

## Chapter 19

# Pensions supplementary provisions

## 19.1 Pension transfers, conversions, and opt-outs

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### Application

- 19.1.-1 **R** [deleted]
- 19.1.-1A **R** Except where a *firm* is providing *abridged advice* (see ■ COBS 19.1A), this section applies to a *firm* which:
- (1) gives *advice on pension transfers, pension conversions and pension opt-outs* to a *retail client*; or
  - (2) *arranges pension transfers, pension conversions or pension opt-outs*,
- in relation to:
- (3) a *pension transfer*;
  - (4) a *pension conversion*; or
  - (5) a *pension opt-out* from a scheme with *safeguarded benefits* or *potential safeguarded benefits*.
- 19.1.-1B **G** A *firm* should comply with this section in order to give appropriate independent advice for the purposes of section 48 of the Pension Schemes Act 2015.
- 19.1.1-A **R** [deleted]
- 19.1.1 **R** [deleted]

**Requirement for pension transfer specialist**

- 19.1.1A **R**
- (1) A firm must ensure that *advice on pension transfers, pension conversions and pension opt-outs* is given or checked by a *pension transfer specialist*.
  - (2) The requirement in (1) does not apply where the only *safeguarded benefit* involved is a *guaranteed annuity rate*.

**Role of the pension transfer specialist when checking**

- 19.1.1B **G**
- When a firm uses a *pension transfer specialist* to check its proposed *advice on pension transfers, pension conversions and pension opt-outs*, it should ensure that the *pension transfer specialist* takes the following steps:
- (1) checks the entirety and completeness of the advice;
  - (2) confirms that any *personal recommendation* is suitable for the *retail client* in accordance with the obligations in ■ COBS 9.2.1R to ■ 9.2.3R and including those matters set out at ■ COBS 19.1.6G; and
  - (3) confirms in writing that they agree with the proposed advice before it is provided to the *retail client*, including any *personal recommendation*.

**Personal recommendation for pension transfers and conversions**

- 19.1.1C **R**
- (1) A firm must make a *personal recommendation* when it provides *advice on conversion or transfer of pension benefits*.
  - (2) Before making the *personal recommendation* the firm must:
    - (a) determine the *proposed arrangement with flexible benefits* to which the *retail client* would move; and
    - (b) carry out the *appropriate pension transfer analysis* and produce the *transfer value comparator*.
  - (3) The requirement in (2)(b) does not apply if the only *safeguarded benefit* involved is a *guaranteed annuity rate*.
  - (4) The firm must take reasonable steps to ensure that the *retail client* understands how the key outcomes from the *appropriate pension transfer analysis* and the *transfer value comparator* contribute towards the *personal recommendation*.
  - (5) Prior to making a *personal recommendation* to effect a *pension transfer or pension conversion*, a firm must obtain evidence that the *client* can demonstrate that they understand the risks to them of proceeding with the *pension transfer or pension conversion*.
- 19.1.1D **G**
- (1) ■ COBS 9 contains suitability requirements which apply if a firm makes a *personal recommendation* in relation to *advice on conversion or transfer of pension benefits*.

- (2) (a) ■ COBS 9 requires a *firm* to obtain from the *client* necessary information for the *firm* to be able to make a recommendation. The necessary information includes ensuring that the *client* has the necessary experience and knowledge to understand the risks involved in the transaction. If a *client* does not understand the risks and/or the *firm* does not have evidence that the *client* can demonstrate their understanding, then it is likely not to be appropriate, under the ■ COBS 9 requirements, to make a recommendation to transfer or convert.
- (b) The *firm* should make a clear record of the steps it has taken to satisfy itself on reasonable grounds that it has adequate evidence of the *client's* demonstration of their understanding of the risks.
- (3) When a *firm* is obtaining evidence as to whether the *client* can demonstrate that they understand the risks involved in the *pension transfer* or *pension conversion*, it should tailor its approach according to the experience, financial sophistication and/or vulnerability of each individual *client*.

### Appropriate pension transfer analysis

19.1.2 **R** [deleted]

19.1.2A **R** [deleted]

19.1.2B **R** To prepare an appropriate transfer analysis a *firm* must:

- (1) assess the benefits likely to be paid and options available under the *ceding arrangement*;
- (2) compare (1) with those benefits and options available under the *proposed arrangement*;
- (3) where the *proposed arrangement* is a *personal pension scheme*, *stakeholder pension scheme* or *defined contribution occupational pension scheme* that is not a *qualifying scheme*, and a *qualifying scheme* is available to the *retail client*, compare the benefits and options available under the *proposed arrangement* with the benefits and options available under the *default arrangement* of the *qualifying scheme*; and
- (4) undertake the analysis in (1), (2) and (3) in accordance with ■ COBS 19 Annex 4A and ■ COBS 19 Annex 4C.

19.1.2C **R** ■ COBS 19.1.1-AR and ■ COBS 19.1.2BR do not preclude a *firm* from preparing other forms of the analysis (for example, stochastic cashflow modelling) which are relevant to making a *personal recommendation* to the *retail client*, as long as projected outcomes at the 50th percentile are no less conservative than if the analysis had been prepared in accordance with ■ COBS 19 Annex 4A and ■ COBS 19 Annex 4C.

19.1.2D **G** (1) This *guidance* applies if a *firm* presents information in the *appropriate pension transfer analysis* which considers the impact of:

(a) the Pension Protection Fund and the *FSCS*; or  
scheme funding or employer covenants.

(2) If a *firm* presents the information in (1) it should, in accordance with *Principle 7* and the *fair, clear and not misleading rule*, do so in a way that is balanced and objective.

(3) If a *firm* does not have specialist knowledge in assessing the impact of (1)(a) or 1(b), it should consider not including the information.

19.1.2E

G

(1) This *guidance* applies if a *firm* presents information in the *appropriate pension transfer analysis*:

(a) that contains an indication of future performance; and

(b) is produced by a financial planning tool or cash flow model that uses different assumptions to those shown in the *key features illustration* for the *proposed arrangement*.

(2) A *firm* presenting the information in (1) should explain to the *retail client* why different assumptions produce different illustrative financial outcomes.

19.1.3

G

[deleted]

### Transfer value comparator

19.1.3A

R

(1) To prepare a *transfer value comparator*, a *firm* must compare the transfer value offered by the *ceding arrangement* with the estimated value needed today to purchase the *future income benefits* available under the *ceding arrangement* using a *pension annuity* (calculated in accordance with ■ COBS 19 Annex 4B and ■ COBS 19 Annex 4C).

(2) The *firm* must provide the *transfer value comparator* to the *retail client* in a durable medium using the format and wording in ■ COBS 19 Annex 5 and using the notes set out in ■ COBS 19 Annex 5 1.2R.

(3) When the *retail client* has passed the normal retirement age of the *ceding arrangement*, the *firm* must provide a *transfer value comparator* applying the retirement age assumed in the calculation of the transfer value.

(4) Where the *ceding arrangement* allows the *retail client* to take their benefits at an age below the scheme's normal retirement age, with no reduction for early payment and where no consent is required, then the *firm* must provide a *transfer value comparator* assuming that the *retail client* will retire at this age.

### Guidance on estimated transfer value

19.1.3B

G

If a *firm* gives *advice on conversion or transfer of pension benefits* to a *retail client* under circumstances where the *ceding arrangement* is expected to be changed, or replaced by another scheme, the *firm* should:

(1) prepare a provisional *appropriate pension transfer analysis* and *transfer value comparator* based on the information related to the changed or replacement scheme;

- (2) make reasonable assumptions about the changed or replacement scheme where the benefits are uncertain; and
- (3) set out in a provisional *suitability report* any assumptions and uncertainties to the *retail client*, which should clearly set out that the *personal recommendation* can only be finalised once the transfer value and changed or replacement arrangements are certain.

19.1.4 **R** [deleted]

19.1.4A **E** [deleted]

19.1.4B **R** [deleted]

19.1.5 **R** [deleted]

### Guidance on assessing suitability

- 19.1.6 **G**
- (1) The *guidance* in this section relates to the obligations to assess suitability in ■ COBS 9.2.1R to ■ 9.2.3R.
  - (2) When a *firm* is making a *personal recommendation* for a *retail client* who is, or is eligible to be, a member of a *pension scheme* with *safeguarded benefits* and who is considering whether to transfer, convert or opt-out, a *firm* should start by assuming that a transfer, conversion or opt-out will not be suitable.
  - (3) A *firm* should only consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the *retail client's* best interests.
  - (4) To demonstrate (3), the factors a *firm* should take into account include:
    - (a) the *retail client's* intentions for accessing pension benefits;
    - (b) the *retail client's* attitude to, and understanding of the risk of giving up *safeguarded benefits* (or potential *safeguarded benefits*) for *flexible benefits*, taking into account the following factors:
      - (i) the risks and benefits of staying in the ceding arrangement;
      - (ii) the risks and benefits of transferring into an arrangement with *flexible benefits*;
      - (iii) the *retail client's* attitude to certainty of income in retirement;
      - (iv) whether the *retail client* would be likely to access funds in an arrangement with *flexible benefits* in an unplanned way;
      - (v) the likely impact of (iv) on the sustainability of the funds over time;
      - (vi) the *retail client's* attitude to and experience of managing investments or paying for *advice on investments* so long as the funds last; and
      - (vii) the *retail client's* attitude to any restrictions on their ability to access funds in the *ceding arrangement*;

- (c) the *retail client's* attitude to, and understanding of investment risk;
  - (d) the *retail client's* realistic retirement income needs including:
    - (i) how they can be achieved;
    - (ii) the role played by *safeguarded benefits* (or potential *safeguarded benefits*) in achieving them; and
    - (iii) the consequent impact on those needs of a transfer, conversion or opt-out, including any trade-offs; and
  - (e) alternative ways to achieve the *retail client's* objectives instead of the transfer, conversion or opt-out.
- (5) If a *firm* uses a risk profiling tool or software to assess a *retail client's* attitude to the risk in (4)(b) it should:
- (a) check whether the tool or software is capable of taking into account at least those factors listed in (4)(b)(i) to (vii); and
  - (b) ensure that those factors which are not included are factored into the *firm's* assessment of the *client's* attitude to risk.
- (6) When a *firm* asks questions about a *retail client's* attitude to the risk in 4(b) it should consider the *rules* on communicating with *clients* (■ COBS 4), which require a *firm* to ensure that a communication is fair, clear and not misleading.
- (7) Where a *qualifying scheme* is available to the *retail client*, a *firm* considering making a *personal recommendation* to effect a *pension transfer* to a *personal pension scheme*, *stakeholder pension scheme* or *defined contribution occupational pension scheme* that is not a *qualifying scheme*:
- (a) should start by assuming that it will not be as suitable as a transfer to the *default arrangement* of an available *qualifying scheme*; and
  - (b) will need to be able to demonstrate clearly that, as at the time of the *personal recommendation*, it is more suitable than a transfer to the *default arrangement* of an available *qualifying scheme*.
- (8) For the purposes of (7):
- (a) a *qualifying scheme* is available to the *retail client* where it accepts transfers from other schemes into its *default arrangement*; and
  - (b) where more than one *qualifying scheme* is available to the *retail client*, the *firm* should consider the available *qualifying scheme* that the *retail client* most recently joined, but may, in addition, also consider any of the other *qualifying schemes* available to the *retail client*.
- (9) To demonstrate (7)(b) the *firm* may, subject to (10), take into account one or more of the following considerations:
- (a) the *retail client* provides evidence of experience at making active investment choices as a self-investor or as an advised investor (except in relation to investments in the *default arrangement* of a *qualifying scheme* or in a mortgage endowment policy or similar product);

- (b) where the *retail client* wishes to access the funds within 12 *months* of entering into pension decumulation and the *qualifying scheme* does not offer the *retail client* a decumulation option that would enable the *retail client* to achieve their desired outcome.
- (10) In taking into account the considerations in (9), as well as any other considerations that the *firm* may decide to take into account when demonstrating 7(b), the *firm* should also consider:
  - (a) whether those considerations are so important to the *client* as to outweigh other considerations in favour of the *default arrangement* of the available *qualifying scheme*; and
  - (b) why the outcome sought by transferring to a *personal pension scheme*, *stakeholder pension scheme* or *defined contribution occupational pension scheme* that is not a *qualifying scheme* cannot be achieved by transferring to the *qualifying scheme*.
- (11) The presence of one or more of the following circumstances should not be taken as sufficient to demonstrate that the *personal recommendation* in (7) is suitable:
  - (a) one of the *retail client's* objectives is to have access to a wider range of investment options than available under the *default arrangement* of the *qualifying scheme*;
  - (b) the transfer is to take place more than 12 *months* before the *retail client* enters into pension decumulation; and/or
  - (c) the *retail client* will enter into pension decumulation within the next 12 *months*, but the *retail client* has not yet decided whether or how they will access their funds.

### Working with another adviser

19.1.6A

G

- (1) This *guidance* relates to the obligations to assess suitability in ■ COBS 9.2.1R to ■ 9.2.3R.
- (2) Paragraphs (3) and (4) apply in the following situations:
  - (a) where two or more *firms* are involved in providing both *advice on pension transfers*, *pension conversions* and *pension opt-outs* and *advice on investments* in relation to the same transaction; and
  - (b) where two or more *employees* within the same *firm* are involved in providing both *advice on pension transfers*, *pension conversions* and *pension opt-outs* and *advice on investments* in relation to the same transaction.
- (3) In such situations, *firms* should work together (or ensure their *employees* work together) to:
  - (a) obtain information from the *retail client* under ■ COBS 9.2.2R(1) that is sufficient to inform both the *advice on pension transfers*, *pension conversions* and *pension opt-outs* and the *advice on investments*; and
  - (b) obtain information from the *retail client* under ■ COBS 9.2.2R(2) about the client's preferences regarding risk taking and their risk profile that covers both the risk in ■ COBS 19.1.6R(4)(b) and the risk in ■ COBS 19.1.6R(4)(c).
- (4) In such situations, the *firm(s)* providing the *advice on investments* in relation to the proposed transaction should ensure that (where



relevant) the advice takes into account the impact of any loss of *safeguarded benefits* (or potentially *safeguarded benefits*) on the *retail client's* ability to take on investment risk.

19.1.7 **G** [deleted]

19.1.7A **G** [deleted]

19.1.7B **G** [deleted]

### Arranging without making a personal recommendation

19.1.7C **R** If a *firm* arranges a *pension transfer*, *pension conversion* or *pension opt-out* for a *retail client* without making a *personal recommendation* in relation to the *pension transfer*, *pension conversion* or *pension opt-out* it must:

(1) make a clear record of the fact that the *firm* has not given that *personal recommendation* to the *client*;

(1A) where the *pension transfer* or *pension conversion* is within the scope of the requirement in section 48 of the Pension Schemes Act 2015:

(a) not proceed with the arrangements until it has received confirmation, from the *firm* that gave the advice to the *retail client*, that the *retail client* has received a *personal recommendation* in accordance with the requirements of **COBS 19.1** (and that it was not *abridged advice*); and

(b) if the client has received a *personal recommendation*, ask whether or not the recommendation was to transfer or convert; and

(c) retain clear records showing evidence of (a) and (b);

(1B) where the recommendation in (1A) was not to transfer or convert the *retail client's* subsisting rights in respect of *safeguarded benefits*, the *firm* arranging the *pension transfer* or *pension conversion* must:

(a) warn the *retail client* that they are acting against advice not to transfer or convert;

(b) ask the *retail client* whether they understand the consequences of acting against advice;

(c) where the *retail client* does not understand the consequences of acting against advice, refuse to arrange the *pension transfer* or conversion and instead refer the *retail client* back to the *firm* that advised them not to transfer or convert for an explanation of that advice; and

(d) retain a record of the communications with the *retail client* that evidence compliance with the requirements in (a) to (c);

(2) retain the records in (1), (1A) and (1B) indefinitely.

19.1.7D **G** Where the advice referred to in **COBS 19.1.7CR(1A)** was *abridged advice*, the *firm* being asked to arrange the transfer or conversion should not ask the

advising *firm* for confirmation of the *abridged advice* given. The *firm* is not permitted to arrange the relevant *pension transfer* or *pension conversion* where the advice given was *abridged advice*.

- 19.1.7E** **R** Where the *firm* that has given advice to a *retail client* is asked by a *firm* arranging a *pension transfer* or *pension conversion* that is within the scope of the requirement in section 48 of the Pension Schemes Act 2015 to:
- (a) provide a confirmation that the *retail client* has received a *personal recommendation* in accordance with the requirements of **COBS 19.1** (and that it was not *abridged advice*); and
  - (b) if the client has received a personal recommendation, confirm whether or not the recommendation was to transfer or convert,
- the advising *firm* must provide the requested information to the *firm* arranging a *pension transfer* or *pension conversion* as soon as reasonably practicable.

### Suitability reports

- 19.1.8** **G** If a *firm* provides a *suitability report* to a *retail client* in accordance with **COBS 9.4.2AR** it should include:
- (1) a summary of the advantages and disadvantages of its *personal recommendation*;
  - (2) an analysis of the financial implications (if the recommendation is to opt-out);
  - (2A) a summary of the key outcomes from the *appropriate pension transfer analysis* (if the recommendation is to transfer or convert); and
  - (3) a summary of any other material information.
- 19.1.9** **G** If a *firm* proposes to advise a *retail client* not to proceed with a *pension opt-out*, it should give that advice in writing.
- 19.1.9A** **R** Prior to finalising the *firm's personal recommendation*, a *firm* seeking evidence that the *client* can demonstrate their understanding of the risks in accordance with **COBS 19.1.1CR(5)** must:
- (1) make a clear record of either:
    - (a) the evidence showing that the *client* demonstrated that they understood the risks involved in effecting a *pension transfer* or *pension conversion* and the steps taken by the *firm* to obtain that; or
    - (b) if the *firm* could not obtain evidence that the *client* could demonstrate that understanding and the *firm* did not change to a recommendation not to transfer, the steps taken by the *firm* to obtain the evidence and clear evidence and explanation of how the *firm* satisfied itself on reasonable grounds that it was still suitable to continue to make the same *personal recommendation*; and
  - (2) retain the records in (1) indefinitely.

**The statutory advice requirement**

---

- 19.1.10 **G** (1) Where a *firm* has advised a *retail client* in relation to a *pension transfer* or *pension conversion* and the *firm* is asked to confirm this for the purposes of section 48 of the Pension Schemes Act 2015, then the *firm* should provide such confirmation as soon as reasonably practicable.
- (2) The *firm* should provide the confirmation regardless of whether it advised the *client* to proceed with a *pension transfer* or *pension conversion* or not.

**Triage services**

---

- 19.1.11 **G** The table in ■ PERG 12 Annex 1G includes examples of when a *firm* is and is not *advising on conversion or transfer of pension benefits* when it has an initial "triage" conversation with a potential customer. The purpose of triage is to give the customer sufficient information about *safeguarded benefits* and *flexible benefits* to enable them to make a decision about whether to take *advice on conversion or transfer of pension benefits*.

## 19.1A Abridged advice on pension transfers and pension conversions

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### Application

**19.1A.1** **R** This section applies to a *firm* which gives *abridged advice* in relation to a *pension transfer* or *pension conversion* to a *retail client*.

**19.1A.2** **R** A *firm* may not give *abridged advice* to the extent that the *safeguarded benefits* involved are *guaranteed annuity rates*.

### Options when providing abridged advice

**19.1A.3** **R** A *firm* giving a *retail client* *abridged advice* must either:

- (1) make a *personal recommendation* that the *client* remains in their *ceding arrangement*; or
- (2) do all of the following:
  - (a) inform the *client* that they are unable to take a view on whether it is in the *client's* best interests to transfer or convert without undertaking *full pension transfer or conversion advice*, even when the firm considers that it may be in the *client's* best interests;
  - (b) check if the *client* wants the *firm* to provide *full pension transfer or conversion advice* and check that the *client* understands the associated cost; and
  - (c) (if the *firm* has reason to believe that the *client* is suffering from *serious ill-health* or experiencing *serious financial difficulty*) make the *client* aware of the implications for the level of *adviser charges* if the *client* proceeded to *full pension transfer or conversion advice*.

### Guidance about proceeding from abridged advice to full pension transfer or conversion advice

**19.1A.4** **G** This *guidance* applies where a *firm* has given *abridged advice* to a *retail client* and the *client* wishes to proceed to *full pension transfer or conversion advice*.

(1) Where the outcome of the *abridged advice* was a *personal recommendation* that the *client* remains in their *ceding arrangement*, the FCA's expectation is that in most cases the outcome of *full*

*pension transfer or conversion advice will be a personal recommendation that the client remains in their ceding arrangement.*

- (2) Where the outcome was a statement that the *firm* was unable to take a view on whether it would be in the *client's* best interests to transfer or convert without undertaking *full pension transfer or conversion advice*, the *FCA's* expectation is that the outcome of *full pension transfer or conversion advice* could still be a *personal recommendation* that the *client* remains in their *ceding arrangement*.

### Inability to provide confirmation for the purposes of section 48 of the Pension Schemes Act 2015

- 19.1A.5 **R** A *firm* must not provide a confirmation for the purposes of section 48 of the Pension Schemes Act 2015 unless it has provided *full pension transfer or conversion advice*.

### Prohibition

- 19.1A.6 **R** A *firm* must not carry out *appropriate pension transfer analysis* and/or prepare a *transfer value comparator* and/or consider the *proposed arrangement* when providing *abridged advice* to a *retail client*.

### Requirement to use a pension transfer specialist

- 19.1A.7 **R** A *firm* must ensure that *abridged advice* is given or checked by a *pension transfer specialist*.

- 19.1A.8 **G** Where a *firm* uses a *pension transfer specialist* to check its proposed *abridged advice* it should have regard to the *guidance* in **COBS 19.1.1BG**.

### Relevant guidance about assessing suitability

- 19.1A.9 **G** If a *firm* provides a suitability report to a *retail client* in accordance with **COBS 9.4.2AR** it should include (in addition to the requirements in **COBS 9.4**):

- (1) a summary of the advantages and disadvantages of its *personal recommendation*; and
- (2) a summary of any other material information that would assist the client in understanding the basis of the advice.

- 19.1A.10 **R** A *firm* must not arrange a transaction for a *client* where only *abridged advice* has been given.

- 19.1A.11 **G**
- (1) This *guidance* relates to a *firm's* obligations to assess suitability in accordance with **COBS 9.2.1R** to **9.2.3R**.
  - (2) A *firm* should start by assuming that a *pension transfer* or *pension conversion* will not be suitable.

