it may be in their best interests to:
 - (a) review their choice of pension product;
 - (b) review their investment choices;
 - (c) take regulated advice to understand their options at retirement; and
 - (d) seek out guidance.

16.6.8A

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If a *retail client* is invested in a *pathway investment* the annual statement must include the following:

- (1) a short description of each *pathway investment* the *retail client* is invested in, including the corresponding *investment pathway* option under ■ COBS 19.10.17R(1) and the current value of each *pathway investment* in cash terms;
- (2) (for those *retail clients* invested in two or more *pathway investments*) how the *retail client's* drawdown fund is split, in cash terms, across the different *pathway investments* and the corresponding *investment pathway* options;
- (3) a short description of the *investment pathway* options the *retail client* is not currently invested in (■ COBS 19.10.17R(1));

- (4) a statement reminding the *retail client* that they can, at any time:
 - (a) select a different *investment pathway* option and change their *pathway investment*;
 - (b) select an investment that is not a *pathway investment*;
 - (c) (where this option is available) split their drawdown fund across two or more *pathway investments*;
 - (d) choose a different product to access their pension savings;
 - (e) shop around, with an explanation of how they may do so.

16.6.8B G If a *retail client* has been invested in the same *pathway investment* for 5 years (or a multiple of 5 years) a *firm* should consider including in the *retail client's* next annual statement:

- (1) a reminder of the number of years the *retail client* has been invested in the same *pathway investment*; and
- (2) a statement that the *retail client* should review the *investment pathway* option.

16.6.9 G The information provided to the *retail client* in ■ **COBS 16.6.8R(1)** is likely to be sufficient for the *client* to review the decision if it contains at least one of the following (in addition to the information required by ■ **COBS 16.6.8AR** and ■ **COBS 16.6.10R**, as relevant):

- (1) the information required by ■ **COBS 13 Annex 2 2.9R** (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments); or
- (2) the effect of any significant one-off withdrawals or payments since the previous information was provided; or
- (3) (where regular income is being taken) information about the sustainability of the *client's* income over time, which may refer to:
 - (a) the proportion of the fund remaining since outset; or
 - (b) an indication of when the fund may cease to exist; or
 - (c) the rate of withdrawals or payments relative to a sustainable rate; or
- (4) (if a *client* has only taken a *pension commencement lump sum*) information about their investment, fund choices, fund value and charges.

Personal or stakeholder pension schemes in decumulation: actual costs and charges disclosure

16.6.10 R (1) The annual statement must include costs and charges information which must be:

- (a) based on actual costs and charges (including transaction costs and the cost of advice) charged by the *operator* or other parties, which have been paid out of the *retail client's*:

drawdown fund; or

*personal pension scheme or stakeholder pension scheme
from which an uncrystallised funds pension lump sum
payment was paid;*

- (b) aggregated and totalled; and
- (c) expressed in pounds and pence.

(2) When a *retail client's personal pension scheme or stakeholder pension scheme* is in partial drawdown, the *operator*:

- (a) may include costs and charges information for the whole pension scheme; and
- (b) must make clear whether the costs and charges information relates to the whole pension scheme or only to the drawdown fund.

(3) If the *operator* does not have the information necessary to comply with (1), it must take all reasonable steps to obtain it.

(4) If the *operator* does not have exact figures for certain costs and charges, despite taking all reasonable steps to obtain them, the *operator*:

- (a) must provide a reasonable estimate of such costs and charges when providing the costs and charges information; or
- (b) if it is not possible to provide a reasonable estimate of such costs and charges, must include a written statement, with the costs and charges information, to explain which costs and charges are not included.

(5) The *operator* must include a written statement with the costs and charges information, stating whether any adviser remuneration, including *adviser charges, consultancy charges, commission or commission equivalent*, is included in the aggregated costs and charges figure.

(6) The *operator* must make clear what period is covered by the costs and charges information.

16.6.11 R ■ COBS 16.6.10R does not apply where costs and charges are discharged by payment of the fixed price of a drawdown pension product, which has been clearly disclosed to the *retail client*.

16.6.12 G Where ■ COBS 16.6.10R(1)(a)(ii) applies, the annual statement must include costs and charges for the whole of the *retail client's personal pension scheme or stakeholder pension scheme*.

16.6.13 G The *operator's* reasonable steps to obtain costs or charges information should include, where relevant, requesting this information from third parties that provide services relating to the *retail client's* drawdown fund, *personal pension scheme or stakeholder pension scheme*.