- (3) For the purposes of the provision of *abridged advice*, the factors a *firm* should take into account include:
- (a) the *retail client's* intentions for accessing pension benefits;
  - (b) the *retail client's* attitude to, and understanding of the risk of, giving up *safeguarded benefits* for *flexible benefits*, taking into account the following factors:
    - (i) the risks and benefits of staying in the *ceding arrangement*;
    - (ii) the risks and benefits of transferring from the *ceding arrangement* into an arrangement with *flexible benefits*;
    - (iii) the *retail client's* attitude to certainty of income in retirement;
    - (iv) whether the *retail client* would be likely to access funds in an arrangement with *flexible benefits* in an unplanned way;
    - (v) the likely impact of (iv) on the sustainability of the funds over time;
    - (vi) the *retail client's* attitude to, and experience of, managing *investments* or paying for *advice on investments* so long as the funds last; and
    - (vii) the *retail client's* attitude to any restrictions on their ability to access funds in the *ceding arrangement*;
  - (c) the *retail client's* realistic retirement income needs including:
    - (i) how they can be achieved;
    - (ii) the role played by *safeguarded benefits* in achieving them; and
    - (iii) the consequent impact on those needs of a *pension transfer* or *pension conversion*, including any trade-offs in broad terms;
  - (d) alternative ways to achieve the *retail client's* objectives instead of the *pension transfer* or *pension conversion*;
  - (e) the *retail client's* attitude to, and understanding of, investment risk;
- (4) If a *firm* uses a risk profiling tool or software to assess a *retail client's* attitude to the risk in (3)(b) it should:
- (a) check whether the tool or software is capable of taking into account at least those factors listed in (3)(b)(i) to (vii); and
  - (b) ensure that those factors which are not included are factored into the *firm's* assessment of the *client's* attitude to risk.
- (5) When a *firm* asks questions about a *retail client's* attitude to the risk in 3(b) it should ensure they are fair, clear and not misleading in accordance with ■ COBS 4.

#### Guidance about charging for abridged advice

##### 19.1A.12 G

- (1) A *firm* may provide *abridged advice* to a *retail client* free of charge. However, if they do, and the conclusion is that they are unable to give a *personal recommendation* without carrying out *full advice on pension transfers or conversions*, a *firm* will need to ensure it is able to demonstrate how it still complies with *Principle 8* (Conflicts of interest), and the rules on contingent charging (■ COBS 19.1B).
- (2) A *firm* that charges a *client* twice for what is, in essence, the same service is likely to be acting inconsistently with *Principle 2*, *Principle 6*

---

and *Principle 8*. As a result, a *firm* will be expected to offset the *adviser charges* paid by a *retail client* for the provision of *abridged advice* from the amount it would have otherwise charged that *retail client* for the provision of *full pension transfer or conversion advice*.

## 19.1B Ban on contingent charging for pension transfers and conversions

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### Application

- 19.1B.1** **R** This section applies to a *firm* in relation to the provision of:
- (1) *advice on conversion or transfer of pension benefits* except where:
    - (a) the only *safeguarded benefit* involved is a *guaranteed annuity rate*; or
    - (b) it is *abridged advice*;
  - (2) *investment advice* or other services in connection with a *pension transfer* or *pension conversion* (including, but not limited to, implementing and arranging a *pension transfer* or *pension conversion*);
  - (3) ongoing advice or other services in relation to rights or interests in a *non-DB pension scheme* derived in whole or part from a *pension transfer* or *pension conversion*; or
  - (4) any related services.

### Purpose

- 19.1B.2** **G** The purpose of this section is to ensure that *firms'* charging structures, either individually or taken together with other *associates*, do not create any potential for a conflict of interest relating to, or an incentive to recommend or effect, a *pension transfer* or a *pension conversion* to a *retail client*.

### Ban on contingent charging

- 19.1B.3** **R** Except as specified in **COBS 19.1B.9(1)** or **(2)**, a *firm* must ensure that both the methodology for calculating any part of, and the total value of, the *firm's adviser charges, employer or trustee funded pension advice charge* or *remuneration* do not vary depending on whether or not:
- (1) the *firm* makes a *personal recommendation* to a *retail client* to effect a *pension transfer* or a *pension conversion*; and/or
  - (2) the *retail client* effects a *pension transfer* or a *pension conversion*; and/or
  - (3) (in relation to ongoing advice or other services in relation to the *retail client's* rights or interests in a *non-DB pension scheme*) the



rights or interests in the *non-DB pension scheme* include sums derived from a *pension transfer* or a *pension conversion*.

19.1B.4

**R**

Where:

- (1) one *firm* carries out multiple services for a particular *retail client*; and/or
- (2) a *firm* and one or more *firms* that are its *associates* (including any other *firm* providing *investment advice* in relation to a *proposed arrangement*) are involved then,
  - COBS 19.1B.3R applies to the *firm* in relation to both the methodology for calculating any part of, and the total value of, the *adviser charges*, *employer or trustee funded pension advice charge* and/or *remuneration* of the *firm* and, where applicable, any of those *associates*.

19.1B.5

**R**

- (1) A *firm* must not allow itself to be part of any charging structure or arrangement (operated by the *firm* or any *associate*) which could create a potential incentive to any *firm* or any *firm* that is its *associate* to recommend or arrange a *pension transfer* or a *pension conversion* to or for a *retail client* or otherwise could circumvent the *rules* in this section.
- (2) This includes charging structures in relation to the pricing of other goods or services provided to the *client* or a connected *person* at any time by any *firm* involved in the *pension transfer* or *pension conversion* arrangements, or by any *associate* of the *firm*.

### Examples of unacceptable practices

19.1B.6

**G**

The following *evidential provisions* provide examples of charging arrangements the *FCA* considers will breach the *rules* in this section.

19.1B.7

**E**

- (1) A *firm* should not charge and/or receive *adviser charges*, *employer or trustee funded pension advice charges* and/or *remuneration*, that are higher, when taken together, if the recommendation is to effect a transfer or conversion than if the recommendation is not to do so.
- (2) A *firm* and/or any of its *associates* that are *firms* should not charge and/or receive *remuneration* of a higher amount for their ongoing advice or services in relation to the funds in a *non-DB pension scheme* than they charge or receive where the funds are not derived from a *pension transfer* or a *pension conversion*.
- (3) A *firm* should not purport to charge a *retail client* the same for advice that recommends a *pension transfer* or a *pension conversion* as it would for advice that does not recommend a transfer or conversion, but not take reasonable steps to enforce payment of the full amount of the charge by the *retail client* where the advice is not to transfer or convert.
- (4) A *firm* should not charge a lower amount for any other services provided, or to be provided, by the *firm* or an *associate* to the *retail client* or, anyone connected to the *retail client*, if the *client* is advised not to transfer or convert.

- (5) A *firm* should not subsequently vary its *adviser charges, employer or trustee funded pension advice charge and/or remuneration for advice and/or related services* so that in practice they become dependent on the outcome of a *personal recommendation* or whether the *retail client* effects a *pension transfer* or a *pension conversion*.
- (6) A *firm* should not charge less in relation to *full pension transfer or conversion advice* (including charges for *abridged advice*) than it would do if it provided *investment advice* on the investment of the same size of pension funds but which did not include funds from a *pension transfer* or a *pension conversion*. This does not apply in relation to *full pension transfer or conversion advice* where part of the charge is payable by an *employer or trustee funded advice charge*.
- (7) A *firm* should not undertake some services related to *full pension transfer or conversion advice*, such as parts of *appropriate pension transfer analysis* or *transfer value comparator*, then decline to advise further and not charge for the work undertaken.
- (8) Contravention of:
  - (a) either of (1) or (2) may be relied upon as tending to establish contravention of ■ COBS 19.1B.3R; and
  - (b) any of (3) to (7) may be relied upon as tending to establish contravention of ■ COBS 19.1B.5R.

### Guidance about charging for full pension transfer or conversion advice

19.1B.8

G

- (1) A *firm* may provide *full pension transfer or conversion advice* to a *retail client* free of charge in exceptional cases, even if they do not fall within the exceptions in ■ COBS 19.1B.9R(1) or ■ (2). This may be, for example, where the *firm* is acting entirely pro-bono on humanitarian grounds, or is helping a close family friend, where the *firm* can demonstrate that the *rules* on contingent charging in this chapter are not being breached. For example, where all of the related services provided (by the *firm* or any *associate*) are also free of charge. The *firm* will also need to show that the advice was free of charge irrespective of whether or not the advice results in a recommendation to transfer or convert.
- (2) Where a *firm* has provided a *retail client* with *abridged advice* and with *full pension transfer or conversion advice*, it should charge the *retail client* taking into account the guidance in ■ COBS 19.1A.12G(2).

### Exceptions to the ban on contingent charging

19.1B.9

R

A *firm* need not comply with ■ COBS 19.1B.3R or ■ COBS 19.1B.5R in relation to *full pension transfer or conversion advice* if it has satisfied itself, on reasonable grounds and based on adequate supporting evidence, that the *retail client* is unable to pay for *full pension transfer or conversion advice* without using funds that are not reasonably available, and is either:

- (1) suffering from *serious ill-health*; or
- (2) (a) experiencing *serious financial difficulty* or likely would be if they had to pay for *full pension transfer or conversion advice* on a non-contingent basis; and

(b) would be able to access their pension fund immediately after a *pension transfer* or a *pension conversion* has taken effect.

**19.1B.10** **R** A firm that charges a *retail client* in relation to *full pension transfer or conversion advice* on a contingent basis in reliance on **COBS 19.1B.9R(1)** or **(2)**, must ensure that the methodology for calculating, and the total value of, the *firm's* and any *associate's adviser charges, employer or trustee funded pension advice charge or remuneration* for that advice, any related service, and any ongoing advice or other services in relation to the *retail client's* rights or interests in a *non-DB pension scheme*, is not higher than if they had charged the *retail client* in relation to *full pension transfer or conversion advice* on a non-contingent basis.

**19.1B.11** **G** A *client* is likely to meet the requirements for *serious ill-health* where:

- (1) the *retail client* has a particular medical condition, as shown by reliable medical reports or records; and
- (2) there are reputable sources of medical information to evidence that the medical condition in question results, in the majority of cases, in a life expectancy below age 75.

**19.1B.12** **G** A *client* is likely to meet the requirement that they are unable to pay for *full pension transfer or conversion advice* without using funds that are not reasonably available where the amount of their reasonably available savings and investments is below the cost of *full pension transfer or conversion advice*.

**19.1B.13** **G** The types of circumstances in which a *client* is likely to be able to show they are experiencing *serious financial difficulty* include where continuing to pay domestic bills and credit commitments is a heavy burden on the *client* and the *client* has missed payments for any credit commitments and/or any domestic bills in any three or more of the last six *calendar months*.

#### **Examples of unacceptable reasons for relying on an exception to the ban on contingent charging**

**19.1B.14** **G** The following *evidential provisions* provide examples of what the *FCA* considers to be unacceptable reasons for relying on the *serious financial difficulty* and *serious ill health* exceptions and which, if relied on by a *firm*, the *FCA* considers will breach the *rules* in this section.

**19.1B.15** **E**

- (1) A *firm* should not be satisfied that a *client* meets the requirements for *serious ill-health* where a *client* is only able to demonstrate an expected reduced life expectancy due to lifestyle factors (for example smoking or drinking alcohol) and not a medical condition.
- (2) A *firm* should not be satisfied that a *client* meets the requirements for *serious financial difficulty* where a *client* is experiencing *serious financial difficulties* because of incurring non-essential expenditure.

- (3) A *firm* should not be satisfied that a *client* will be able to access their pension fund immediately after a *pension transfer* or *pension conversion* (relevant to *serious financial difficulty*) unless the *client* has been able to demonstrate to the satisfaction of the *firm* the basis on which they would be able to access their pension fund immediately after a *pension transfer* or *pension conversion*.
- (4) A *firm* should not be satisfied that a *client* is unable to pay for *full pension transfer or conversion advice* where a *client* is able to access reasonably available savings or investments to pay for *full pension transfer or conversion advice* but does not wish to access these to pay for advice.

**19.1B.16** **R** Contravention of any of ■ COBS 19.1B.15E (1) to ■ (4) may be relied upon as tending to establish contravention of ■ COBS 19.1B.9R and therefore ■ COBS 19.1B.3R or ■ COBS 19.1B.5R.

**Additional record-keeping requirements for a firm relying on an exception in COBS 19.1B.9R(1) or (2)**

---

**19.1B.17** **R** In addition to any other record-keeping requirements to which the *firm* is subject, a *firm* charging a *retail client* on a contingent basis in reliance on one of the exceptions in ■ COBS 19.1B.9R(1) or ■ (2) must make and retain indefinitely a record of the evidence it relied upon to satisfy itself that all the relevant requirements in ■ COBS 19.1B.9R were met in relation to the *retail client*.

## 19.2 Personal pensions, FSAVCs and AVCs

### Financial promotions

- 19.2.1 **G** A *financial promotion* for a FSAVC should contain a prominent warning that, as an alternative an AVC arrangement exists, and that details can be obtained from the scheme administrator (if that is the case).

### Suitability

- 19.2.2 **R** When a *firm* prepares a *suitability report* it must:
- (1) (in the case of a *personal pension scheme*), explain why it considers the *personal pension scheme* to be at least as suitable as a *stakeholder pension scheme*;
  - (2) (in the case of a *personal pension scheme, stakeholder pension scheme* or FSAVC) explain why it considers the *personal pension scheme, stakeholder pension scheme* or FSAVC to be at least as suitable as any facility to make additional contributions to an *occupational pension scheme, group personal pension scheme* or *group stakeholder pension scheme* which is available to the *retail client*; and
  - (3) (in the case of a *pension transfer*, other than where the only *safeguarded benefit* involved is a *guaranteed annuity rate*, where the *proposed arrangement* is a *personal pension scheme, stakeholder pension scheme* or *defined contribution occupational pension scheme* that is not a *qualifying scheme*) explain why, at the time of the *personal recommendation*, it considers the *proposed arrangement* to be more suitable than the *default arrangement* of an available *qualifying scheme*.
- 19.2.3 **R** When a *firm* promotes a *personal pension scheme*, including a *group personal pension scheme*, to a group of *employees* it must:
- (1) be satisfied on reasonable grounds that the scheme is likely to be at least as suitable for the majority of the *employees* as a *stakeholder pension scheme*; and
  - (2) record why it thinks the promotion is justified.

**Attachment (or earmarking) orders**

---

- 19.2.4 **G** A *firm* should take into account the existence of any attachment (or earmarking) orders in respect of a *client's personal pension scheme* or *stakeholder pension scheme*.
- 19.2.5 **G**
- (1) An *operator* should ensure that it is aware of, and acts fully in accordance with, any attachment or earmarking orders made in respect of any members of that scheme by a court.
  - (2) In particular, an *operator* should be mindful of its obligations under an attachment order to give notices to other parties, including transferee *operators* and relevant former spouses, where relevant events occur, such as transfers and significant reductions in benefits.
  - (3) A *firm*, when advising a *client* in relation to a *personal pension scheme* or *stakeholder pension scheme*, or in relation to a *pension transfer* or *pension conversion*, should enquire as to whether an attachment order exists and take it into account accordingly.

## 19.3 Product disclosure to members of occupational pension schemes

### 19.3.1

**R**

- (1) When a *firm* sells, *personally recommends* or arranges the payment of an *AVC* contribution by a member of an *occupational pension scheme* to be secured by a *packaged product* purchased by the scheme trustees, it must give the trustees sufficient information to pass to the relevant member for that member to be able to make informed comparisons between the *AVC* and any alternative *personal pension schemes* and *stakeholder pension schemes* available.
- (2) This *rule* applies to an *AVC* where members' benefits are linked to the earmarked segments of a *life policy* or *scheme*, but it does not apply to an *AVC* where the trustees make pooled investments and have their own arrangements for allocating investment returns to determine members' *AVC* benefits.

## 19.4 Open market options

### Definitions

19.4.1

R

In this section:

- (1) 'fact sheet' means the *MoneyHelper* fact sheet or a statement provided by a *firm* that gives materially the same information;
- (1A) '*MoneyHelper* fact sheet' means the guide "Your pension: it's time to choose", available on <https://www.moneyhelper.org.uk>;
- (2) 'intended retirement date' means:
  - (a) the date (according to the most recent recorded information available to the provider) when the scheme member intends to retire, or to bring the benefits in the scheme into payment, whichever is the earlier; or
  - (b) if there is no such date, the scheme member's state pension age;
- (3) 'open market options' means the options available to a scheme member to access their pension savings on the open market;
- (4) 'open market options statement' means the information specified in ■ COBS 19.4.6AR, provided in a *durable medium*, to assist the *retail client* to make an informed decision about their open market options;
- (5) 'pension decumulation product' is a product used to access pension savings and includes:
  - (a) a facility to enable a *retail client* to make an *uncrystallised funds pension lump sum* payment;
  - (b) an option to take a *small lump sum payment*;
  - (c) a *drawdown pension*; and
  - (d) a *pension annuity*;
- (6) 'pension savings' is the proceeds of the *retail client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract*;
- (7) 'reminder' is the requirement in ■ COBS 19.4.9R to remind the *retail client* about the open market options statement and the availability of *pensions guidance*;
- (7A) 'retirement risk warnings' are the warnings required to be given to a *retail client* in accordance with ■ COBS 19.4.8ER(2);
- (8) 'signpost' is the requirement in ■ COBS 19.4.16R to provide a written or oral statement encouraging a *retail client* to use *pensions guidance* or



to take regulated advice to understand their options at retirement;  
and

- (9) 'single page summary document' is a *document* produced by a *firm* that contains the information specified in ■ COBS 19.4.6CR.

### Application

19.4.2 **R** This section applies to a *firm* which operates a *retail client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract*.

19.4.3 **G** This section specifies the circumstances where a *firm* must:

- (1) provide a *retail client* with an open market options statement;
- (2) signpost *pensions guidance*;
- (3) provide information to enable a *retail client* to make an informed decision about how to access their pension savings;
- (4) remind a *retail client* about their open market options; and
- (5) provide appropriate warnings about the risks generally associated with the *retail client's* options for accessing their pension savings.

### Purpose

19.4.4 **G** The purpose of this section is to ensure that *firms* provide *retail clients* with timely, relevant and adequate information:

- (1) to enable them to make an informed decision about their options for accessing pension savings; and
- (2) to encourage them to shop around.

### Open market options statementWhen?

19.4.5 **R** [deleted]

19.4.5A **R**

- (1) A *firm* must give a *retail client* an open market options statement:
  - (a) within two *months* after the *client* reaches 50 years of age; and
  - (b) between four to ten weeks before the *client* reaches each birthday that is at five year intervals after the *client's* 50th birthday.
  - (c) [deleted]
- (1A) The requirement in (1) does not apply if:
  - (a) the *firm* has given the *client* such a statement in the last 12 *months*; or
  - (b) the *client's* pension fund is fully crystallised; or

- (c) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.
- (2) A *firm* must also give a *retail client* an open market options statement:
- (a) if the *client* asks a *firm* for a retirement quotation more than four *months* before the *client's* intended retirement date; or
- (b) if a *firm* does not receive such a request for a retirement quotation, between four and six *months* before the *client's* intended retirement date; or
- (c) if a *retail client* with open market options tells a *firm* that they are considering, or have decided:
- to discontinue an *income withdrawal* arrangement; or
- to take a further sum of money from their pension savings to exercise open market options; or
- (d) if the *retail client* requests to access their pension savings for the first time, except where the *retail client* requests that their pension fund is paid to them by way of a *serious ill-health lump sum*;
- (2A) The requirement in (2) does not apply if:
- (a) the *firm* has given the *client* such a statement in the last 12 *months*; or
- (b) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.

If after taking reasonable steps to comply with the requirements in (1) or (2) a *firm* has been unable to provide a *retail client* with an open market options statement, the *firm* must provide the statement in good time before it *sells* a pension decumulation product to the *client*.

- (4) Where a *firm's* obligation to send an open market options statement is only dis-applied because of a *client's* request that their pension fund is paid to them by way of a *serious ill-health lump sum* (see ■ COBS 19.4.5AR(1A)(c) or ■ COBS 19.4.5AR(2A)(b)), but that request is subsequently rejected, a *firm* must send to the *client* an open market options statement within two *months* of the decision to reject.

### Contents

19.4.6 **R** [deleted]

- 19.4.6A **R**
- (1) An open market options statement given in accordance with ■ COBS 19.4.5AR(1)(a) must include:
- (a) a single page summary document; and
- (b) appropriate retirement risk warnings.
- (2) All other open market options statements must include:

- (a) a single page summary document;
- (b) a fact sheet;
- (c) appropriate retirement risk warnings;
- (d) a statement about whether any guarantees apply and, if so, how they work; and
- (e) any other information to enable the *retail client* to be able to make an informed decision about whether to exercise, or to decline to exercise, open market options.

### Single page summary document

- 19.4.6B** **R** (1) The single page summary document must not exceed a single side of A4-sized paper when printed.
- (2) The requirement in (1) does not apply if a *retail client* asks for the information to be provided in an accessible format and the fulfilment of that request will necessitate the use of more than a single side of A4-sized paper.

- 19.4.6C** **R** The single page summary document must include the following information:

- (1) the *retail client's* name;
- (2) the *retail client's* intended retirement date;
- (3) the *firm's* name;
- (4) if the *retail client* makes or receives employment-related contributions:
  - (a) the employer's name; and
  - (b) the amount that the employer and employee have contributed to the *retail client's* pension savings in the last year (if applicable);
- (5) the current value of the *retail client's* pension savings;
- (6) if relevant, a statement warning the *retail client* that the current value of their pension savings may be subject to early exit charges or other withdrawal charges when accessed;
- (7) a statement about whether any guarantees apply and, if so, where to find out further information;
- (8) any other relevant special features, restrictions, or conditions that apply, such as (for *with-profits funds*) any market value reduction conditions in place, and how to find out further information;
- (9) if the document is required to be provided up to six *months* before the *retail client's* intended retirement date, a statement asking the *retail client* to consider whether they are saving enough to meet their needs at retirement;
- (10) a clear and prominent statement about the availability of *pensions guidance* including:

- (a) how to access the *pensions guidance* and its contact details;
- (b) that *pensions guidance* can be accessed on the internet, telephone, or face to face;
- (c) that *pensions guidance* is a free impartial service to help consumers to understand their options at retirement;
- (d) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement; and
- (e) the government logo and *pensions guidance* logo next to or above the statement.

19.4.6 G

19.4.7 G

For the purpose of ■ COBS 19.4.6AR(2)(b) where a *firm* provides its own statement as the fact sheet, it should include materially the same information in the *MoneyHelper* fact sheet about:

- (1) the following options for accessing pensions savings, even if they are not offered by the *firm*:
  - (a) *pension annuity*;
  - (b) *drawdown pension*; and
  - (c) *uncrystallised funds pension lump sum payments*;
- (2) the main features, benefits and risk factors relevant to the options for accessing pensions savings, such as:
  - (a) tax implications;
  - (b) what happens in the event of the *client's* death;
  - (c) the loss of any guarantees;
  - (d) the *client's* state of health;
  - (e) the *client's* lifestyle choices;
  - (f) whether the *client* is married or has dependants; and
  - (g) sustainability of income over time;
- (3) how to access financial advice and information about the different ways in which the *client* might be able to access their pension savings;
- (4) the availability of free, impartial guidance from the *pensions guidance*; and
- (5) the *client's* option to shop around, with an explanation of how they may do so.

19.4.8 R

An open market options statement must not include *financial promotions* for a pension decumulation product.

### Retirement risk warnings

**19.4.8A** **G** This section sets out the steps a *firm* must take to prepare and identify appropriate retirement risk warnings.

#### Step 1: prepare retirement risk warnings

**19.4.8B** **R** A *firm* must prepare the retirement risk warnings before providing the appropriate retirement risk warnings required by **■ COBS 19.4.6AR** for the first time, and must also keep the warnings up to date.

**19.4.8C** **R** To prepare retirement risk warnings a *firm* must:

- (1) identify the main risk factors relevant to *retail clients'* exercise of open market options; and
- (2) prepare appropriate retirement risk warnings in relation to each of those risk factors.

**19.4.8D** **G** (1) Examples of the risk factors relevant to *retail clients'* exercise of open market options include:

- (a) the *client's* age and intended retirement date;
- (b) the amount of the *client's* pension savings;
- (c) if there are ongoing employer contributions;
- (d) the existence of means-tested benefits;
- (e) protection under the *compensation scheme*; and
- (f) the *client's* need to review, make further decisions about, or take further actions in relation to their pension savings depending on their intended investment objectives.

- (2) *Firms* should also have regard to the examples of risk factors which relate to pension decumulation products at **■ COBS 19.7.12G**.

#### Step 2: identify which warnings to give a retail client

**19.4.8E** **R** To provide appropriate retirement risk warnings a *firm* must:

- (1) using information held about the *retail client* and their open market options, identify what risk factors are most likely to be present; and
- (2) provide appropriate retirement risk warnings to the *retail client* in relation to the risk factors identified in (1).

**19.4.8F** **G** If it is unclear whether a risk factor is present, a *firm* should assume that the risk factor is present and give the *client* the appropriate retirement risk warning.

**19.4.8G** **G** **■ COBS 19.4.8J** requires a *firm* to use only one A4-sized page for a *client's* retirement risk warnings. A *firm* should prioritise those risk warnings it

considers to be the most relevant to the *retail client's* exercise of open market options.

19.4.8H

**R**

Retirement risk warnings which are provided between:

- (1) four to ten weeks before the client reaches 55 years of age; and
- (2) seven *months* before the *retail client's* intended retirement date,

must include a clear and prominent statement that accessing pension savings at this point in time may not be the best option.

19.4.8I

**R**

The *firm* must provide the *retail client* with the following information separately to the retirement risk warnings:

- (1) the key assumptions that were used to prepare the retirement risk warnings; and
- (2) the personal data it relied on to provide the retirement risk warnings.

#### Presentation of retirement risk warnings

19.4.8J

**R**

- (1) The retirement risk warnings must not exceed a single side of A4-sized paper when printed.
- (2) The requirement in (1) does not apply if a *retail client* asks for the retirement risk warnings to be provided in an accessible format and the fulfilment of that request will necessitate the use of more than a single side of A4-sized paper.

#### Reminder

19.4.9

**R**

At least six weeks before the *retail client's* intended retirement date the *firm* must:

- (1) remind the *client* about the open market options statement;
- (2) tell the *client* what sum of money will be available to exercise open market options;
- (3) provide the *client* with a clear and prominent statement recommending that the *client* uses the *pensions guidance* and that appointments are available; and
- (4) recommend that the *client* seeks appropriate guidance or advice to understand their options at retirement.

19.4.10

**R**

The reminder must not include *financial promotions* for a pension decumulation product.

### Key features illustrations

- 19.4.11 **R** A *firm* must not provide a *key features illustration* to a *retail client* for a pension decumulation product, excluding a *small lump sum payment*, unless:
- (1) it is required to provide the *client* with the *key features illustration* in accordance with the *rules* on providing product information to clients (■ COBS 14.2.1R);
  - (2) without prompting by the *firm*, the *client* requests the *key features illustration*;
  - (3) it includes a *key features illustration* for each of the pension decumulation product options that it offers; or
  - (4) it includes multiple *key features illustrations* as indicative representations of each of the pension decumulation product options that it offers.

### Communications about annuity options

- 19.4.12 **R** When a *firm* communicates with a *retail client* about their *pension annuity* options the *firm* must provide the *client* with information about how their circumstances can affect retirement income calculations and payments for *pension annuities* offered by the *firm* and on the open market.

- 19.4.13 **G** For the purpose of ■ COBS 19.4.12R, examples of the circumstances which can affect retirement income calculations and payments include:

- (1) the *client's* marital status;
- (2) whether the *client* has dependants;
- (3) whether the *pension annuity* provides a fixed, increasing or decreasing income;
- the certainty of income associated with an annuity;
- (5) the *client's* state of health; and
- (6) the *client's* lifestyle choices.

### Communications about drawdown and uncrystallised funds pension lump sum options

- 19.4.14 **R** When a *firm* communicates with a *retail client* about their *drawdown pension* and *uncrystallised funds pension lump sum* options, the *firm* must provide the *client* with such information as is necessary for the *client* to make an informed decision including, where relevant, information about:
- (1) how the remaining fund is invested;
  - (2) sustainability of income over time including:
    - (a) the extent to which any income is guaranteed; and
    - (b) implications of full encashment on the *client's* retirement income;

- (3) the need to review, make further decisions about, or take further actions during the life of the pension decumulation product;
- (4) impact on means-tested benefits;
- (5) the effect of costs and charges on the *client's* income; and
- (6) tax implications.

### Communications about options to access pension savings

19.4.15

G

A *firm* should ensure that when it makes any communication with a *retail client* concerned with the *client's* options to access their pension savings it has regard to the *fair, clear and not misleading rule*, the *client's best interests rule* and *Principles 6 and 7*. In particular a *firm* should:

- (1) refer to the contents of the *MoneyHelper* fact sheet to identify what information might assist the *client* to understand their options;
- (2) consider whether it needs to include or refer to any information contained in the *MoneyHelper* fact sheet;
- (3) ensure that the content, presentation or layout of any:
  - (a) pension decumulation product information; or
  - (b) information provided in accordance with ■ COBS 19.4.6AR(2)(e), including information accessed via hypertext links or online calculators,
 does not disguise, diminish or obscure important information or messages contained in the fact sheet or the single page summary document;
- (4) prominently highlight the ability to shop around and state clearly that other providers might offer pension decumulation products that are more appropriate for the *client's* needs and circumstances and may offer a higher level of retirement income;
- (5) present information in a logical order, using clear and descriptive headings and where appropriate cross-references and sub-headings to aid navigation; and
- (6) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language or, where this is not possible, provide easily accessible accompanying explanations in plain language.

### Signposting pensions guidance

19.4.16

R

- (1) When a *firm* communicates with a *retail client* about the *retail client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract* which is provided by the *firm*, unless the circumstances in (2) apply, the *firm* must:
  - (a) refer to the availability of the *pensions guidance*;



- (b) offer to provide the *client* with information about how to access the *pensions guidance*; and
  - (c) include a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.
- (2) A *firm* is not required to provide the *client* with the statement required in (1) where:
- (a) the *firm* communicates with the *client* for a purpose other than:
    - (i) encouraging the *client* to think about their open market options; or
    - (ii) facilitating access to the *client's* pension savings; or
  - (b) the *client* has already accessed the *pensions guidance*; or
  - (c) the *client* has already received advice from a *firm* on their open market options, for example from an independent financial adviser; or
  - (d) the *firm* is providing the *client* with an open market options statement or six-week reminder in accordance with
    - COBS 19.4.5AR or ■ COBS 19.4.9R.

**19.4.17** **G** An example of behaviour by or on behalf of a *firm* that is likely to contravene the *client's best interests rule* or *Principle 6* and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from using the *pensions guidance*, for example by:

- (1) leading the *client* to believe that using the *pensions guidance* is unnecessary or would not be beneficial; or
- (2) obscuring the statement about the availability of the *pensions guidance* or any other information relevant to the exercise of open market options.

#### Tax implications

**19.4.18** **R** If a *firm* receives an application from a *retail client* to access some or all of their pension savings, the *firm* must provide the *client* with a description of the tax implications before the *client* accesses their pension savings.

**19.4.19** **R** A *firm* is not required to provide the information in ■ COBS 19.4.18R where it is provided in accordance with ■ COBS 14.2.1R.

## 19.5 Independent governance committees (IGCs) and publication and disclosure of costs and charges

### Application

19.5.1 **R** This section applies to:

- (1) a *firm* which operates a *relevant scheme* in which there are at least two *relevant policyholders*; or
- (2) a *firm* which offers or has decided to offer a *pathway investment*.

### Definitions

19.5.1A **R** In this section:

- (1A) “employer pension arrangements” means an arrangement where eligibility for membership of that arrangement or section is limited to the employees of a specified employer or employers;
- (1AA) “investment performance” means the investment performance of the:
  - (a) pension savings of *relevant policyholders*; or
  - (b) the drawdown fund of pathway investors;
- (1) “drawdown fund” means either a *capped drawdown pension fund* or a *flexi-access drawdown pension fund*;
- (2) “offer” means where a *firm* (F1) makes a *pathway investment* available for *investment* in the drawdown fund which F1 operates, where the *pathway investment* is either:
  - (a) *manufactured* by F1; or
  - (b) *manufactured* by another firm (F2);
- (3A) “pathway investment comparators” means other *pathway investments* (that are not provided by the *firm*) selected by an *IGC* under ■ COBS 19.5.5R(2A)(e)(i) to ■ (iii) and which:
  - (a) are individual *pathway investments*; or
  - (b) are cohorts of similar *pathway investments*;
- (3) “pathway firm” means a *firm* which offers a *pathway investment*;

- (4) “pathway investor” means a *retail client* investing in a *firm’s pathway investment*;
- (5A) “scheme comparators” means other pension arrangements (that are not provided by the *firm*) selected by an *IGC* under ■ COBS 19.5.5R(2)(e)(i) to ■ (iii) and which:
  - (a) are individual employer pension arrangements; or
  - (b) are cohorts of similar employer pension arrangements;
- (5AA) “services” refers to the services provided by a *firm* to *relevant policyholders* or pathway investors and includes:
  - (a) the communications issued to *relevant policyholders* or pathway investors; and
  - (b) the administration of the *relevant scheme* or *pathway investment*;
- (5) “referring” means a *firm* which arranges for a *retail client* to invest in a *pathway investment* available through a transfer to the drawdown fund operated by another *firm* (F2), where F2 offers its own *manufactured pathway investment*;
- (6) “stewardship” relates to a *firm’s* exercise of rights or engagement activities in relation to the *investments* attributable to the *firm’s relevant policyholders* or pathway investors, and may include:
  - (a) the exercise of a *firm’s* voting rights in those *investments*; and
  - (b) monitoring and engaging on matters such as strategy, performance, risk, culture and governance of the *investments*;
- (7) “IGC’s remit of review” means the remit of the *IGC* as described in ■ COBS 19.5.5R(2), ■ COBS 19.5.5R(2A), ■ COBS 19.5.5R(2B), ■ COBS 19.5.5R(2C), and, where applicable ■ COBS 19.5.5R(2D) and ■ COBS 19.5.5R(2E).

19.5.1B **R** [deleted]

**Purpose**.....

19.5.1B **G** The purpose of this section is:

- (1) to ensure that *relevant policyholders* and pathway investors benefit from independent review of the *investments* they invest in through the establishment of an *IGC* or (where appropriate) a *governance advisory arrangement*.

The specific objectives of the *IGC* or *governance advisory arrangement* are to:

- (a) assess whether a *firm* provides value for money for *relevant policyholders* or pathway investors;
- (b) provide an independent consideration of a *firm’s* policies on:
  - (i) *ESG financial considerations*;
  - (ii) *non-financial matters*;

- (iii) stewardship; and
- (iv) where applicable, *other financial considerations* to the extent that they pose a particular and significant risk of financial harm to the *relevant policyholders* or pathway investors.

### Requirement to establish an IGC

19.5.2

R

A *firm* (Firm A) must establish an *IGC*, unless:

- (1) Firm A has established a *governance advisory arrangement* in accordance with ■ COBS 19.5.3R; or
- (2) another *firm* in Firm A's group has already established an *IGC* under this section, and Firm A has made arrangements with that *IGC* to cover a *relevant scheme* operated by Firm A or a *pathway investment* offered by Firm A.

### Governance advisory arrangements

19.5.3

R

- (1) If a *firm* considers it appropriate, it may establish a *governance advisory arrangement* instead of an *IGC*, having regard to:
  - (a) for a *relevant scheme* operator, the size, complexity and nature of the *relevant scheme* it operates; or
  - (b) for a pathway firm, the size of the take up, or expected size of the take up, complexity and nature of the *pathway investment*.
- (2) If a *firm* has decided to establish a *governance advisory arrangement* rather than an *IGC*, this section (other than ■ COBS 19.5.9R (2), ■ COBS 19.5.9R (3), ■ COBS 19.5.10 G, ■ COBS 19.5.11 R and ■ COBS 19.5.12 G) apply to the *firm* by reading references to the *IGC* as references to the *governance advisory arrangement*.
- (3) A *firm* must establish a *governance advisory arrangement* on terms that secure the independence of the *governance advisory arrangement* and its Chair from the *firm*.

19.5.4

G

- (1) *Firms* with large or complex *relevant schemes* should establish an *IGC*. For the purposes of this section, a *firm* may determine whether it has large *relevant schemes* by reference to:
  - (a) the number of *relevant policyholders* in *relevant schemes*;
  - (b) the funds under management in *relevant schemes*; and
  - (c) the number of employers contributing to *relevant schemes*.
- (2) Examples of features that might indicate complex schemes include:
  - (a) schemes that are operated on multiple information technology systems;
  - (b) schemes that have multiple charging structures;
  - (c) schemes that offer a *with-profits fund*; and
  - (d) the *firm* offers *relevant policyholders* access to investment funds it operates or which are operated by an entity with the same ownership.

- (3) A pathway firm that has, or expects to have, a large take up of a *pathway investment* should establish an *IGC*.
- (4) A *firm* may determine whether it has, or expects to have, a large take up of a *pathway investment* by reference to:
  - (a) the number of *retail clients* invested, or expected to invest, in a *pathway investment* offered by the *firm*; or
  - (b) the amount of the *firm's* pathway investors' funds under, or expected to be under management in a *pathway investment* offered by the *firm*.
- (5) Examples of features that might indicate a complex *pathway investment* include:
  - (a) a *pathway investment* that has multiple charging structures; or
  - (b) a *pathway investment* that uses a sophisticated or complex *investment strategy*, which may include *investments* in a *with-profits fund*.
- (6) Having regard to the nature of the *pathway investment*, a *firm* may consider that it is more appropriate to use a *governance advisory arrangement* where the *pathway investment* it offers is *manufactured* by another *firm*.
- (7) If a *firm manufactures* its own *pathway investment*, it may be more appropriate for the *firm* to establish an *IGC*.
- (8) A *firm* should consider establishing an *IGC* instead of a *governance advisory arrangement* if the *firm* both operates a *relevant scheme* and also *manufactures* its own *pathway investment*.

### Terms of reference for an IGC

#### 19.5.5

**R**

A *firm* must include, as a minimum, the following requirements in its terms of reference for an *IGC*:

- (1) the *IGC* will act solely in the interests of:
  - (a) *relevant policyholders* and any other members or *clients* a *firm* asks the *IGC* to consider; or
  - (b) pathway investors;
- (2) the *IGC* will assess the ongoing value for money for *relevant policyholders* delivered by a *relevant scheme* particularly, though not exclusively, through assessing the three factors in (a) to (c) below, taking into account the specific points in (d) to (g)::
  - (a) the level of charges and costs, in particular:
    - (i) *administration charges* and any *transactions costs* borne by *relevant policyholders*; and
    - (ii) any other charges borne by *relevant policyholders* and any other costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the pension savings of *relevant policyholders*;
  - (b) investment performance; and

- (c) the quality of services including whether:
  - (i) the communications are fit for purpose and properly take into account the characteristics, needs and objectives of the *relevant policyholders*; and
  - (ii) core financial transactions are processed promptly and accurately, such as processing contributions, transfers or death benefits;
- (d) as part of the ongoing value for money assessment in (2), the *IGC* will need to consider whether to assess the *relevant scheme* by reference to employer pension arrangements on an individual basis or on an aggregated basis using cohorts of sufficiently similar employer pension arrangements, or a combination of both, to enable the *IGC* to produce a value for money assessment that is the most useful for the members of the *relevant scheme*, but which is also appropriate and proportionate in the circumstances;
- (e) as part of the ongoing value for money assessment in (2)(a)(i), (b) and (c), the *IGC* will need to:
  - (i) consider whether individual employer pension arrangements or cohorts of employer pension arrangements, or a combination of both, would be most appropriate to be part of its scheme comparators taking into account the proportionality and usefulness of each;
  - (ii) (where it selects cohorts of employer pension arrangements as part of its scheme comparators) select sufficiently similar employer pension arrangements that enable the *IGC* to produce an assessment that is the most useful for the members of the *relevant scheme*;
  - (iii) select a small number of reasonably comparable scheme comparators (including those which could potentially offer better value for money in respect of factors (2)(a)(i), (b) and (c));
  - (iv) use reasonable endeavours to obtain and compare the relevant data that it needs to carry out useful assessments in respect of the factors set out in (2)(a)(i), (b) and (c), in a manner which is proportionate to the likely member benefits that will result from the *IGC* assessing the data;
  - (v) assess the *relevant scheme* by reference to the scheme comparators based on factors (2)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the scheme comparators in respect of those factors); and
  - (vi) consider whether any of the scheme comparators offer better value for money for *relevant policyholders* based on factors (2)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the scheme comparators in respect of those factors);
- (f) as part of the assessment of quality of services in 2(c), the *IGC* will need to assess whether default investment strategies within those schemes:
  - (i) are designed and executed in the interests of *relevant policyholders*; and

- (ii) have clear statements of aims and objectives;
  - (g) as part of the assessment of quality of services in 2(c), the *IGC* will need to assess whether the characteristics and net performance of investment strategies are regularly reviewed by the *firm* to ensure alignment with the interests of *relevant policyholders* and that the *firm* takes action to make any necessary changes;
- (2A) the *IGC* will assess the ongoing value for money for pathway investors delivered by a *pathway investment* particularly, though not exclusively, through assessing the three factors in (a) to (c) below, taking into account the specific points in (d) to (g):
- the level of charges and costs in particular:
- (i) *administration charges* and any *transactions costs* borne by pathway investors; and
  - (ii) any other charges borne by pathway investors and any other costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the drawdown fund of pathway investors;
- investment performance; and
- the quality of services including whether:
- (i) the communications are fit for purpose and properly take into account the characteristics, needs and objectives of the pathway investors; and
  - (ii) core financial transactions are processed promptly and accurately, such as processing contributions, transfers or death benefits;
- as part of the ongoing value for money assessment in (2A), the *IGC* will need to consider whether to assess the *pathway investment* on an individual basis or on an aggregated basis using cohorts of sufficiently similar *pathway investments*, or a combination of both, to enable the *IGC* to produce a value for money assessment that is the most useful for the pathway investors, but which is also appropriate and proportionate in the circumstances;
- as part of the ongoing value for money assessment in (2A)(a)(i), (b) and (c), the *IGC* will need to:
- (i) consider whether individual *pathway investments* or cohorts of *pathway investments*, or a combination of both, would be most appropriate to be part of pathway investment comparators taking into account the proportionality and usefulness of each;
  - (ii) (where it selects cohorts of *pathway investments* as part of its pathway investment comparators) select sufficiently similar *pathway investments* that enable the *IGC* to produce an assessment that is the most useful for the pathway investors;
  - (iii) select a small number of reasonably comparable pathway investment comparators (including those which could potentially offer better value for money in respect of factors (2A)(a)(i), (b) and (c));
  - (iv) use reasonable endeavours to obtain and compare the relevant data that it needs to carry out useful assessments in

- respect of the factors set out in (2A)(a)(i), (b) and (c), in a manner which is proportionate to the likely pathway investor benefits that will result from the *IGC* assessing the data;
- (v) assess the *pathway investment* by reference to the pathway investment comparators based on factors (2A)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the pathway investment comparators in respect of those factors); and
  - (vi) consider whether any of the pathway investment comparators offer better value for money for pathway investors based on factors (2A)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the pathway investment comparators in respect of those factors);
- (f) as part of the assessment of quality of services in (2A)(c), the *IGC* will need to assess whether the *pathway investment* offered by the *firm*:
- (i) is designed and managed in the interests of pathway investors; and
  - (ii) has a clear statement of aims and objectives;
- (g) as part of the assessment of quality of services in (2A)(c), the *IGC* will need to assess whether the characteristics and net performance of the *pathway investment* are regularly reviewed by the *firm* to ensure alignment with the interests of pathway investors and that the *firm* takes action to make any necessary changes;
- (2B) where a *firm* has an *investment strategy* or makes *investment decisions* which could have a material impact on the *relevant policyholders'* or pathway investors' *investment returns*, the *IGC* will consider and report on:
- (a) the adequacy and quality of the *firm's* policy (if any) in relation to *ESG financial considerations*;
  - (b) the adequacy and quality of the *firm's* policy (if any) in relation to *non-financial matters*; and
  - (c) how the considerations or matters in (a) and (b) are taken into account in the *firm's investment strategy* or *investment decision making*; and
  - (d) the adequacy and quality of the *firm's* policy (if any) in relation to *stewardship*;
- (2C) where the *firm* does not have a policy in relation to *ESG financial considerations*, *non-financial matters* or *stewardship*, the *IGC* will in each case consider and report on the *firm's* reasons for not having a policy;
- (2D) where the *firm* has not already adequately taken into account, in its *investment strategy* or *investment decision making*, *other financial considerations* that pose a particular and significant risk of financial harm to the *relevant policyholders* or pathway investors, the *IGC* will also:



- (a) consider and report on the adequacy and quality of the *firm's* policy (if any) in relation to those *other financial considerations*, and whether and how those considerations are taken into account in the *firm's investment strategy or investment* decision; or
  - (b) consider and report on the *firm's* reasons for not having a policy in relation to those considerations;
- (2E) the *IGC* will consider and report on the extent to which the *firm* has implemented its stated policies in relation to the considerations and matters in (2B), (2C), and, where applicable (2D);
- (3) in relation to the *IGC's* remit of review, the *IGC* will raise with the *firm's governing body* any concerns it may have:
- (a) in relation to any of the matters it has assessed or considered; or
  - (b) where the *IGC* is unable to obtain or has difficulties obtaining from the *firm* the information it requires;
- (3A) once a decision has been made by a *firm* to offer a *pathway investment*, the *IGC* must raise any concerns under (3):
- (a) in good time to give the *firm's governing body* a proper opportunity to consider and address the *IGC's* concerns, before the *pathway investment* is offered to *retail clients*; and
  - (b) on an ongoing basis in relation to the *pathway investment* it offers;
- (4) the *IGC* will escalate concerns as appropriate where the *firm* has not, in the *IGC's* opinion, addressed those concerns satisfactorily or at all;
- (5) the *IGC* will meet, or otherwise make decisions to discharge its duties, using a quorum of at least three members, with the majority of the quorum being independent;
- (6) the Chair of the *IGC* will be responsible for the production of an annual report setting out the following, in sufficient detail, taking into account the information needs of *consumers*:
- (a) the *IGC's* opinion on:
    - (i) the value for money delivered by a *relevant scheme* or a *pathway investment*, particularly against the matters listed under (2) or (2A) and a statement setting out their overall assessment of whether the *relevant scheme* or *pathway investment* provides value for money; and
    - (ii) the adequacy and quality of the *firm's* policies, or reasons for not having policies, in relation to the considerations and matters listed under (2B), (2C) and (if applicable) (2D);
  - (aa) the extent to which the *firm* has implemented its stated policies in relation to the consideration and matters in (2B), (2C) and (if applicable) (2D);
  - (ab) an explanation of how the *IGC* carried out their assessment of ongoing value for money. This must include demonstrating how the factors set out in (2)(a) to (c) or (2A)(a) to (c) have been fully and properly considered;

- (ac) the reasons:
    - (i) for the *IGC's* overall assessment of whether the *relevant scheme* or *pathway investment* provides value for money as required under (6)(a)(i);
    - (ii) (in relation to a *relevant scheme* only), where the *IGC* assessed the *relevant scheme* using cohorts of employer pension arrangements for the purposes of its general assessment in (2)(d) or used cohorts as part of the scheme comparators in (2)(e), why the *IGC* considers it is appropriate and proportionate to use cohorts and the *IGC's* reasons for using the characteristics that it used to select the cohorts;
    - (iii) (in relation to a *relevant scheme* only), why the *IGC* considers that the scheme comparators it selected for the purposes of its assessment under (2)(e) provided a reasonable comparison against the *relevant scheme*;
    - (iv) (in relation to a *pathway investment* only), where the *IGC* assessed the pathway investment using cohorts of *pathway investments* for the purposes of its general assessment in (2A)(d) or used cohorts as part of the *pathway investment* comparators in (2A)(e), why the *IGC* considers it is appropriate and proportionate to use cohorts of *pathway investments* and the *IGC's* reasons for using the characteristics that it used to select the cohorts; and
    - (v) (in relation to a *pathway investment* only) why the *IGC* considers that the pathway investment comparators it selected for the purposes of its assessment under (2A)(e) provided a reasonable comparison against the *pathway investment*;
  - (b) how the *IGC* has considered *relevant policyholders'* or pathway investors' interests;
  - (c) any concerns raised by the *IGC* with the *firm's governing body* and the response received to those concerns;
  - (d) how the *IGC* has sufficient expertise, experience and independence to act in *relevant policyholders'* or pathway investors' interests;
  - (e) how each independent member of the *IGC*, together with confirmation that the *IGC* considers these members to be independent, has taken into account ■ COBS 19.5.12 G;
  - (f) the arrangements put in place by the *firm* to ensure that the views of *relevant policyholders* or pathway investors' are directly represented to the *IGC*; and
  - (g) administration charges and transaction costs information complying with the requirements in ■ COBS 19.5.16R;
- (7) the Chair of the *IGC* will ensure the annual report is produced by 30 September each year, in respect of the previous calendar year;
- (8) the *IGC* will ensure the publication of administration charges and transaction costs information complying with the requirements in ■ COBS 19.5.13R;

- (9) the *IGC* will ensure that all members of each *relevant scheme* are provided with an annual communication complying with the requirements in ■ COBS 19.5.17R;
- (10) the *IGC* will make available the annual communication referred to in (9), on request, to:
  - (a) *relevant scheme* members' spouses or civil partners; and
  - (b) persons within the application of the *relevant scheme* and qualifying or prospectively qualifying for benefits under the *relevant scheme*;
- (11) the *IGC* will ensure that information is communicated under this *rule* in a manner that pays due regard to the purposes for which *relevant policyholders* might reasonably use the information; and
- (12) the *IGC* will retain copies of any evidence used in their assessment of ongoing value for money for a minimum of six years.

### Value for money assessment

19.5.5A

G

- (1) In the context of the *IGC's* assessment of ongoing value for money for *relevant policyholders* or pathway investors under ■ COBS 19.5.5R(2) or ■ COBS 19.5.5R(2A):
  - (a) the *administration charges* and *transaction costs* borne by *relevant policyholders* or pathway investors are likely to represent value for money when the combination of the charges and costs, and the investment performance and services are appropriate:
    - (i) for the *relevant policyholders* or pathway investors, and
    - (ii) when compared to other reasonably comparable options on the market.
  - (b) As part of the *IGC's* assessment under (1)(a)(i) regarding what is appropriate for *relevant policyholders*, the *IGC* should consider the size of the employer and the size and demographic of the membership of the *relevant scheme*.
  - (c) The *IGC* should not use a *firm's* compliance with the limits on *administration charges* (■ COBS 19.6.6R), of itself, as evidence of value for money.
  - (d) Where the limits on *administration charges* in ■ COBS 19.6.6R do not apply, the *IGC* should not use the fact that a *firm* keeps its *administration charges* at or below 1%, of itself, as evidence of value for money.
- (2) The *IGC* should take into account the considerations in (3), as part of the *IGC's*:
  - (a) decision referred to in ■ COBS 19.5.5R(2)(d) about whether to carry out its ongoing value for money assessment of the *relevant scheme* by assessing the employer pension arrangements on an individual or cohort basis; or
  - (b) selection of scheme comparators under ■ COBS 19.5.5R(2)(e)(i) to ■ (iii).
- (3) The considerations referred to in (2) are:

- (a) the size and demographic of the membership of the individual employer pension arrangements and/or any proposed cohorts;
  - (b) (where cohorts are proposed), any other characteristics that it would be appropriate and proportionate for the *IGC* to use, in the particular circumstances of the *relevant scheme*, as part of its cohort selection criteria; and
  - (c) (if the *IGC* has used cohorts of employer pension arrangements in any part of its ongoing value for money assessment under ■ COBS 19.5.5R(2)) whether it would be appropriate and proportionate also to assess any particular employer pension arrangements within the cohorts on an individual basis in order to be able to carry out the most useful assessment under ■ COBS 19.5.5R(2).
- (4) The *IGC* should take into account the considerations in (5), as part of the *IGC*'s:
- (a) decision referred to in ■ COBS 19.5.5R(2A)(d) about whether to carry out its ongoing value for money assessment of the *pathway investment* by assessing the *pathway investment* on an individual or cohort basis; or
  - (b) selection of pathway investment comparators under ■ COBS 19.5.5R(2A)(e)(i) to ■ (iii).
- (5) The considerations referred to in (4) are:
- (a) (where cohorts are proposed), any characteristics that it would be appropriate and proportionate for the *IGC* to use, in the particular circumstances of the *pathway investment*, as part of its cohort selection criteria; and
  - (b) (if the *IGC* has used cohorts of *pathway investments* in any part of its ongoing value for money assessment under ■ COBS 19.5.5R(2A)) whether it would be appropriate and proportionate to also assess any particular *pathway investments* within the cohorts on an individual basis in order to be able to carry out the most useful assessment under ■ COBS 19.5.5R(2A).
- (6) As part of the *IGC*'s selection of scheme comparators or investment pathways comparators under ■ COBS 19.5.5R(2)(e)(i) to ■ (iii) or ■ COBS 19.5.5R(2A)(e)(i) to ■ (iii), the *IGC* will need to include scheme comparators or pathway investment comparators that potentially offer better value for money in respect of the factors set out in ■ COBS 19.5.5R(2)(a)(i), ■ (b) and ■ (c) or ■ COBS 19.5.5R(2A)(a)(i), ■ (b) and ■ (c) (based on whatever information is publicly, or readily, available and is relevant to those factors).
- (7) There is no expectation by the *FCA* that the *IGC* would carry out a comparison of all the comparable employer pension arrangements or all of the comparable *pathway investments* for the purposes of ■ COBS 19.5.5R(2)(e) or ■ COBS 19.5.5R(2A)(e).

### Interests of relevant policyholders or pathway investors and consideration of adequacy and quality of a policy

19.5.6

G

- (1) An IGC is expected to act in the interests of *relevant policyholders* or pathway investors both individually and collectively. Where there is the potential for conflict between individual and collective interests, the IGC should manage this conflict effectively. An IGC is not expected to deal directly with complaints from individual policyholders or pathway investors.
- (2) The primary focus of an IGC should be the interests of *relevant policyholders* or pathway investors in accordance with ■ COBS 19.5.5R(1). If a *firm* asks an IGC also to consider the interests of other members or *clients*, the *firm* should provide additional resources and support to the IGC such that the IGC's ability to act in the interests of *relevant policyholders* or pathway investors is not compromised.
- (3) An IGC should assess whether all the investment choices available to *relevant policyholders* or pathway investors, including default options, are regularly reviewed to ensure alignment with the interests of *relevant policyholders* or pathway investors.
- (4) Where an IGC is unable to obtain from a *firm*, and ultimately from any other person providing relevant services, the information it requires to assess or to consider and report on the matters in the IGC's remit of review, the IGC should explain in the annual report why it has been unable to obtain the information and how it will take steps to be granted access to that information in the future.
- (5A) In addition to the ability of the IGC to escalate a concern about value for money under (5), if the IGC finds that:
  - (a) any of the scheme comparators offer better value for money for *relevant policyholders* than the *relevant scheme* based on the factors set out in ■ COBS 19.5.5R(2)(a)(i), ■ (b) and ■ (c); or
  - (b) any of the investment pathway comparators offer value for money for pathway investors than the *pathway investment* based on the factors set out in ■ COBS 19.5.5R(2A) (a)(i), ■ (b) and ■ (c),
 the IGC should bring this matter, together with an explanation and relevant evidence, to the attention of the *firm's governing body*.
- (5AA) If the IGC is not satisfied with the response of the *firm's governing body* to the concerns it has raised under (5A) and the IGC considers that informing the relevant employer or employers could be of material utility to the employers or the members regarding the IGC's concern about value for money under (5), the IGC should inform the relevant employer or employers directly.
- (5AAA) In (5AA), an example of circumstances where an IGC may consider that informing the employer would be unlikely to be of material utility is where there are solely deferred members in any affected employer pension arrangement and the employer does not have the ability to effect a transfer of the deferred benefits from the employer pension arrangement to a new arrangement.
- (5) If, having raised concerns with the *firm's governing body* about the matters in the IGC's remit of review, the IGC is not satisfied with the

response of the *firm's governing body*, the IGC Chair may escalate concerns to the FCA if the IGC thinks that would be appropriate. The IGC may also alert *relevant policyholders* or pathway investors and employers and make its concerns public.

- (6) The IGC Chair should raise with the *firm's governing body* any concerns that the IGC has about the information or resources that the *firm* provides, or arrangements that the *firm* puts in place to ensure that the views of *relevant policyholders* or pathway investors are directly represented to the IGC. If the IGC is not satisfied with the response of the *firm's governing body*, the IGC Chair may escalate its concerns to the FCA, if appropriate. The IGC may also make its concerns public.
- (7) The IGC should make public the names of those members of the IGC who are *employees* of the provider *firm*, unless there are compelling reasons not to do so. The IGC should consult *employee* members as to whether there are such reasons.

The IGC need not consider and report on *ESG financial considerations* or *non-financial matters* or *stewardship* or *other financial considerations* as set out in ■ COBS 19.5.5R(2B) and ■ COBS 19.5.5R(2D) if the *firm* does not have an *investment strategy* or make *investment decisions* which could have a material impact on the *relevant policyholders'* or pathway investors' *investment returns*.

The IGC should only consider and report on *other financial considerations* as set out in ■ COBS 19.5.5R(2D) where it considers that:

they are likely to pose a particular and significant risk of financial harm to the *relevant policyholders* or pathway investors; and

the *firm* has not already adequately taken those *other financial considerations* into account in its *investment strategy* or *investment decision making*.

- (10) When an IGC is considering the adequacy and quality of a *firm's* policies regarding *ESG financial considerations*, *non-financial matters*, *stewardship* or *other financial considerations*, the IGC should form a view as to whether:
- (a) a policy sufficiently characterises the relevant risks or opportunities;
  - (b) it considers that a policy seeks to appropriately mitigate those risks and take advantage of those opportunities;
  - (c) a *firm's* processes have been designed to properly take into account those risks or opportunities;
  - (d) a policy is appropriate in the context of the expected duration of the *investment*; and
  - (e) a policy is appropriate in the context of the main characteristics of the actual or expected *relevant policyholders* or pathway investors.
- (11) Where an IGC is considering whether a *firm* has adequately taken *other financial considerations* into account for the purposes of

- COBS 19.5.5R(2D), it should also take into account the factors in
- COBS 19.5.6(10)G, whether or not contained in a policy.

### Duties of firms in relation to an IGC

19.5.7

R

A firm must:

- (1) take reasonable steps to ensure that the *IGC* acts and continues to act in accordance with its terms of reference;
- (2) take reasonable steps to provide the *IGC* with all information reasonably requested by the *IGC* in good time for the purposes of carrying out its role;
- (3) provide the *IGC* with sufficient resources as are reasonably necessary to allow it to carry out its role independently;
- (4) have arrangements to ensure that the views of *relevant policyholders* or pathway investors can be directly represented to the *IGC*;
- (5) take reasonable steps to address any concerns raised by the *IGC* under its terms of reference;
- (5A) for any *pathway investment*, take reasonable steps to address any concerns raised by the *IGC* about the matters in ■ COBS 19.5.5R(3) and ■ (3A):
  - (a) before the *firm* offers the *pathway investment*, and
  - (b) promptly, for any *pathway investment* it already offers.
- (6) provide written reasons to the *IGC* as to why it has decided to depart in any material way from any advice or recommendations made by the *IGC* to address any concerns it has raised;
- (7) take all necessary steps to facilitate the escalation of concerns by the *IGC* under ■ COBS 19.5.5R (4) and ■ COBS 19.5.6G (5);
- (8) make available the *IGC's* terms of reference and the three most recent annual reports, in a way appearing to the *firm* to be best calculated to bring them to the attention of *relevant policyholders* and their employers or to the attention of pathway investors; and
- (9) provide each *relevant scheme's IGC* with administration charges and transaction costs information, setting out the costs and charges for each default arrangement and each alternative fund option that the member is able to select.

19.5.8

G

- (1) A *firm* should consider allocating responsibility for the management of the relationship between the *firm* and its *IGC* to a person at the *firm* holding an *FCA significant-influence function* or *designated senior management function*.
- (2) A *firm* should fund independent advice for the *IGC* if this is necessary and proportionate.

- (3) A *firm* should not unreasonably withhold from the *IGC* information that would enable the *IGC* to carry out its duties in the *IGC's* remit of review.
- (3A) A *firm* should provide the *IGC* with sufficient support and resources so that the *IGC* is properly able to carry out its duties in the *IGC's* remit of review.
- (4) A *firm* should have arrangements for sharing confidential and commercially sensitive information with the *IGC*.
- (5) A *firm* should use best endeavours to obtain, and should provide the *IGC* with, information on the costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the assets of a *relevant scheme* or which could impact a *pathway investment*, including transaction costs. Information about costs and charges more broadly should also be provided, so that the *IGC* can properly assess the value for money of a *relevant scheme* or a *pathway investment* and the funds held within these.
- (6) If a *firm* asks an *IGC* to take on responsibilities in addition to those in ■ COBS 19.5.5 R, the *firm* should provide additional resources and support to the *IGC* such that its ability to act within its terms of reference in ■ COBS 19.5.5 R is not compromised.
- (7) A *firm* should provide secretarial and other administrative support to the *IGC*. The nature of the support, including how it is provided and by whom, should not conflict with the *IGC's* ability to act independently of the *firm*.
- (8) A *firm* can make the *IGC's* terms of reference and the *IGC's* three most recent annual reports available in a way designed to bring them to *relevant policyholders'* and their employers' attention or to the attention of pathway investors by placing them in an appropriately prominent and relevant position on its website, and by providing them on request to relevant policyholders and their employers or to pathway investors.

### Appointment of IGC members

19.5.9

R

- (1) A *firm* must take reasonable steps to ensure that the *IGC* has sufficient collective expertise and experience to be able to make judgements on the matters in the *IGC's* remit of review.
- (2) A *firm* must recruit independent *IGC* members through an open and transparent recruitment process.
- (3) A *firm* must appoint members to the *IGC* so that:
  - (a) the *IGC* consists of at least five members, including an independent Chair and a majority of independent members;
  - (b) *IGC* members are bound by appropriate contracts which reflect the terms of reference in ■ COBS 19.5.5 R, and on such terms as to secure the independence of independent members;
  - (c) independent *IGC* members who are individuals are appointed for fixed terms of no longer than five years, with a cumulative maximum duration of ten years;



- (d) individuals acting as the representative of an independent corporate member are appointed to the *IGC* for a maximum duration of ten years;
- (e) independent *IGC* members who are individuals, including those representing independent corporate members, are not eligible for reappointment to the *IGC* until five years have elapsed, after having served on the *firm's IGC* for the maximum duration of ten years;
- (f) appointments to the *IGC* are managed to maintain continuity in terms of expertise and experience of the *IGC*.

- 19.5.10 G
- (1) The effect of ■ COBS 19.5.9R (3)(b) is that *employees* of the *firm* who serve on an *IGC* should be subject to appropriate contractual terms so that, when acting in the capacity of an *IGC* member, they are free to act within the terms of reference of the *IGC* without conflict with other terms of their employment. In particular, when acting as an *IGC* member, an *employee* will be expected to act solely in the interests of *relevant policyholders* or pathway investors and should be able to do so without breaching any terms of their employment contract.
  - (2) An individual may serve on more than one *IGC*.
  - (3) A *firm* should replace any vacancies that arise within *IGCs* as soon as possible and, in any event, within six months.
  - (4) A *firm* should involve the *IGC* Chair in the appointment and removal of other members, both independent members and *employees* of the *firm*.
  - (5) A *firm* should consider indemnifying *IGC* members against any liabilities incurred while fulfilling their duties as *IGC* members.

#### **IGC members who are independent**

- 19.5.11 R The *firm*, in appointing independent *IGC* members, must determine whether such a member is independent in character and judgement and whether there are relationships or circumstances which are likely to affect, or could appear to affect, that member's judgement.

- 19.5.12 G
- (1) An *IGC* member is unlikely to be considered independent if any of the following circumstances exist:
    - (a) the individual is an *employee* of the *firm* or of a company within the *firm's group* or paid by them for any role other than as an *IGC* member, including participating in the *firm's* share option or performance-related pay scheme;
    - (b) the individual has been an *employee* of the *firm* or of another company within the *firm's group* within the five years preceding his appointment to the *IGC*;
    - (c) the individual has, or had within the three years preceding his appointment, a material business relationship of any description with the *firm* or with another company within the *firm's group*, either directly or indirectly.

- (2) A *firm* may appoint a *body corporate* to an *IGC*, including as Chair. The corporate member should notify the *firm* of the individual who will act as the member's representative on the *IGC*. A *firm* should consider the circumstances of a corporate *IGC* member and any representative of the corporate member with the objective of ensuring that any potential conflicts of interest are managed effectively so that they do not affect the corporate *IGC* member's ability to represent the interests of *relevant policyholders* or pathway investors.
- (3) Should the *firm*, or another company within the *firm's group*, operate a mastertrust, there may be benefits in a trustee of such a mastertrust also being an *IGC* member. If such circumstances exist, an individual or a corporate trustee may be suitable to be an independent *IGC* member, notwithstanding the relationship with the *firm*.
- (4) A *firm* should review on a regular basis whether its independent *IGC* members continue to be independent and take appropriate action if it considers that they are not.

#### Publication and disclosure of costs and charges by IGCs

19.5.13

R

The administration charges and transactions costs information referred to in ■ COBS 19.5.5R(8) must, in relation to each *relevant scheme*:

- (1) be published by 30 September each year, in respect of the previous calendar year;
- (2) be available for free on a publicly accessible website;
- (3) include the costs and charges for each default arrangement and each alternative fund option that a member is able to select; and
- (4) include an illustration of the compounding effect of the administration charges and transaction costs, based on either the assumptions contained in ■ COBS 13 Annex 2 or those in Version 4.2 of the Actuarial Standard Technical Memorandum (AS TM1) produced by the Financial Reporting Council, for a representative range of fund options that a member is able to select.

19.5.14

R

Regarding transaction costs:

- (1) the requirements in ■ COBS 19.5.13R(3) and ■ COBS 19.5.16R(1) apply to the extent that such information is available to the *IGC*; and
- (2) the published information should include a warning giving brief details of any unavailable information that the *IGC* is aware of.

19.5.15

G

An example of the type of illustration referred to in ■ COBS 19.5.13R(4) is shown below. The assumptions in the notes should reflect the actual assumptions used.

#### Projected pension pot in today's money

Fund choice

Years	Default Ar- rangement		Fund A		Fund B		Fund C	
	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted
1								
3								
5								
10								
15								
20								
25								
30								
35								
40								

**Example notes:**

1. Projected pension pot values are shown in today’s terms, and do not need to be reduced further for the effect of future inflation.
2. The starting pot size is assumed to be £10,000.
3. Inflation is assumed to be 2.5% each year.
4. Contributions are assumed from age 22 to 68 and increase in line with assumed earnings inflation of 2.5% to 4% each year.
5. Values shown are estimates and are not guaranteed.
6. The projected growth rate for each fund are as follows:
  - Default fund: 2.5% above inflation
  - Fund A: 2% above inflation
  - Fund B: 1% above inflation
  - Fund C: 1% below inflation

**19.5.16 R**

The administration charges and transaction costs information in the *IGC’s* annual report referred to in ■ COBS 19.5.5R(6)(g) must, in relation to each *relevant scheme*:

- (1) at a minimum, include the costs and charges for each default arrangement;
- (2) explain how a *relevant scheme* member can access the costs and charges information for each default arrangement and each alternative fund option that a member is able to select, including providing a link to the website required by ■ COBS 19.5.13R(2); and
- (3) be published alongside any information in the *IGC’s* annual report relating to the *relevant scheme’s* default investment strategy and value for members.

- 19.5.17** **R** The annual communication referred to in **■ COBS 19.5.5R(9)** must:
- (1) include a brief description of the most recent transaction costs and administration charges information that has been published in accordance with **■ COBS 19.5.13R**, and an explanation of how that information is relevant to the *relevant scheme* member; and
  - (2) explain how a *relevant scheme* member can access the information referred to in (1), including providing a link to the website required by **■ COBS 19.5.13R(2)**.
- 19.5.18** **G** The annual communication may be included with any other annual communication from the *operator* to the member of the *relevant scheme*.
- 19.5.19** **G** The annual communication provided to a *relevant scheme* member may also include the particular transaction costs and administration charges that have been incurred by that member.
- 19.5.20** **G** In communicating information in compliance with **■ COBS 19.5.5R(11)**, the *IGC* should ensure, for example, that it is straightforward for a *relevant scheme* member to compare the transaction costs and administration charges between fund options that are available for them to select.

## 19.6 Restriction on charges in qualifying schemes

### Application

19.6.1 **R** This section applies to an *operator of a qualifying scheme*.

19.6.2 **R** The restrictions on *administration charges* in **■ COBS 19.6.4 R** do not apply in relation to a *default arrangement* under which, at any time before benefits come into payment, those benefits accruing to the member involve, or involve an option to have, a promise by or to be obtained from a third party about the rate or amount of those benefits.

### Express agreement

- 19.6.3 **G**
- (1) In this section, where express agreement is required by a *rule*, the *FCA* would expect *firms* to take active steps to obtain the informed, active consent of the affected member(s) of the *qualifying scheme*, and to have that consent in writing in a *durable medium*, capable of being produced or reproduced when requested by the *FCA*.
  - (2) The *FCA* does not consider the following to amount to express agreement (this list is not exhaustive):
    - (a) a member receiving a communication stating that by becoming or continuing to be a member of the scheme, the member has agreed to a particular service;
    - (b) a member being invited to click on a box to opt-out through a website link.

### Default arrangements: charging structures and restrictions

- 19.6.4 **R** A *firm*, for a *default arrangement* within a *qualifying scheme*, may only make, impose or otherwise facilitate payment of an *administration charge* by way of an *accrued rights charge* or a *combination charge structure* where:
- (1) the limits in **■ COBS 19.6.6 R** are not exceeded; or
  - (2) the *firm* has obtained appropriate express agreement to exceed the limits and the following conditions are satisfied:
    - (a) the express agreement contains an acknowledgement by the member that the *administration charge* for the service is likely to exceed the limits;

- (b) giving such express agreement is not a condition of becoming or remaining a member of the *qualifying scheme*;
- (c) express agreement has not been given for services which the *operator* must provide under the *regulatory system* or the general law, or which are core services.

**19.6.5** G The effect of ■ COBS 19.6.4R (2)(c) is that a *firm* may not seek express agreement from a member to charges in excess of the limits for services which are obligatory under law, or form part of the core operation of the scheme. Such core services include, for example, designing and implementing an investment strategy, investing contributions to the scheme (to the extent that this would incur *administration charges*), holding investments relating to scheme members and transferring a member’s accrued rights into or out of a *default arrangement*.

**19.6.6** R The limits on *administration charges* are as follows:

- (1) for a *qualifying scheme* which uses only an *accrued rights charge*, 0.75% of the value of those accrued rights;
- (2) for a *qualifying scheme* which uses a combination charge scheme:
  - (a) for the *flat-fee charge* element, £25 annually;
  - (b) for the *contribution percentage charge* element, 2.5% of the contributions annually;
  - (c) for the associated *accrued rights charge*, the limits as set out in column 2 of the table in ■ COBS 19.6.7 R.

**19.6.7** R This is the table referred to in ■ COBS 19.6.6 R.

<i>Contribution percentage charge rate (%)</i>	<i>Accrued rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4
<i>Flat-fee charge (£)</i>	<i>Accrued rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

**Compliance with the restrictions on charges**

**19.6.8** E (1) To ensure that *administration charges* are within the limits set out in ■ COBS 19.6.6 R:

- (a) a *firm* should calculate the value of accrued rights in an *accrued rights charge* as the arithmetic mean over a 12-month period of membership of the *qualifying scheme*, using at least four evenly-distributed reference points over that period;

- (b) a *firm* should calculate the value of contributions in a *contribution percentage charge* over a 12-month period of membership of the *qualifying scheme* of a member's *workplace pension contributions*;
- (c) for members who have been members of the *qualifying scheme* for a period of less than 12 months, a *firm* should calculate administrative charges on a pro rata basis;
- (d) the total *administration charges* imposed should not exceed the relevant restriction when measured over a 12-month period. However, where the *qualifying scheme* has been in operation for less than 12 months, and the *firm's* internal processes would involve assessment of *administration charges* before 12 months has elapsed, then for its initial assessment, the *firm* may use a period of up to 18 months.

- (2) Contravention of (1) may be relied on as tending to establish contravention of ■ COBS 19.6.4R (1) .

### Prohibition of payments to third parties from qualifying schemes

- 19.6.9 **R** (1) A *firm* must not make any *administration charge*, or otherwise make or facilitate any payment or provide any non-monetary benefit, in respect of any service provided by a third party in connection with a *qualifying scheme* which would have the effect of decreasing the value of the accrued rights of any member of that scheme.
- (2) The restriction in (1) does not apply where the *firm* has obtained express agreement from the relevant member to such a payment.

- 19.6.10 **G** [deleted]

### Differential charges

- 19.6.11 **R** A *firm* must not impose greater *administration charges* on a member of a *qualifying scheme* whose *workplace pension contributions* ceased on or after 6 April 2016 than those imposed on a member for whom such contributions are still being made.
- 19.6.12 **G** The effect of ■ COBS 19.6.11 R is to prohibit active member discounts within automatic enrolment schemes.

## 19.6A Restrictions on early exit charges in personal pension schemes and stakeholder pension schemes

### Application

- 19.6A.1 **R** This section applies to an *operator* of a *personal pension scheme* or a *stakeholder pension scheme*.

### Purpose

- 19.6A.2 **G** The purpose of this section is to make *rules* prohibiting the imposition of, and provision for, certain *early exit charges* on members of *personal pension schemes* and *stakeholder pension schemes*. Section 137FBB of the *Act* requires the *FCA* to make such *rules*.

### Exclusion

- 19.6A.3 **R** This section does not apply to any charge which is excluded from the scope of section 137FBB of the *Act* by the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079).

### Prohibition on early exit charges on a member joining or incrementing benefits under a scheme on or after 31 March 2017

- 19.6A.4 **R**
- (1) A *firm* must not:
    - (a) impose; or
    - (b) include in the arrangements relating to a *personal pension scheme* or *stakeholder pension scheme* any provision for the imposition of:
 

an *early exit charge* on a member of the scheme.
  - (2) This *rule* applies in relation to a member who entered into a contract or other arrangement on or after 31 March 2017 providing for:
    - (a) a right to benefits resulting from contributions to the scheme; or
    - (b) an increment to benefits resulting from contributions to the scheme, but only in respect of the member's benefits under that contract or other arrangement.



**Restriction on early exit charges on a member who joined or incremented a scheme before 31 March 2017**

19.6A.5

**R**

- (1) A *firm* must not impose an *early exit charge* on a member of a *personal pension scheme* or *stakeholder pension scheme* that exceeds the lower of:
  - (a) 1% of the value of the member's benefits being taken, converted or transferred; or
  - (b) such lower amount as was provided for under the scheme arrangements as at 31 March 2017; or
  - (c) where no such provision was made, no charge.
- (2) A *firm* must not:
  - (a) include provision in such a scheme for an *early exit charge*, where such provision did not exist on 31 March 2017; or
  - (b) vary provision for an *early exit charge* in such a scheme to increase or potentially increase the charge.
- (3) The value of the member's benefits in (1)(a):
  - (a) is calculated at the point when the *firm* receives confirmation from the member of the instruction to take the action giving rise to the *early exit charge*;
  - (b) excludes an increment to member's benefits resulting from contributions to a scheme under a contract or other arrangement entered into by the member on or after 31 March 2017;
  - (c) excludes adjustments referred to, and satisfying the conditions in Regulation 3 of the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079); and
  - (d) does not exclude adjustments referred to in Regulation 4 of the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079).
- (4) This *rule* applies in relation to a member who entered into a contract or other arrangement (providing for a right to benefits resulting from contributions to the scheme) before 31 March 2017.

## 19.7 Pensions nudge and retirement risk warnings

### Definitions

19.7.1

R

In this section:

- (1) [deleted]
- (2) "pension decumulation product" is a product used to access pension savings and includes:
  - (a) a facility to enable a *retail client* to make an *uncrystallised funds pension lump sum* payment;
  - (b) an option to take a *small lump sum payment*;
  - (c) a *drawdown pension*; and
  - (d) a *pension annuity*;
- (3) "pension savings" is the proceeds of the *client's personal pension scheme or occupational pension scheme*;
- (4) "retirement risk warnings" are the warnings required to be given to a *retail client* at step 3 of the process specified in this section;
- (5) "risk factors" are the attributes, characteristics, external factors or other variables that increase the risk associated with a *retail client's* decision to access their pension savings using a pension decumulation product;
- (6) "signpost" is the written or oral statement encouraging a *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement which is at step 1 of the process specified in this section;
- (7) "opt out" is the *retail client's* confirmation that they do not want to receive *pensions guidance*; and
- (8) a reference to a "*personal pension scheme*" includes a *stakeholder pension scheme*, and for the avoidance of doubt, an *FSAVC*, *retirement annuity contract* or a *pension buy-out contract*.

### Application

19.7.2

R

This section applies to a *firm* communicating with a *retail client* in relation to:

- (1) accessing their pension savings using a pension decumulation product; or
- (2) transferring rights pursuant to ■ COBS 19.7.7R(6) for the purpose of accessing their pension savings using a decumulation product.

19.7.3 **R** This section does not apply:

- (1) to a *firm* giving regulated advice to a *retail client* on options to access their pension savings;
- (2) if the *firm* has already provided the retirement risk warnings to the *retail client* in relation to their decision to access their pension savings and the *firm* has reasonable grounds to believe that the retirement risk warnings are still appropriate for the *client*.

#### Purpose

- 19.7.4 **G**
- (1) The purpose of this section is to ensure that a *firm*, which is communicating with a *retail client* about a pension decumulation product:
    - (a) explains the nature and purpose of *pensions guidance* to the *retail client*;
    - (b) encourages the *retail client* to receive *pensions guidance*; and
    - (c) gives appropriate retirement risk warnings,
 at the point when the *retail client* has decided how to access their pension savings.
  - (2) If the *retail client* has not yet decided what to do, the *firm* should consider whether it is required to signpost the *pensions guidance* under ■ COBS 19.4.16R (signposting pensions guidance) and whether it may be appropriate to provide information about the risks associated with the *client's* options to access their pension savings generally.

- 19.7.5 **G**
- (1) This section amplifies *Principles 6* and *7*, but does not exhaust or restrict what they require. A *firm* will, in any event, need to ensure that its sales processes are consistent with the *Principles* and other *rules*.
  - (2) An example of a behaviour by a *firm* that is likely to contravene *Principle 6* and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from receiving *pensions guidance*, for example by:
    - (a) indicating in any way that receiving *pensions guidance* is unnecessary, would not be beneficial, or might result in unnecessary delays in accessing their pension savings; or
    - (b) obscuring, de-emphasising or underplaying in any way the explanation about the benefits of *pensions guidance* or any other information relevant to assisting the *retail client* to decide how best to access their pension savings.

- 19.7.6** **G** An illustration of the steps a *firm* is required to take is set out in ■ COBS 19 Annex 1G.
- 19.7.7** **R** **Trigger: when does a firm have to follow the steps?**  
A *firm* must follow the steps specified in this section at the point when the *retail client* has decided (in principle) to take one of the following actions (and before the action is concluded):
- (1) buy a pension decumulation product; or
  - (2) vary their *personal pension scheme* to enable the *client* to:
    - (a) access pension savings using a *drawdown pension*; or
    - (b) elect to make one-off, regular or ad-hoc *uncrystallised funds pension lump sum* payments; or
  - (3) receive a one-off, regular or ad-hoc *uncrystallised funds pension lump sum* payment; or
  - (4) access their pension savings using a *drawdown pension*;
  - (5) withdraw funds wholly or partly derived from *flexible benefits* in full from a product or scheme in their pension savings, reducing the value of all of their rights in that product or scheme (including rights in respect of any non-*flexible benefits*) to zero; or
  - (6) transfer rights (other than rights in respect of non-*flexible benefits*):
    - (a) accrued under their existing *personal pension scheme*; or
    - (b) accrued under their existing arrangement to a *personal pension scheme*,
 for the purpose of taking one of the actions in (1) to (5).
- 19.7.7A** **G** A *firm* may assume that a *retail client* who is 50 years of age or over who decides to transfer rights pursuant to ■ COBS 19.7.7R(6) is doing so for the purpose of taking one of the actions in ■ COBS 19.7.7R(1) to ■ (5).
- 19.7.7AA** **G** The effect of ■ COBS 19.7.7R(6) is to include any transfers of rights (other than rights in respect of non-*flexible benefits*) accrued so long as either the transferring arrangement or the receiving arrangement is a *personal pension scheme*. This would, for example, include a *retail client* consolidating some or all of their pension arrangements where the consolidation involves a transfer from or to a *personal pension scheme*.
- 19.7.7B** **R** **Pension transfer to access pension savings**  
Where a *retail client* contacts a *firm* to communicate its decision (in principle) to transfer rights pursuant to ■ COBS 19.7.7R(6), that *firm* (whether the *retail client's* existing provider or the *firm* to whom they intend to transfer their rights) must take the actions in step 1.
- 19.7.8** **R** [deleted]

### First part of step 1: explain pensions guidance and offer to book the appointment

19.7.8A

**R**

The first part of step 1 is as follows:

- (1) the *firm* must:
  - (a) explain to the *retail client* the nature and purpose of *pensions guidance*, and that they can access the guidance for free;
  - (b) explain to the *retail client* that they can take regulated advice at their own cost; and
  - (c) offer to book an appointment for them to receive *pensions guidance*;
- (2) if the *retail client* accepts the *firm's* offer to book an appointment for them, the *firm* must take reasonable steps to book an appointment at a suitable time for the *retail client*;
- (3) if the *firm* is unable to book an appointment at a suitable time despite taking reasonable steps, or the *retail client* prefers to book the appointment themselves, the *firm* must provide the *retail client* with sufficient information about how to book the appointment themselves;
- (4) if the *firm* books the appointment for the *retail client*, it must provide a confirmation of all the relevant details necessary to enable the *retail client* to attend the appointment;
- (5) if the *retail client* agrees to take the guidance or elects to take regulated advice, the *firm* must not proceed to step 2 until the *retail client* confirms they subsequently received the guidance or advice;
- (6) the *firm* must proceed to step 2 at any point during the process in (1) to (5) if the *retail client*:
  - (a) confirms that they have already received regulated advice and opts out; or
  - (b) opts out, and confirms they do not want to take regulated advice;
- (7) if the *retail client* states that the reason for opting out in (6)(b) is because they already received *pensions guidance* prior to approaching the *firm*, the *firm* must explain to the *retail client* that they may still benefit from receiving the guidance again if their personal circumstances, or the value of their pensions savings, have significantly changed such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance.

19.7.8B

**G**

For the purpose of ■ COBS 19.7.8AR(1)(a), where a *firm* explains the nature and purpose of *pensions guidance*, the explanation should include that:

- (1) the purpose of the guidance is to help the *retail client* make an informed decision about what to do with their pension savings, including the different options available to the *retail client* to access their pension savings; and

- (2) the guidance is delivered at an appointment with an independent pensions specialist.

19.7.8C

G

Taking reasonable steps to finding a time that is suitable (in ■ COBS 19.7.8AR(2)) may include the *retail client* being given adequate opportunity to revert back to the *firm* with dates and times that are suitable for them to attend an appointment.

### Second part of Step 1: confirming whether the retail client received pensions guidance or regulated advice

19.7.8D

R

- (1) (Where the *firm* has completed the appropriate actions in ■ COBS 19.7.8AR, and either booked an appointment for the *retail client* or the *retail client* booked it themselves) the second part of step 1 is for the *firm* to check whether the *retail client* subsequently received *pensions guidance* by:
- (a) if the appointment was booked by the *firm*, checking that the scheduled appointment date has passed; and only if so, asking the *retail client* to confirm that they attended the appointment and received the guidance; or
  - (b) if the *retail client* had to or elected to book the appointment themselves, asking the *retail client* to confirm that they subsequently booked the appointment and received the guidance.
- (2) If the *firm* booked the appointment and the date of the scheduled appointment has not passed, the *firm* must explain the nature and purpose of *pensions guidance* again in ■ COBS 19.7.8AR(1)(a) and remind the *retail client* of their scheduled appointment.
- (3) If the *retail client* failed to attend the appointment (booked by the *firm* or themselves), or failed to book their own appointment, the *firm* must repeat the process in ■ COBS 19.7.8AR, and explain to the *retail client* at this point that the *firm* cannot proceed unless the *retail client* confirms that they have received the guidance or taken regulated advice, or opts out.
- (4) If the *retail client* confirms that they attended the appointment and received *pensions guidance*, the *firm* must proceed to step 2, unless the *firm* is aware or is made aware that the *retail client's* circumstances have, or may have, changed significantly, and it appears to the *firm* on reasonable grounds that the *retail client* may benefit from a repeat of the guidance in order to consider the different options available to them in the context of their current circumstances. In that case, the *firm* must repeat the process in ■ COBS 19.7.8AR.
- (5) (Where the *firm* has completed the appropriate actions in ■ COBS 19.7.8AR and the *retail client* elected to take regulated advice), the *firm* must proceed to step 2 if the *retail client* confirms that they subsequently received the advice.

**19.7.8E** **G** Circumstances where the *retail client* may benefit from a repeat of *pensions guidance*, for the purposes of **■ COBS 19.7.8DR(4)**, include where, since the date of the appointment:

- (1) the *firm* is made aware that the *retail client's* personal circumstances have changed; or
- (2) significant changes in market conditions mean that the *firm* is aware that, or the *firm* is made aware for other reasons that, the value of the *retail client's* pension savings may have significantly changed,

such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance, in light of the change in circumstances.

### Step 2: identify risk factors

**19.7.9** **R** Based on how the *retail client* wants to access their pension savings, at step 2 the *firm* must ask the *client* questions to identify whether any risk factors are present, except where **■ COBS 19.7.9AR** applies.

**19.7.9A** **R** If the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, the *firm*:

- (1) is not required to ask questions to identify whether any risk factors are present; and
- (2) must prepare appropriate retirement risk warnings based on the risk factors relevant to each pension decumulation product it offers to enable *retail clients* to access their pension savings.

**19.7.9B** **R** A *firm* may ask the *client* the questions required by **■ COBS 19.7.9R** before the *client* has decided (in principle) to take one of the actions specified in **■ COBS 19.7.7R** to access their pension savings.

**19.7.9C** **R** If, to complete step 2, a *firm* relies on information gathered prior to the *client's* decision to access their pension savings, the *firm* must be satisfied that this information is relevant, accurate and up-to-date before giving the risk warnings at step 3.

**19.7.10** **R** A *firm* must prepare the questions required by **■ COBS 19.7.9 R** before taking the steps for the first time, and must keep the questions up to date.

**19.7.11** **G** To prepare for step 2, the *firm* should:

- (1) identify the main risk factors relevant to each pension decumulation product it offers to enable *retail clients* to access their pension savings; and
- (2) prepare questions to enable it to identify the presence of those risk factors for different *retail clients*.

**19.7.12** **G** Examples of the sorts of risk factors which relate to pension decumulation products are:

- (1) the *client's* state of health;
- (2) loss of any guarantees;
- (3) whether the *client* has a partner or dependants;
- (4) inflation;
- (5) whether the *client* has shopped around;
- (6) sustainability of income in retirement;
- (7) tax implications;
- (8) charges (if a *client* intends to invest their pension savings);
- (9) impact on means-tested benefits;
- (10) debt; and
- (11) investment scams.

### Step 3: provide appropriate retirement risk warnings

**19.7.13** **R** At step 3:

- (1) if the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, based on how the *retail client* wants to access their pension savings, a *firm* must give the *client* the appropriate retirement risk warnings prepared under ■ COBS 19.7.9AR(2); and
- (2) in all other cases, a *firm* must give the *retail client* appropriate retirement risk warnings in response to the *client's* answers to the *firm's* questions.

**19.7.14** **R** A *firm* must prepare the retirement risk warnings required by ■ COBS 19.7.13 R in good time before taking the steps for the first time, and must keep them up to date.

**19.7.15** **G** If after considering the *retail client's* answers it is unclear whether a risk factor is present, a *firm* should give the *client* the appropriate retirement risk warning.

### Communicating the signpost and retirement risk warning

**19.7.16** **R** When communicating the signpost and retirement risk warnings, the *firm* must do so clearly and prominently.



19.7.17 **R** Whatever the means of communication, the *firm* must ensure that the *retail client* cannot progress to the next stage of the sale unless the relevant signpost or retirement risk warning has been communicated to the *client*.

19.7.18 **G** For an internet sale, a *firm* should display the required information on a screen which the *retail client* must access and acknowledge as part of the sales process. It would not be sufficient for the information to be accessible only by giving the *client* the option to click on a link or download a document.

### Record keeping

19.7.19 **R** *Firms* must record whether the *retail client* has:

- (1) received the retirement risk warnings at step 3 of the process specified in this section;
- (2) received regulated advice;
- (3) received *pensions guidance*; or
- (4) opted out (and did not receive regulated advice).

19.7.20 **G** If the *firm* was told by the *retail client* that they already received *pensions guidance* or regulated advice prior to approaching the *firm*, and therefore did not need to receive it again, the *firm* should not record this as an opt out. Instead, they should record this as the *retail client* having received *pensions guidance* under **■** COBS 19.7.19R(3), or under **■** (2) for regulated advice.

## 19.8 Disclosure of transaction costs and administration charges in connection with workplace pension schemes

### Interpretation

19.8.1

R

In this section:

- (1) [deleted]
- (2) 'anti-dilution mechanism' is any method used to the benefit of an *investment* to offset the impact of inflows or outflows from that *investment*, whether by way of:
  - (a) a levy; or
  - (b) any adjustment enabling further investment into, or redemption of investments from, the *investment*.
- (3) 'arrangement', in connection with a *relevant scheme*, is any *investment* available to scheme members for the investment of their pension contributions.
- (4) [deleted]

### Application

19.8.2

R

This section applies to:

- (1) an *operator* of a *relevant scheme*; and
- (2) a *firm* which holds information needed for the calculation of transaction costs or administration charges in the course of providing services in connection with:
  - (a) a *relevant scheme*;
  - (b) an arrangement; or
  - (c) an *investment* in which an arrangement is directly or indirectly invested.

### Purpose

19.8.3

G

- (1) The purpose of the *rules* in this section is to enable governance bodies of workplace pension schemes to meet their obligations as set out in (2) and (3) by obliging *firms* which hold the relevant

information to calculate transaction costs to a common standard and provide that information, and information on administration charges, to governance bodies.

- (2) An *operator* of a workplace *personal pension scheme* or *stakeholder pension scheme* is obliged under ■ COBS 19.5.7R(2) to take reasonable steps to provide its *IGC* (or *governance advisory arrangement*) with all information reasonably requested by it for the purpose of carrying out its role. The role of an *IGC*, under ■ COBS 19.5.5R(2), must include the assessment of value for money delivered by relevant schemes through the assessment of transaction costs (among other things).
- (3) The trustees or managers of an occupational pension scheme are obliged to calculate, insofar as they are able to do so, the transaction costs borne by scheme members, and to assess the extent to which those costs represent good value for members. (See regulation 25 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715) as amended by the Occupational Pension Schemes (Charges and Governance) Regulations 2015 (SI 2015/879)).

### Obligation to disclose transaction costs and administration charges

19.8.4

R

A *firm* must respond in a reasonable time and in a reasonably acceptable format to a request for information relating to transaction costs and administration charges relating to a particular arrangement (or any *investment* in which the arrangement is directly or indirectly invested) over a period of time from or on behalf of:

- (1) an *operator*, trustee or manager of a *relevant scheme*; or  
another *firm* seeking to comply with its obligations under this section.

19.8.5

R

In responding to the request referred to in ■ COBS 19.8.4R, the *firm* must:

- (1) calculate the transaction costs incurred in relation to the arrangement or *investment* to which the request relates (including transaction costs incurred in any *investment* in which the arrangement or *investment* is directly or indirectly invested) in accordance with this section;
- (2) disclose the results of the aggregation of those transaction costs to the requesting *person*, along with a breakdown of the identifiable elements of those costs;
- (3) disclose the administration charges incurred in that arrangement or any *investment* to which the request relates (including administration charges incurred in any *investment* in which the arrangement or *investment* is directly or indirectly invested); and
- (4) provide other relevant information which would or may assist in making comparisons between the costs or charges in (1) to (3) and the equivalent costs or charges of other pension schemes where available.

19.8.6

G

- (1) The breakdown of identifiable transaction costs should include at least taxes, explicit fees and charges, costs in connection with securities lending and borrowing, and the benefit from anti-dilution mechanisms.
- (2) Other relevant information regarding transaction costs or administration charges might include, in relation to each arrangement (or *investment* in which the arrangement is directly or indirectly invested): the investment return, measures of risk, portfolio turnover rate, proportion of securities loaned or borrowed, costs other than transaction costs, and typical and maximum levels of entry, exit and switching costs. This is not an exhaustive list, and *firms* should use discretion based on the composition of each particular arrangement (or *investment* in which the arrangement is directly or indirectly invested).
- (3) Where it is not possible to calculate the amount of transaction costs or administration charges attributable to an arrangement (or *investment* in which the arrangement is directly or indirectly invested), a pro rata approach may be used, which assumes that transaction costs and administration charges are incurred evenly over time. A pro rata approach may also be used where information is not available for a full period or in other situations where the provision of information would otherwise be subject to unreasonable delay.
- (4) When calculating administration charges for a default arrangement, *firms* should have regard to ■ COBS 19.6 (Restriction on charges in qualifying schemes) and the Occupational Pension Schemes (Charges and Governance) Regulations 2015 (SI 2015/879).

### Taking reasonable steps to obtain necessary information

19.8.7

R

If a *firm* does not have the information necessary to comply with ■ COBS 19.8.4R and ■ COBS 19.8.5R, then it must:

- (1) take reasonable steps to obtain that information; or
- (2) where, despite having taken such reasonable steps, it remains unable to comply with ■ COBS 19.8.4R and ■ COBS 19.8.5R, provide a written explanation to the requesting party explaining why, including the percentage of *investments* in the arrangement (or *investment* in which the arrangement is directly or indirectly invested) for which information cannot be obtained, and indicating the categories of *investments* involved.

19.8.8

G

- (1) In taking reasonable steps to obtain information about transaction costs or administration charges, a *firm* should request the information from other *firms* involved in providing services in connection with the *relevant scheme*, arrangement, or *investment* in which the arrangement is directly or indirectly invested.
- (2) A *firm*, when seeking information about transaction costs or administration charges, should consider the materiality of that information to the calculation of costs and charges overall for each arrangement, in particular the degree to which it is necessary to look

through to transactions in underlying *investments* in order to arrive at a fair assessment of the costs or charges of each arrangement.

### Calculation of transaction costs for buying and selling transactions

19.8.9

**R**

A *firm* must calculate the transaction cost of buying or selling an *investment* as the difference between arrival price (AP) and execution price (EP) of that *investment*, multiplied by the number of units of, or in, the *investment* transacted, as follows:

- (1) AP and EP are determined in accordance with this section;
- (2) where an *investment* is purchased:  
transaction cost = (EP-AP) x (units); and
- (3) where an *investment* is sold:  
transaction cost = (AP-EP) x (units).

### Arrival Price (AP)

19.8.10

**R**

A *firm* must determine the arrival price as follows:

- (1) for a *transferable security*, or other *investment* which there are frequent opportunities to dispose of, redeem, or otherwise realise at a price publicly available to market participants that is either a market price or a price made available or validated by valuation systems independent of the *issuer*:
  - (a) the market mid-price at the time the order was transmitted to another *person* for execution or was executed, whichever is earlier
  - (b) if no such price is available, then the last available mid-price on the day the order was *executed*, or, if this is not available, the closing mid-price on the day before; or
  - (c) if the order to transact was executed on a day other than the day it was transmitted to another *person* for execution, the market opening mid-price on the day of execution, or, if this is not available, the closing mid-price the day before; or
  - (d) if the order was *executed* during an auction, the most recently available mid-price of the asset prior to the auction; or
  - (e) if an order is transmitted to another *person* for execution outside trading hours, the subsequent market opening mid-price.
- (2) for an investment fund or other vehicle priced on a periodic basis:
  - (a) for a dual-priced vehicle, the fair value mid-price of the vehicle at the pricing point when the transaction took place; or
  - (b) for a single-priced vehicle, the fair value price of the vehicle at the pricing point when the transaction took place, prior to any dilution adjustment.

(3) for physical (in other words, real or tangible) assets, the price paid for that physical asset, excluding all charges, commissions, taxes and other payments associated with the transaction.

for any other *investment* which does not fall into (1), (2) or (3):

- (a) the most recent independent valuation prior to the order to transact being executed, or, if earlier, transmitted to another *person* for execution, adjusted appropriately for market movements using an appropriate benchmark index; or
- (b) if no such valuation is available, then an estimate based on a reasonable appraisal of the fair value of the asset prior to the order to transact being executed.

#### Arrival Price (AP): supplemental provision for multiple orders on the same day

19.8.11 **R** Where an order is split into multiple orders ('child orders') in the same *investment* and transmitted on the same day, the arrival price of the first child order must be used as the arrival price of all subsequent child orders on that day.

#### Arrival Price (AP): supplemental provision for initial public offerings, placings and other issuance of securities

19.8.12 **R** For orders in initial public offerings, placings and other issuance of securities, the transaction price must be used as the arrival price.

#### Arrival Price (AP): supplemental provisions for derivatives

19.8.13 **R** When determining the arrival price for a *derivative* where there is no publicly available price, a firm must determine the fair value price of the *derivative*.

19.8.14 **G**

- (1) When considering the basis for determining transaction costs relating to *derivatives*, a *firm* should take into account:
  - (a) the existence of any multiplier or scalar in arriving at the correct number of units;
  - (b) the nature of the *derivative*;
  - (c) the availability and transparency of prices of the *derivative* itself;
  - (d) where applicable, the nature and value of the assets underlying the *derivative*, including their price transparency and relative proportions within that *derivative*; and
  - (e) any other costs associated with the *derivative*.
- (2) When determining the fair value price, a firm should adopt a fair value approach in line with prevailing market conventions.

#### Arrival Price (AP): supplemental provision for foreign exchange

19.8.15 **R** A *firm* must, in relation to a transaction involving foreign exchange, determine the arrival price using a reasonable estimate of the consolidated

price rather than the price available from a single counterparty or foreign exchange platform, even if an agreement exists to undertake all foreign exchange transactions with a single counterparty.

### Arrival Price (AP): supplemental provision for over the counter bond transactions

**19.8.15A** **R** Where a bond transaction is *executed* on an *over the counter* basis after *bid prices* and *offer prices* have been obtained from more than one potential counterparty, the arrival price must be taken to be:

- (1) if the best *bid price* is below the best *offer price*, the mid-point between the best *bid price* and the best *offer price*;
- (2) if the best *bid price* is higher than the best *offer price*, the best *bid price* in the case of a sale or the best *offer price* in the case of a purchase; or
- (3) if the best *bid price* is equal to the best *offer price*, that price.

**19.8.15B** **R** Where a bond transaction is *executed* on an *over the counter* basis after either a *bid price* or an *offer price* has been obtained, the arrival price must be estimated as follows:

- (1) by reference to the bid/offer spread on transactions in bonds with similar characteristics to the bond in question; or
- (2) by reference to a composite of indicative bid and offer quotes; or
- (3) by any other reasonable method.

### Execution Price (EP)

**19.8.16** **R** A *firm* must determine the execution price as the price at which a transaction is executed including all charges, commissions, taxes and other payments associated with the transaction, directly or indirectly, where those payments are made from the assets of the arrangement or of any *investment* in which the arrangement is directly or indirectly invested.

### Calculation of transaction costs for lending and borrowing transactions

**19.8.17** **R** A *firm* must calculate the transaction cost of a loan transaction as the difference between the charge paid by the ultimate borrower in relation to that loan and the amount received by the arrangement (or underlying *investment*).

**19.8.18** **G** The amounts used to calculate the transaction cost of a loan transaction should include all fees, commissions, charges and other costs levied by intermediaries involved in the transaction regardless of the legal structures involved.

**19.8.19** **R** To determine the transaction cost of a borrowing transaction, a *firm* must use the amount paid for the loan.

### Aggregation

**19.8.20** **R** The *firm* must aggregate and disclose, separately, the following transaction costs for each arrangement or *investment* and period to which the request relates:

- (1) the sum of the transaction costs for buy and sell transactions factoring in anti-dilution mechanisms (see **■** COBS 19.8.21R); and
- (2) the sum of the transaction costs for lending and borrowing transactions.

### Treatment of anti-dilution mechanisms

**19.8.21** **R** Subject to **■** COBS 19.8.22R, a *firm* using an anti-dilution mechanism in connection with an arrangement or *investment* may factor this into the aggregate transaction costs calculation as follows:

- (1) where a levy is used, the monetary value of that levy may be subtracted from the aggregate transaction costs; and
- (2) where an adjustment is made by enabling further investment into or redemption from an *investment*, the value of the benefit accruing to the *investment* may be subtracted from the aggregate transaction costs.

**19.8.22** **R** When aggregating transaction costs, a *firm* must not subtract any portion of a benefit derived from an anti-dilution mechanism that would reduce the aggregate transaction cost below zero.

**19.8.23** **G** A *firm* may provide information about the total benefit derived from an anti-dilution mechanism as part of or alongside the breakdown of identifiable transaction costs.



## 19.9 Pension annuity comparison information

### Definitions

#### 19.9.1

**R**

In this section:

- (-1) an “enhanced annuity” refers to a *pension annuity* that pays a higher level of income due to a *retail client’s* health or lifestyle;
- (1) “guaranteed minimum pension” has the meaning in section 8(2) of the Pension Schemes Act 1993;
- (2) a “guaranteed quote” is a quote that:
  - (a) is provided by a *firm* to a *retail client* for the purchase of a *pension annuity*; and
  - (b) is based on sufficient information to successfully underwrite the proposed *pension annuity*;
- (2A) an “income quote” is a guaranteed quote that offers at least the level of annual income requested by a *retail client*;
- (3) a “market-leading *pension annuity* quote” is a quote for a *pension annuity* that:
  - (a) is generated by a *firm* by searching for, obtaining and comparing, *pension annuities* that are available to the *retail client* from across all of the *pension annuity* market using:
    - (i) the same information as the *firm* has used to generate a guaranteed quote; or
    - (ii) answers obtained from the *retail client* which allow the *firm* to determine whether the *client* may be eligible for an enhanced annuity, where the *firm* itself cannot generate an enhanced annuity quote using those answers; and
  - (b) provides the *retail client* with either:
    - (i) the highest annual income from amongst all of the quotes generated under (a); or
    - (ii) (in the case of an income quote) at least the amount of annual income requested by the *retail client* at the lowest purchase price from amongst all of the quotes generated under (a).
- (4) “pension-related benefit” means one or more of the following:
  - (a) an existing or future entitlement to a *guaranteed annuity rate*;

- (b) an entitlement to a *pension commencement lump sum* that exceeds 25% of the value of the *retail client's* benefit under the *occupational pension scheme, personal pension scheme or stakeholder pension scheme* in which the *retail client* has an interest;
  - (c) an existing or future entitlement to a guaranteed minimum pension; or
  - (d) section 9(2B) rights;
- (5) "*pension annuity comparator information*" means the information that a *firm* must provide under this section; and
- (6) [deleted]
- (7) "*section 9(2B) rights*" has the same meaning as in regulation 2(1) of the Occupational Pension Schemes (Schemes that were Contracted-out) (No.2) Regulations 2015.

### Application

19.9.2

R

This section applies to a *firm* that:

- (1) provides a *retail client* with a guaranteed quote for a *pension annuity*; or
- (2) is asked by another *firm* ("*F*") for a quote for a *pension annuity* where *F* is seeking a quote for the purposes of generating a market-leading *pension annuity* quote.

### Purpose

19.9.3

G

This section specifies:

- (1) when a *firm* must provide:
  - (a) a *retail client* with *pension annuity comparator information*, including whether the *pension annuity* it is offering will provide:
    - (i) more or less annual income than the market-leading *pension annuity* quote; or
    - (ii) (in the case of an income quote) at least the amount of annual income requested by the *retail client* at the lowest purchase price; and
  - (b) a quote to another *firm* seeking a quote for the purposes of the other *firm* generating a market-leading *pension annuity* quote;
- (2) how a *firm* must compare a guaranteed quote and a market-leading *pension annuity* quote and how any applicable pension-related benefits should be factored into the comparison; and
- (3) the content and format of the *pension annuity comparator information* that must be provided in different circumstances; and
- (4) when a *firm* must ask questions about the *retail client's* eligibility for an enhanced annuity.

**Content of pension annuity comparator information**

19.9.4

**R**

When providing a guaranteed quote to a *retail client* a *firm* must use the relevant template in ■ COBS 19 Annex 3R to provide:

- (1) the following information about the features of the *pension annuity* that is being offered:
  - (a) the cost of the *pension annuity* where the cost is expressed as a single sum in pounds sterling net of any *adviser charges*;
  - (b) if applicable, the amount and details of any *adviser charges* that the *firm* will be paying;
  - (c) if applicable, the amount of any *commission* that will be paid and to whom any such *commission* will be paid;
  - (d) the annual income the *pension annuity* will provide to the *retail client* expressed as a single sum in pounds sterling;
  - (e) whether the annual income referred to in ■ COBS 19.9.4R(1)(d) is guaranteed for any period of time and, if so, the duration of that period;
  - (f) the frequency of payments that will be made to the *retail client* and if such payments will be paid in advance or in arrears;
  - (g) whether the *pension annuity* will provide an annuity to only the *retail client* or to the *retail client* and another beneficiary; and
  - (h) whether the annual income offered by the *pension annuity* will increase in value over time and, if so, the basis upon which it will increase;
- (2) if applicable, information about:
  - (a) the *guaranteed annuity rate* that a *retail client* is already entitled to or will be entitled to in the future;
  - (b) the date from when the *guaranteed annuity rate* is payable; and
  - (c) the annual income that a *retail client* can reasonably expect to receive pursuant to the *guaranteed annuity rate*;
- (3) if applicable, information about:
  - (a) the annual income that a *retail client* is already, or in the future will be, entitled to pursuant to either or both a right to a guaranteed minimum pension or section 9(2B) rights; and
  - (b) the date from when that annual income is payable;
- (4) if applicable, information about the maximum *pension commencement lump sum* that the *retail client* is entitled to and whether that lump sum would represent more than 25% of the value of the *retail client's* benefit under the *occupational pension scheme*, *personal pension scheme* or *stakeholder pension scheme* in which the *retail client* has an interest;
- (5) the helpline phone number and the website address for *MoneyHelper* and an explanation that the phone number and website can be used to obtain *pension annuity* quotes from other *pension annuity* providers;

(6) if applicable, information about how a *retail client's* health or lifestyle may entitle the *retail client* to a *pension annuity* that pays a higher income (an enhanced annuity); and

(7) the comparison information required under ■ COBS 19.9.7R.

19.9.5

G

A *firm* should consider ■ COBS 19.9.12R in cases where it is not clear whether a *retail client* is entitled to a pension-related benefit.

### Exceptions from the requirement to provide the information required by COBS 19.9.4R

19.9.6

R

(1) The requirement to provide the information required by ■ COBS 19.9.4R and the related requirement in ■ COBS 19.9.7R does not apply to a *firm*:

(a) if that *firm* ("F1") is reasonably satisfied that:

- (i) the *retail client* has already received the information required by ■ COBS 19.9.4R from another *firm* ("F2"); and
- (ii) the information provided by F2 to the *retail client* relates to the same guaranteed quote that F1 would otherwise use as the basis for providing the information required by ■ COBS 19.9.4R; or

(b) in any case where a *firm*, during the same telephone conversation, provides a *retail client* with more than one guaranteed quote.

(2) Where (1)(b) applies, a *firm* must comply with ■ COBS 19.9.4R if:

- (a) the *retail client*, during the same telephone conversation, selects one of the guaranteed quotes to explore further; or
- (b) the *retail client* subsequently contacts the *firm* to explore further one of the guaranteed quotes ("Q1") that the *firm* has previously provided where Q1 was not, at the time it was provided, accompanied by the information required by ■ COBS 19.9.4R.

### Eligibility for enhanced annuities

19.9.6A

R

(1) When a *firm* generates a market-leading *pension annuity* quote it must take reasonable steps to obtain from the *retail client* answers to the questions that are required to determine whether the *client* is eligible for an enhanced annuity.

(2) If the *retail client* is eligible for an enhanced annuity the *firm* must generate a market-leading quote for an enhanced annuity.

(3) *Firms* may only use the information gathered in (1) for the purposes of:

- (a) generating a guaranteed quote and a market-leading *pension annuity* quote;
- (b) assisting another *firm*, on request, to generate a market-leading quote (■ COBS 19.9.9R); and

(c) underwriting, administering, and entering into a contract for an enhanced annuity;

unless the *retail client* consents to it being used for other purposes.

- (4) If the *retail client* refuses to answer a *firm's* questions that are required to determine whether the *retail client* is eligible for an enhanced annuity, a *firm* must:
- (a) generate a market-leading *pension annuity* quote using the same information that it used to generate its guaranteed quote; and
  - (b) compare the market-leading *pension annuity* quote referred to in (a) with its guaranteed quote.

**19.9.6B** G For the purpose of ■ COBS 19.9.6AR, examples of the sorts of health and lifestyle circumstances which may indicate that a *retail client* is eligible for an enhanced annuity are:

- (1) whether the *client* is or was a smoker;
- (2) the *client's* height, weight and waist size and whether these are outside normal ranges;
- (3) the number of units of alcohol the *client* consumes per week;
- (4) whether the *client* is taking medication for high blood pressure or high cholesterol;
- (5) whether the *client* is taking medication for serious health conditions.

**19.9.6C** G

- (1) The *guidance* in this section relates to a *firm's* obligations to provide a market-leading *pension annuity* quote in ■ COBS 19.9.6AR(4).
- (2) A *firm* may consider it appropriate to include in the quote provided to the *retail client* a statement that the *client* may have health or lifestyle factors that could mean that they are eligible for a higher income. For example, the wording in the "Did you know?" box in the template in Part 3 of ■ COBS 19 Annex 3R could be adapted to reflect the fact that a *client* has refused to answer questions about their health or lifestyle.

### Information comparing a guaranteed quote and a market-leading pension annuity quote

**19.9.7** R A *firm* must:

- (1) generate a market-leading *pension annuity* quote before providing a guaranteed quote to a *retail client*;
- (2) unless (2A) applies, determine which of the following will, or is most likely to, offer a *retail client* the highest annual income:
  - (a) the *pension annuity* offered by the guaranteed quote ("A");
  - (b) the *pension annuity* offered by the market-leading *pension annuity* quote ("B");

- (c) if applicable, the pension that a *retail client* is entitled to, or will be entitled to, pursuant to the *retail client's* entitlement to a *guaranteed annuity rate* ("C"); or
- (d) if applicable, the minimum pension that a *retail client* is entitled to, or will be entitled to, pursuant to the *retail client's* entitlement to either or both a guaranteed minimum pension or section 9(2B) rights ("D");

in cases where a *retail client* has requested an income quote, determine which of the following will, or is most likely to, offer a *retail client* with at least the annual income that the *retail client* has requested at the lowest purchase price:

- (a) the *pension annuity* offered by the guaranteed quote ("A1");
  - (b) the *pension annuity* offered by the market-leading pension annuity quote ("B1"); or
  - (c) if applicable, the pension that the *retail client* is entitled to, or will be entitled to, pursuant to their entitlement to a *guaranteed annuity rate* ("C1");
- (3) use the template in:
- (a) Part 1 of ■ COBS 19 Annex 3R where (2) applies and B offers a *retail client* the highest annual income;
  - (b) Part 2 of ■ COBS 19 Annex 3R where (2) applies and A, C or D offers a *retail client* the highest annual income;
  - (c) Part 4 of ■ COBS 19 Annex 3R where (2A) applies and B1 offers a *retail client* at least the annual income that the *retail client* has requested at the lowest purchase price; or
  - (d) Part 5 of ■ COBS 19 Annex 3R where (2A) applies and A1 or C1 offers a *retail client* at least the annual income that the *retail client* has requested at the lowest purchase price;
- (4) where (2) applies and B offers the highest annual income:
- (a) calculate as a single sum in pounds sterling the amount by which B provides a higher annual income than A;
  - (b) include that amount in the relevant place in the template; and
  - (c) include a statement making it clear that a *retail client* could obtain a higher annual income by searching the open market for a *pension annuity*;
- (4A) where (2A) applies and B1 offers at least the requested annual income at the lowest purchase price:
- (a) calculate as a single sum in pounds sterling the difference in purchase price between A1 and B1;
  - (b) include that amount in the relevant place in the template; and
  - (c) include a statement making it clear that the *retail client* could obtain at least the requested annual income at a lower purchase price by searching the open market for a *pension annuity*;
- (5) where (2) applies and A offers the highest annual income, include a statement that A will provide the *retail client* with the highest annual income; and

- (5A) where (2A) applies and A1 offers at least the requested annual income at the lowest purchase price, include a statement that A1 will provide the *retail client* with at least the requested annual income at the lowest purchase price;
- (6) if applicable, where (2) applies and C or D will, or is likely to, provide the highest annual income:
- (a) calculate as a single sum in pounds sterling the amount by which C or D, as applicable, will, or is likely to, provide a higher annual income than A;
  - (b) include that amount in the relevant place in the template; and
  - (c) warn the *retail client* that:
    - (i) the entitlement to, as applicable, C or D, will be extinguished if the *retail client* accepts A; and
    - (ii) accepting A will result in the *retail client* receiving a lower annual income than the *retail client* is entitled to pursuant to, as applicable, C or D.
- (7) where (2A) applies and C1 will, or is likely to, provide at least the requested annual income at the lowest purchase price:
- (a) calculate as a single sum in pounds sterling the difference in purchase price between A1 and C1;
  - (b) include the amount in (a) in the relevant place in the template; and
  - (c) warn the *retail client* that:
    - (i) the entitlement to C1 will be extinguished if the *retail client* accepts A1; and
    - (ii) accepting A1 will result in the *retail client* paying a higher purchase price than that payable if the *retail client* exercises their entitlement to C1;
- (8) where (2A) applies and either A1 or B1 offers the *retail client* at least the requested annual income at the lowest purchase price, a *firm* must determine whether the *retail client's* entitlement to a *guaranteed annuity rate* can be applied to offer a better value annuity compared to the lowest purchase price annuity on offer and, if so, warn the *retail client* accordingly.

**19.9.7A** G An example of where a *firm* may need to provide a warning of the kind referred to in ■ COBS 19.9.7R(8) is where a *retail client* ('R') is seeking an annuity of £5,000 and the lowest purchase price for such an annuity is £100,000. If R's entitlement to a *guaranteed annuity rate* can be used to provide R with an annuity of £15,000, albeit at a cost of £200,000, the *firm* should warn R of this possibility. Where applicable, such a warning should be included in the relevant template and may also be given orally.

**19.9.8** G When a *firm* is required to generate a market-leading *pension annuity* quote it may use:

- (1) the facility on the *MoneyHelper* website available on <https://www.moneyhelper.org.uk/guaranteed-income>; or

- (2) software, or any other means, that will enable the *firm* to search for, obtain and compare *pension annuities* available to the *retail client* from across all of the *pension annuity* market.

### Requirement to provide another firm with information pursuant to COBS 19.9.4R(7) and COBS 19.9.7R

**19.9.9** **R** A *firm* ("F1") must take reasonable steps to provide any information requested of it by another *firm* ("F2") where such information is requested in order for F2 to comply with its obligations under **COBS 19.9.4R(7)** and the related requirement in **COBS 19.9.7R**.

**19.9.10** **G** A *firm* is reminded that when complying with the requirement in **COBS 19.9.9R** it should do so in a way that is consistent with its obligations under competition law.

### Pension commencement lump sum

**19.9.11** **R** (1) This *rule* applies if a *retail client* is entitled to a *pension commencement lump sum* that would amount to more than 25% of the value of the *retail client's* benefit under the *occupational pension scheme, personal pension scheme or stakeholder pension scheme* in which the *retail client* has an interest.

- (2) A *firm* must warn the *retail client* if the *pension annuity* offered by:
- the guaranteed quote; or
  - the market-leading *pension annuity* quote,

will, if accepted, reduce the *pension commencement lump sum* that a *retail client* would otherwise be entitled to receive.

### Information about pension-related benefits

**19.9.12** **R** (1) This *rule* applies where a *retail client* is unable to confirm an entitlement to a pension-related benefit.

(2) This *rule* does not apply if a *firm* is the *retail client's* current provider of a pension-related benefit.

(3) A *firm* must take reasonable steps to assist a *retail client* ascertain whether the *retail client* is entitled to a pension-related benefit.

(4) If, despite having taken reasonable steps under (3), it remains unclear whether a *retail client*:

- is entitled to a *guaranteed annuity rate*, a *firm* must proceed as if the requirement in **COBS 19.9.4R(2)** is not applicable;
- is entitled to a guaranteed minimum pension, a *firm* must proceed as if the requirement in **COBS 19.9.4R(3)** relating to information about a guaranteed minimum pension is not applicable;



- (c) has section 9(2B) rights, a *firm* must proceed as if the requirement in ■ COBS 19.9.4R(3) relating to information about section 9(2B) rights is not applicable; or
- (d) is entitled to a *pension commencement lump sum*, a *firm* must proceed as if the requirement in ■ COBS 19.4.4R(4) is not applicable.

- 19.9.13 **G**
- (1) ■ COBS 19.9.12R is likely to apply where a *retail client* does not know, or cannot recall, if the *retail client* is entitled to a pension-related benefit.
  - (2) A *firm* may wish to consider doing any of the following as part of taking reasonable steps to assist a *retail client* ascertain whether the *retail client* is entitled to a pension-related benefit:
    - (a) suggesting the *retail client* locate any documentation which may contain relevant information about a pension-related benefit; and
    - (b) encouraging the *retail client* to contact their existing pension provider for relevant information relating to a pension-related benefit.
  - (3) ■ COBS 19.9.12R does not apply to a *firm* that is a *retail client's* current pension-related benefit provider because that *firm* will be in possession of information relevant to determining whether a *retail client* is entitled to a pension-related benefit.

#### Retail client's consent to generate a market-leading pension annuity quote

- 19.9.14 **G** Before generating a market-leading *pension annuity* quote a *firm* should consider whether it needs the consent of the *retail client* to use any personal data for the purposes of generating the quote.

- 19.9.15 **R**
- (1) This *rule* applies to a *firm* where the *firm* requires the *retail client's* consent to the *firm* generating, on behalf of the *retail client*, a market-leading *pension annuity* quote and that consent is not obtained.
  - (2) A *firm* must take reasonable steps to obtain a *retail client's* consent referred to in paragraph (1).
  - (3) Where a *firm*, having complied with (2), has been unable to obtain the *client's* consent, this *rule* applies with the effect that:
    - (a) ■ COBS 19.9.4R(7), ■ COBS 19.9.7R and ■ COBS 19.9.6AR(4) do not apply;
    - (b) a *firm* must include information, as applicable, warning the *retail client* that:
      - (i) a higher annual income might be obtained; or
      - (ii) at least the requested annual income might be obtained for a lower purchase price;
- by searching the open market for a *pension annuity*; and

- (c) a *firm* must, as applicable, use the template in:
- (i) unless (ii) applies, Part 3 of ■ COBS 19 Annex 3R; or
  - (ii) Part 6 of ■ COBS 19 Annex 3R where the *retail client* has requested an income quote,  
to provide the applicable *pension annuity* comparator information.

### Medium of disclosure

---

19.9.16

**R**

- (1) A *firm* must provide the *pension annuity* comparator information in a *durable medium* or make the information available on a website (where that does not constitute a *durable medium*) that meets the *website conditions*.
- (2) If the requirement to provide the *pension annuity* comparator information arises during a telephone conversation with a *retail client*, a *firm* must:
  - (a) orally provide the *pension annuity* comparator information over the telephone;
  - (b) provide the *pension annuity* comparator information in a *durable medium* or make the information available on a website (where that does not constitute a *durable medium*) that meets the *website conditions*; and
  - (c) conclude a sale of a *pension annuity* only if the *retail client* agrees to receiving the *pension annuity* comparator information referred to in (b) after the sale has been concluded.
- (3) If a *firm* provides the *pension annuity* comparator information on paper, it must use a single sheet of A4 paper.
- (4) The requirement in (3) to use a single sheet of paper does not apply if a *retail client* asks for the *pension annuity* comparator information to be provided in an accessible format and the fulfilment of that request will necessitate the use of more than a single sheet of A4 paper.

## 19.10 Drawdown, investment pathways and cash warnings

### Definitions

19.10.1

R

In ■ COBS 19.10:

- (1) [deleted]
- (2) "cash warning" is the warning in ■ COBS 19.10.38R;
- (3) "drawdown fund" means either a *capped drawdown pension fund* or *flexi-access drawdown pension fund*;
- (4) 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);
- (5) "pathway investments exempt firm" is a *firm* which:
  - (a) has elected not to offer *pathway investments*; and
  - (b) is satisfied on reasonable grounds that it is more likely than not to have fewer than 500 of its non-advised *retail clients* designate funds to a drawdown fund in the 12 *months* following the date of the election in (a), taking into account:
    - (i) the number of non-advised *retail clients* who designated funds to a drawdown fund in the preceding 12 *months*;
    - (ii) the potential impact of any change in the *firm's* business plans over the next 12 *months*; and
    - (iii) any other relevant factors;
- (6) references to a *firm* "offering" the *retail client* a *pathway investment* mean that the investments are either:
  - (a) *manufactured* by the *firm* (F1); or
  - (b) *manufactured* by another *firm* (F2);
 and are available for investment in the drawdown fund operated by F1.
- (7) references to a *firm* (F1) "referring" the *retail client* to a *firm* (F2) offering a *pathway investment* mean that F1 arranges for F2 to give the *retail client* the opportunity to invest in a *pathway investment* available through transfer to the drawdown fund operated by F2, where F2 offers *pathway investments* in accordance with (6)(a) above.

### Who?

- 19.10.2 **R** This section applies to an *operator of a retail client's personal pension scheme or stakeholder pension scheme*.
- 19.10.3 **G** The application of this section is modified for a pathway investments exempt firm.
- 19.10.4 **R**
- (1) A pathway investments exempt firm must review its status at least once every 12 *months*.
  - (2) Any change to a *firm's* status as a pathway investments exempt firm must take effect within 12 *months* of the review date.

### Purpose

- 19.10.5 **G** The purpose of this section is to help non-advised *retail clients* designating some or all of the funds in their *pension schemes* into a drawdown fund to make an active decision about how to invest those drawdown funds to achieve their retirement objectives.
- 19.10.6 **G** This section specifies the circumstances where a *firm* dealing with a non-advised *retail client* in relation to the investment of the sums or assets in their drawdown fund must:
- give the *retail client* the opportunity to use the *investment pathways*;
  - offer the *retail client* a *pathway investment* or refer the *retail client* to a *firm* that offers *pathway investments*;
  - ensure that *retail clients* investing wholly or predominantly in *cash-like investments* make an active decision to do so;
  - provide warnings to *retail clients* investing wholly or predominantly in *cash-like investments*;
  - remind *clients* about their option to shop around and use *pensions guidance*.
- 19.10.7 **G** This section does not absolve *firms* of their obligation, when communicating with *retail clients* about their drawdown fund options, to provide such information as is necessary for the *retail client* to make an informed decision, including (where relevant) the information listed in **COBS 19.4.14R**.

### When?

- 19.10.8 **R** Subject to **COBS 19.10.10R**, a *firm* must take the steps in this section when a *retail client* requests to:
- (1) designate some, or all, of the sums or assets in their *pension scheme* to a drawdown fund; or

(2) transfer sums or assets already in drawdown into a drawdown arrangement provided by the *firm*.

**19.10.9** **G** ■ COBS 19.10.8R(2) applies to a drawdown provider when a *retail client* requests to transfer sums to the drawdown provider from another provider. It also applies, for example, when a *retail client* requests to transfer sums into a new drawdown arrangement at the end of a fixed-term arrangement with the same drawdown provider.

**19.10.10** **R** The requirements in this section do not apply to a *firm*:

in relation to sums or assets in a *retail client's pension scheme* that the *retail client* requests to use to purchase a fixed-term product that:

- (a) provides a guaranteed income, a guaranteed capital return or both, to the *retail client* or the *retail client's* beneficiary; and
- (b) does not involve any investment risk to the *retail client* if the *retail client* remains in the product for the fixed term;

when the *firm* carries out the *retail client's* previous instructions to designate their funds on a regular basis into a drawdown fund;

when the *retail client* has been taken through the *investment pathways* by another *firm* (F1) and has been referred to the *firm's* (F2's) drawdown fund to invest in one of the *pathway investments* that the *firm* (F2) offers (see ■ COBS 19.10.1R(7)); or

when the *firm* has determined, on reasonable grounds, that the *retail client* has received a *personal recommendation* in relation to the action referred to in ■ COBS 19.10.8R(1) or ■ (2).

**19.10.11** **G** ■ COBS 19.10.10R(1) applies where a *retail client* requests to purchase a fixed-term product, in which the only income or return is intended to be regular income, a capital return or both (payable to the client or the client's beneficiary), with amounts guaranteed and specified at the time the product is purchased. *Firms* may nonetheless agree terms permitting ad hoc withdrawals or early exit, which may or may not be subject to guarantees, with *retail clients* purchasing these products.

**19.10.12** **G** A *firm* will not have reasonable grounds for the purpose of ■ COBS 19.10.10R(4) if the determination is based solely on information that:

- (1) is over 12 *months* old;
- (2) the *retail client* is in, or transferring from, an advised product; or
- (3) the *retail client* continues to provide *remuneration* to an *adviser* in relation to their *pension scheme* or drawdown fund.

**19.10.13** **G** However, a *firm* could have reasonable grounds for the purpose of ■ COBS 19.10.10R(4) if the *retail client* continues to provide *remuneration* to

an *adviser* in relation to their *pension scheme* or drawdown fund and the *firm* has reminded the *retail client* of this:

- (1) including an explanation of what this means in the context of the *retail client's* request referred to in ■ COBS 19.10.8R;
- (2) in a *durable medium*; and
- (3) within a reasonable time before the *firm* carries out the *retail client's* request referred to in ■ COBS 19.10.8R.

### Step 1: offer use of investment pathways

19.10.14 **R** The first step is to ask the *retail client* how they want to select the *investment* for their drawdown fund from the following options:

- (1) use the *investment pathways* (option 1);
- (2) select investments without using the *investment pathways* (option 2);  
or
- (3) (where applicable) remain invested in their current investments (option 3).

19.10.15 **R** The option to use *investment pathways* must be presented with equal prominence to options 2 and 3.

19.10.16 **R** If a *retail client* selects option 1, or the *retail client* is unsure about the option to select, or the *firm* is unsure about which option the *retail client* has selected, the *firm* must proceed to step 2.

### Step 2: present investment pathway options

19.10.17 **R** The second step is to:

- (1) present the *retail client* with the following *investment pathway* options:
  - (a) Option 1: I have no plans to touch my money in the next 5 years;
  - (b) Option 2: I plan to use my money to set up a guaranteed income (annuity) within the next 5 years;
  - (c) Option 3: I plan to start taking my money as a long-term income within the next 5 years;
  - (d) Option 4: I plan to take out all my money within the next 5 years;  
and
- (2) ask the *retail client* to select an *investment pathway* option that corresponds most closely to their current intentions.

19.10.18 **R** A *firm* must not present any other investment options to the *retail client* during step 2 of *investment pathways*.

19.10.19 **R** If a *retail client* selects an *investment pathway* option, the *firm* must proceed to step 3.

19.10.20 **G** If, after the *firm* completes step 2, the *retail client* does not select an *investment pathway* option the *firm* should:

- (1) consider providing the *retail client* with the opportunity to view the *investment pathways* options again or ask if the *retail client* requires further information to make a decision;
- (2) provide a clear and prominent statement about the availability of advice and *pensions guidance*; and
- (3) provide the *retail client* with the information in **■** COBS 19.10.30R, if applicable.

### Step 3: offer pathway investments

19.10.21 **R**

- (1) The third step is for the *firm* to:
  - (a) offer the *retail client* a *pathway investment* that corresponds to the *investment pathway* option selected in step 2; or
  - (a) refer the *retail client* to a *firm* that offers a *pathway investment* that corresponds to the *investment pathway* option selected in step 2; or
  - (a) (for pathway investments exempt firms only) refer the *retail client* to the *MoneyHelper investment pathways* comparison tool, available on <https://www.moneyhelper.org.uk/pathways>;
  - (b) describe to the *retail client*, using plain language, the level of riskiness of each *pathway investment* (whether offered by that *firm* or by a *firm* to which they refer *retail clients*); and
  - (c) provide the *retail client* with a clear and prominent statement:
    - (i) that other *firms* offer *pathway investments* for the *investment pathway* option selected by the *retail client* and that the *retail client* may benefit from shopping around, with an explanation of how they may do so; and
    - (ii) that *MoneyHelper* is available to assist the *retail client* with shopping around for *pathway investments* with an explanation of how they may access *MoneyHelper* and the *MoneyHelper investment pathways* comparison tool, available on <https://www.moneyhelper.org.uk/pathways>.
- (2) A pathway investment exempt firm need only do (1)(a)(ii) or (iii) and (1)(b) and (c).

19.10.22 **G** If after the *firm* completes step 3 the *retail client* does not select a *pathway investment* the *firm* should:

- (1) consider providing the *retail client* with the opportunity to view the *investment pathways* options again or ask if the *retail client* requires further information to make their decision;

- (2) remind the *retail client* that they can shop around and explain how they can do that;
- (3) provide a clear and prominent statement about the availability of advice and *pensions guidance*; and
- (4) provide the *retail client* with the information in ■ COBS 19.10.30R, if applicable.

19.10.23 **G** If after the *firm* completes step 3 the *retail client* does not select a *pathway investment* the *firm* may offer other investments and tools the client may use when deciding how to invest their drawdown fund.

### Preparing for step 3

19.10.24 **R** To prepare for step 3:

- (1) a *firm* (excluding pathway investments exempt firms) must be in a position to:
  - (a) offer, or refer to other *firms* offering, a *pathway investment* for each of the *investment pathway* options (see ■ COBS 19.10.1R(7) on referring); and
  - (b) offer *pathway investments* for at least two *investment pathway* options;
- (2) *firms* may offer, or refer to other *firms* offering, the same *pathway investment* for more than one *investment pathway* option, but must not offer, or refer the *retail client* to other *firms* that offer, the same *pathway investment* for all *investment pathway* options;
- (3) *firms* must be in a position to describe the level of riskiness of each *pathway investment*, whether offered by them or by a *firm* to which they refer *retail clients*; and
- (4) pathway investments exempt firms must be in a position to either:
  - (a) refer clients to *pathway investments* offered at other *firms*; or
  - (b) refer clients to the *MoneyHelper investment pathways* comparison tool, available on <https://www.moneyhelper.org.uk/pathways>.

19.10.25 **R** *Firms* must not offer a *retail client* more than one *pathway investment*, nor refer a *retail client* to more than one *firm* offering a *pathway investment*, for any *investment pathway* option.

19.10.26 **G** *Firms* do not have to offer the same *pathway investment* to all *retail clients* who select the same *investment pathway* option. Example F(33) in ■ PERG 8 Annex 1 sets out some considerations for *firms* that offer different *pathway investments* in relation to the same *investment pathway* option.

19.10.27 **G** (1) Where a *firm* decides to change the *pathway investment* it offers in relation to a particular *investment pathway* option, the *firm* may



need to consider whether it would be appropriate to transfer existing clients to that new investment.

- (2) This may be the case, for example, if the transfer is required to prevent consumer harm and avoid risking a breach of our *rules*, for example *Principle 6*. This could be the case where the *firm* has determined that the *pathway investment* is no longer an appropriate investment for the *investment pathway* option and the client is likely to suffer harm as a result.
- (3) If *firms* decide to transfer existing clients to a new *pathway investment*, *firms* will need to consider the information needs of their clients, and communicate to them appropriately and in good time, in a manner that is clear, fair and not misleading.
- (4) *Firms* are required to have appropriate arrangements in place (including contractual powers that are fair and transparent and comply with the CRA) to enable them to comply with their obligations under the *regulatory system*.

19.10.28 **R**

- (1) *Firms* must label *pathway investments* clearly using the corresponding option listed in ■ COBS 19.10.17R(1).
- (2) *Firms* must not label any other investments as *pathway investments* or mislead a *retail client* into thinking that another investment is a *pathway investment*.

### Information, including cash warnings, for clients who have not decided to invest at least 50% of their drawdown fund in pathway investments

19.10.29 **R**

■ COBS 19.10.30R applies if a *retail client* has:

- (1) been taken through the *investment pathway* (whether or not they proceeded to steps 2 or 3); and
- (2) not decided to invest at least 50% of their drawdown fund in one or more *pathway investments*.

19.10.30 **R**

Before carrying out the *retail client's* request referred to in ■ COBS 19.10.8R, the *firm* must:

- (1) if the *retail client* has chosen to remain in their current investments, remind the *retail client*:
  - (a) of their current investment strategy (where this is known to the *firm*); and
  - (b) to check that their current investment strategy meets their current investment objectives;
- (2) subject to ■ COBS 19.10.32R, if carrying out the *retail client's* request referred to in ■ COBS 19.10.8R would result in more than 50% of the *retail client's* drawdown fund being invested in *cash-like investments*:
  - (a) ensure that the *retail client* has made an active decision to invest in *cash-like investments*; and

- (b) provide the *retail client* with a cash warning;
- (3) remind the *retail client* that they can shop around and how to do that, including the option of using the *MoneyHelper investment pathways* comparison tool, available on <https://www.moneyhelper.org.uk/pathways>; and
- (4) provide a clear and prominent statement about the availability of advice and *pensions guidance*.
- 19.10.31** **G** A *retail client's* signature on a pre-populated form, whether in paper or electronic format, is not, by itself, sufficient evidence of an active decision to invest in *cash-like investments*.
- 19.10.32** **R**
- (1) ■ COBS 19.10.30R(2) does not apply where a *retail client* has given a *discretionary investment manager* or a financial adviser permission to *execute* investment decisions, and the sums or assets covered by this permission comprise more than 50% of the *retail client's* drawdown fund.
- (2) When ascertaining whether more than 50% of the *retail client's* drawdown fund is invested in *cash-like investments*, a *firm* may ignore sums or assets in relation to which a *discretionary investment manager* or a financial adviser has permission to *execute* investment decisions. A *firm* exercising this option must take the steps in ■ COBS 19.10.30R(2) if the client's decision would result in more than 50% of the remainder of the drawdown fund being invested in *cash-like investments*.
- (3) If it is not possible for the *firm* to identify the assets in a *retail client's* drawdown fund, despite making all reasonable efforts, a *firm* may take into account all investments in the *retail client's personal pension scheme* or *stakeholder pension scheme*. In such a case, a *firm* must take the steps in ■ COBS 19.10.30R(2) if the client's decision would result in more than 50% of the value of the client's *personal pension scheme* or *stakeholder pension scheme* being invested in *cash-like investments*.
- 19.10.33** **G** To ascertain whether more than 50% of a *retail client's* drawdown fund is invested in *cash-like investments*, a *firm* should take reasonable steps to obtain up-to-date information, and should use the most recent information it has access to.
- Ongoing cash warnings**
- 19.10.34** **R** When a *firm* has given a *retail client* a cash warning pursuant to ■ COBS 19.10.30R(2)(b) or ■ TP 2.8GR, the *firm* must give the client a cash warning at least annually thereafter, while the client remains so invested and remains a non-advised client.
- 19.10.35** **G** When considering whether to send an annual cash warning, a *firm* may, but is not obligated to, reassess whether a *retail 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).

### Product governance

19.10.36 **G** A firm should ensure that it complies with the product governance requirements in *PROD* in relation to the *pathway investments* they offer.

### Cash warnings

19.10.37 **G** This section defines a cash warning and how it must be provided. ■ COBS 19.10.30R(2)(b), ■ TP 2.8GR and ■ COBS 19.10.34R set out when a cash warning must be provided.

19.10.38 **R** The cash warning must:

- (1) be provided in a *durable medium*;
- (2) using plain language, warn the *retail client* that:
  - (a) more than half of their eligible drawdown fund is invested in *cash-like investments*; and
  - (b) the value of their drawdown fund is at risk of being eroded by inflation; and
- (3) include a generic example (provided as an explanation, an illustration or both) of how inflation erosion would affect a £10,000 pot over 5 years, assuming 0% interest and using a measure of inflation generally accepted in the *United Kingdom*; and
- (4) inform the *retail client* that if they plan to invest for the longer-term, they should consider whether their current investments are likely to grow sufficiently to meet their objectives.

19.10.39 **G** The firm should also:

- (1) (if appropriate) inform the *retail client* that:
  - (a) this warning is not advice or a substitute for it;
  - (b) the value of any investment can fall as well as rise;
- (2) explain to and/or illustrate for the *retail client* that different types of investment have a different balance of risk to potential gain;
- (3) provide the *retail client* with a statement to the effect that (to the extent applicable) the firm offers *pathway investments* and other investments; and
- (4) remind the *retail client* (in line with the requirements in ■ COBS 19.4) that the *retail client* can:
  - (a) shop around (with an explanation of how to do that);
  - (b) seek advice from a FCA-regulated financial adviser; and

(c) review information on the *MoneyHelper* website, available on <https://www.moneyhelper.org.uk>.

**19.10.40** **G** In the *FCA's* view, the Consumer Prices Index is a national index of retail prices and so may be used as a measure of the current inflation rate for the purposes of **■** COBS 19.10.38R(3).

### Warning on expiry of a fixed-term product

**19.10.41** **G** This section sets out when and how warnings must be given to *retail clients* who have purchased certain fixed-term products, and what the warnings should include.

**19.10.42** **R** **■** COBS 19.10.43R applies where:

- (1) a non-advised *retail client* has purchased a fixed-term product within a *personal pension scheme* or *stakeholder pension scheme*;
- (2) at the end of the fixed term, that product has a fixed cash value payable to the *retail client* or the *retail client's* beneficiary; and
- (3) the *retail client* has not given the *firm* instructions to transfer the full value out of the product.

**19.10.43** **R** The *firm* must provide the *retail client* with a warning, which must:

- (1) be provided:
  - (a) in a *durable medium*;
  - (b) within 28 days of the end of the fixed term; and
  - (c) at least annually thereafter for so long as the value remains in the product; and
- (2) in plain language, warn the client that:
  - (a) the fixed term of the product has expired;
  - (b) if applicable, no interest will accrue on the value remaining in the product; and
  - (c) the value remaining in the product is at risk of being eroded by inflation; and
- (3) include a generic example (provided as an explanation, an illustration or both) of how inflation erosion would affect a £10,000 pot over 5 years, assuming 0% interest and using a measure of inflation generally accepted in the *United Kingdom*.

**19.10.44** **G** The *firm* should also:

- (1) if appropriate, inform the *retail client* that this warning is not advice or a substitute for it;

(2) remind the *retail client* (in line with the requirements in ■ COBS 19.4) that they can:

- (a) shop around (with an explanation of how to do that);
- (b) seek advice from a FCA-regulated financial adviser; and
- (c) review information on the *MoneyHelper* website available on <https://www.moneyhelper.org.uk>.

19.10.45 **G** In the FCA's view, the Consumer Prices Index is a national index of retail prices and so may be used as a measure of the current inflation rate for the purposes of ■ COBS 19.10.43R(3).

### Record keeping

19.10.46 **R** A pathway investments exempt firm must maintain a record of:

- (1) the dates its exemption applies; and
- (2) how the *firm* assessed that it meets the requirements for the exemption with reference to the criteria in ■ COBS 19.10.1R(5)(b).

19.10.47 **G** A *firm* to which the record-keeping rules in ■ SYSC 3 (Systems and controls) or ■ SYSC 9 (Record-keeping) apply should maintain a record of its compliance with the requirements in this section including:

- (1) the number of advised and non-advised *retail clients* entering into drawdown arrangements with the *firm*;
- (2) a record of how the *firm* determined, on reasonable grounds, that a *retail client* had received a *personal recommendation*, in accordance with ■ COBS 19.10.10R(4) (where relevant);
- (3) the number of *retail clients* who chose each of the 3 options at step 1 of *investment pathways*;
- (4) the number of *retail clients* who selected each *investment pathway* option at step 2;
- (5) the total number of *retail clients* who did not select an *investment pathway* option after step 2;
- (6) in relation to *retail clients* who did not select an *investment pathway* option after step 2, the number who:
  - (a) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;
  - (b) moved sums or assets into drawdown but remained invested in their previous investments;
  - (c) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected another investment offered by the *firm*.
- (7) the number of *retail clients* offered each *pathway investment* at step 3;

- (8) the number of *retail clients* who selected each *pathway investment* at step 3;
- (9) the total number of *retail clients* who did not select the *pathway investment* offered;
- (10) in relation to *retail clients* who did not select the *pathway investment* offered, the number who:
  - (a) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;
  - (b) moved sums or assets into drawdown but remained invested in their previous investments;
  - (c) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected another investment offered by the *firm*;
  - (c) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a *pathway investment* different to that offered by the *firm* in step 3;
- (11) where a *firm* refers *retail clients* to another *firm's pathway investment* at step 3:
  - (a) the number of *retail clients* referred to another *firm's pathway investment*, broken down by *pathway investment* if more than one;
  - (b) the number who transferred to that *firm*;
  - (c) the number who did not transfer to that *firm*;
  - (d) in relation to *retail clients* who did not transfer, the number who:
    - (i) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;
    - (ii) moved sums or assets into drawdown but remained invested in their previous investments;
    - (iii) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a *non-pathway investment* offered by the *firm*;
    - (iv) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a *pathway investment* that did not require transferring to another *firm*;
- (12) where a *pathway investment exempt firm* refers *retail clients* to the *MoneyHelper investment pathways comparison tool* at step 3:
  - (a) the number of *retail clients* directed to the *MoneyHelper investment pathways comparison tool*;
  - (b) the numbers of those *retail clients* who then transferred to another *firm*;
  - (c) the number of *retail clients* who did not transfer to another *firm*;
  - (d) in relation to *retail clients* who did not transfer, the number who:
    - (i) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;

- (ii) moved sums or assets into drawdown but remained invested in their previous investments;
  - (iii) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a *non-pathway investment* offered by the *firm*;
- (13) the number of *retail clients* who received a cash warning pursuant to ■ COBS 19.10.30R(2)(b) (initial cash warning);
- (4) the number of *retail clients* who received a cash warning pursuant to ■ COBS 19.10.34R (ongoing cash warning);
- (15) in relation to *retail clients* who received an initial cash warning, the number of clients who did not receive an ongoing cash warning because:
- (a) they were no longer holding more than 50% of their drawdown fund in *cash-like investments*;
  - (b) they closed their drawdown fund or transferred to another *firm*;
  - (c) the *firm* assessed that the *retail client* was no longer non-advised;
- (16) evidence of how each *retail client* who received an initial cash warning made an active choice, in accordance with ■ COBS 19.10.30R(2)(a), to invest more than 50% of their drawdown fund in *cash-like investments*;
- (17) the number of *retail clients* who received a warning pursuant to ■ COBS 19.10.43R(1)(b) (initial warning on expiry of fixed-term fixed-income product); and
- (18) the number of *retail clients* who received a warning pursuant to ■ COBS 19.10.43R(1)(c) (ongoing warning on expiry of fixed-term fixed-income product).

19.10.48 **G** ■ PROD 6.2.2G and ■ 6.3.4G contain further *guidance* on record-keeping for *firms manufacturing or distributing pathway investments*.

## 19.11 Pensions dashboards

### Who?

- 19.11.1 **R** This section applies to an *operator of a relevant pension scheme*. For the avoidance of doubt, in this section, a *personal pension scheme* includes a *personal pension product* and therefore the provider of a *personal pension product* is within the scope of the *rules* in this section.

### Purpose

- 19.11.2 **G** The purpose of this section is to ensure that an *operator of a relevant pension scheme* provides and facilitates the provision of sufficient *pensions dashboard view data* to a *pensions dashboard service*.

- 19.11.3 **G** This section specifies the requirements placed on an *operator of a relevant pension scheme* to:

- (1) register with the *Money and Pensions Service*;
- (2) connect with the *MaPS dashboards digital architecture*;
- (3) provide and facilitate the provision of sufficient information in response to *pensions dashboard find requests* and *pensions dashboard view requests*; and
- (4) comply with *pensions dashboard standards* and have regard to *pensions dashboard guidance* as appropriate.

- 19.11.4 **G** Where a *firm* is required by the *rules* in this section to have regard to *pensions dashboard guidance*, the *firm* will need to do so with due skill, care and diligence (in line with *Principle 2*). *Firms* will need to be able to demonstrate that they have taken into account the relevant guidance and the intended outcomes when considering whether their own systems are in line with that guidance and comply with the *rules* in this section.

### Co-operation with, and notifications to, the Money and Pensions Service

- 19.11.5 **R** A *firm* must:
- (1) cooperate with the *Money and Pensions Service* as far as is reasonably necessary to assist with the exercise of the *Money and Pensions Service's* functions in relation to *pensions dashboard services*; and



(2) comply with the service and operational *pensions dashboard standards*.

**19.11.6** **R** In compliance with the service and operational *pensions dashboard standards*, a *firm* must notify the *Money and Pensions Service* as soon as possible once it becomes aware of any of the following issues:

- (1) connection state changes, such as scheduled downtime or maintenance;
- (2) systemic issues, such as cyber-attacks that could affect the security of the *MaPS pensions dashboards ecosystem*; and
- (3) changes in connection arrangements.

**19.11.7** **R** A *firm* must immediately notify the *Money and Pensions Service* if it is disconnected from the *MaPS dashboards digital architecture*.

### Registration and connection to the Money and Pensions Service

**19.11.8** **R** A *firm* must:

- (1) register with the *Money and Pensions Service* having regard to *pensions dashboard guidance* relating to connection;
- (2) ensure that it is, and remains, connected to the *MaPS dashboards digital architecture*:
  - (a) in compliance with the *pensions dashboard standards* relating to:
    - (i) connection and security standards;
    - (ii) technical standards; and
  - (b) having carried out the steps in the *pensions dashboard guidance* relating to connection or any alternative steps the *firm* has taken to achieve the same result; and
- (3) make and maintain a record of how it has complied with (2)(b) for at least 6 years from the end of the calendar year to which the information relates.

### Responding to find requests and the matching process

**19.11.9** **R** A *firm* must determine the *pensions dashboard matching criteria* to use for the *pensions dashboard matching process*:

- (1) having regard to *pensions dashboard guidance* on matching; and
- (2) taking into account:
  - (a) the nature and quality of the *pensions dashboard find data* held by the *firm*; and
  - (b) the *firm's* preferred approach to preventing data breaches.

- 19.11.10** **R** A firm must make and maintain a record of the *pensions dashboard matching criteria* determined by the firm in **■** COBS 19.11.9R for at least 6 years from the end of the calendar year to which the information relates.
- 19.11.11** **R** On receipt of a *pensions dashboard find request*, a firm must immediately follow the *pensions dashboard matching process* having regard to *pensions dashboard guidance* on matching.
- 19.11.12** **R** Where there is a *positive match* relating to a *pensions dashboard user* who is or could be a *relevant pension scheme member*, a firm must:
- (1) immediately create a *pension identifier*;
  - (2) register the *pension identifier* with the *Money and Pensions Service* in accordance with technical *pensions dashboard standards*; and
  - (3) store information that indicates whether the *pension identifier* relates to a *match made* or a *possible match*.
- 19.11.13** **R** Where there is a *possible match*, a firm must:
- (1) check with the *Money and Pensions Service* that the *pensions dashboard user* to whom the *pensions dashboard find request* relates has consented to their *pensions dashboards view data* being provided to the *pensions dashboard service* that issued the *pensions dashboard view request*;
  - (2) if the *Money and Pensions Service* confirms the information in (1), immediately provide the *limited form of administrative data* to the *pensions dashboard service* that issued the *pensions dashboard view request*:
    - (a) in the format and manner set out in the *pensions dashboard standards* on data; and
    - (b) having regard to *pensions dashboard guidance* on data;
  - (3) immediately send a message, in accordance with the *pensions dashboard standards* on data, to the *pensions dashboard service* that issued the *pensions dashboard view request*, indicating that:
    - (a) further information is required in order to determine if the *pensions dashboard user* is a *relevant pension scheme member*; and
    - (b) the *pensions dashboard user* to whom the *pensions dashboard find request* relates must contact the operator of the *relevant pension scheme* to which the *possible match* relates, within 30 days of receiving the *limited form of administrative data*, to provide further information so that the *relevant pension scheme* can determine whether the *pensions dashboard user* is a *relevant pension scheme member*;
  - (4) if the *pensions dashboard user* to whom the *pensions dashboard find request* relates contacts them, immediately seek to resolve the *possible match* having regard to the *pensions dashboard guidance* on matching;

- (5) where the *pensions dashboard user* to whom the *pensions dashboard find request* relates:
  - (a) does not make contact with the *operator* of the *relevant pension scheme* regarding the *possible match* within 30 days of receiving the *limited form of administrative data*; or
  - (b) does make contact, but the *relevant pension scheme*, having regard to *pensions dashboard guidance* on matching, is unable to resolve the *possible match* as a *match made* within such time as may be reasonably allowed by the *relevant pension scheme*, the *firm* must delete the *pensions dashboard find request* and de-register the *pension identifier* from the *Money and Pensions Service* as soon as possible; and
- (6) notify the *Money and Pensions Service* if the *relevant pension scheme* determines subsequently that the *pensions dashboard user* is a *relevant pension scheme member*.

- 19.11.14 **R** Where a *positive match* or a *possible match* is made but the *relevant pension scheme member* subsequently ceases to be a *relevant pension scheme member*, the *firm* must de-register the *pensions identifier* from the *Money and Pensions Service* as soon as possible.

#### Responding to view requests and requirement to provide view data

- 19.11.15 **R** Where there is a *match made* (including where a *possible match* subsequently results in a *match made*) and the *firm* receives a *pension dashboard view request*, a *firm* must:
- (1) check with the *Money and Pensions Service* that the *relevant pension scheme member* to whom the *pension dashboard find request* relates has consented to their *pensions dashboard view data* being provided to the *pensions dashboard service* that issued the *pension dashboard view request*;
  - (2) if the *Money and Pensions Service* confirms the information in (1), provide the *relevant pension scheme member's pensions dashboard view data* to the *pensions dashboard service* that issued the *pensions dashboard view request*; and
  - (3) ensure the *pensions dashboard view data*:
    - (a) is in the format and manner set out in the *pensions dashboard standards* on data; and
    - (b) is provided having regard to the *pensions dashboard guidance* on data.

#### Administrative data – timescales

- 19.11.16 **R** A *firm* must provide the *administrative data* element of *pensions dashboard view data* required to be provided in **COBS 19.11.15R(2)**, in accordance with the following timescales:

- (a) if the *pensions dashboard view request* relates to a *relevant pension scheme member* who has joined the *relevant pension scheme* less than 3 months ago:
  - (i) as soon as practicable; and
  - (ii) in any event, no later than 3 months after the *relevant pension scheme member's* joining date.
- (b) in any other case, immediately after the request is received by the *firm*.

### Administrative data – content

- 19.11.17 **R** The *administrative data* element of *pensions dashboard view data* required to be given in **■ COBS 19.11.15R(2)** must be provided:
- (1) in accordance with the *pensions dashboard standards* on data; and
  - (2) having regard to *pensions dashboard guidance* on data.
- 19.11.18 **R** The *administrative data* is comprised of the following:
- (1) the date of birth of the *relevant pension scheme member* concerned;
  - (2) information about the *relevant pension scheme*;
  - (3) information about the *administrator* of the *relevant pension scheme*; and
  - (4) where applicable and to the extent available, information about the employment that gave rise to the accrual of the pension saving.
- 19.11.19 **R** The information about the *relevant pension scheme* referred to in **■ COBS 19.11.18R(2)** must include:
- (1) the name of the *relevant pension scheme*;
  - (2) a description of the types of benefit provided under the *relevant pension scheme* to the *relevant pension scheme member*;
  - (3) whether the *relevant pension scheme member* is an *active pension scheme member* or a *deferred pension scheme member* or a *pension credit member*; and
  - (4) the date when the *relevant pension scheme member* became a member of the *relevant pension scheme*.
- 19.11.20 **R** The information referred to in **■ COBS 19.11.18R(3)** about the *administrator* of the *relevant pension scheme* must include:
- (1) the name of the *administrator* having regard to *pensions dashboard standards* on data;

- (2) information to enable the *relevant pension scheme member* to get in touch with the *administrator*, which complies with *pensions dashboard standards* on data and which includes at least one of the following:
  - (a) the *administrator's* website address;
  - (b) the *administrator's* email address;
  - (c) the *administrator's* telephone number and telephone number type, including whether the number is the primary telephone number, is appropriate for Welsh language speakers, or is for text message service only; and
  - (d) the name and full postal address of the *administrator*.

**19.11.21** **R** The information referred to in **■ COBS 19.11.18R(4)** about the employment to which the pension saving in the *relevant pension scheme* relates must (where applicable and to the extent available) include:

- (1) the start date of the earliest period of employment which generated the accrual of the pension saving;
- (2) in relation to a deferred member, the end date of the latest period of employment which generated the accrual of the pension saving;
- (3) in a case where the employment which generated the accrual of the pension saving relates to a single employer, the name of the employer;
- (4) in a case where the employment which generated the accrual of the pension saving relates to more than one employer, whichever of the following is most appropriate:
  - (a) the name of the most recent employer; or
  - (b) confirmation that there have been multiple employers.

#### Signpost data – timescales and location

**19.11.22** **R** To the extent that *signpost data* is applicable to the nature of the *relevant pension scheme* or the type of benefit in question, where a *firm* has to provide *pensions dashboard view data* under **■ COBS 19.11.15R(2)**, a *firm* must provide the *signpost data* element (or where relevant, the data in (3)):

- (1) immediately; and
- (2) by providing a website address for locations where *signpost data* can be accessed by the *relevant pension scheme member* to whom the *pensions dashboard view request* relates.
- (3) Where a *firm* does not already have information on member-borne costs and charges available on a website, the *firm* must instead provide clear information to the *relevant pension scheme member* on the website referred in (2) about how they can obtain details about their member-borne costs and charges.

### Requirement to provide value data

- 19.11.23** **R** A firm must provide the *value data* element of the *pension dashboard view data* in accordance with ■ COBS 19 Annex 6 in respect of a *relevant pension scheme member*, unless an exemption set out below applies.
- 19.11.24** **R** A firm is not required to provide the *projected pension pot value* or the *annualised projected pension value* under ■ COBS 19 Annex 6 1R in respect of a *relevant pension scheme member*:
- (1) with *money purchase benefits*; or
  - (2) with *hybrid benefits* where the benefit is calculated with reference to both *money purchase benefits* and benefits other than *money purchase benefits* (if any),
- where all of the following criteria are met in relation to the *relevant pension scheme member*:
- (3) the value of the *relevant pension scheme member's* accrued rights to *money-purchase benefits* under the *relevant pension scheme*, determined in accordance with the *relevant pension guidance*, was less than £5,000 on the last *illustration date*;
  - (4) since the previous *illustration date*, no contributions (including transfers of pension rights and pension credits) have been made to the *relevant pension scheme* by, or on behalf of, the *relevant pension scheme member* in respect of their *money-purchase benefits*; and
  - (5) the *firm* has previously given notice to the *relevant pension scheme member* that a *pension illustration* will not be given to them again unless further contributions referred to in (4) have been made.
- 19.11.25** **R** A firm is not required to provide a *projected pension pot value* or an *annualised projected pension value* under ■ COBS 19 Annex 6 1R in respect of a *relevant pension scheme member*:
- (1) with *money purchase benefits*; or
  - (2) with *hybrid benefits* where the benefit is calculated with reference to both *money purchase benefits* and benefits other than *money purchase benefits*; and
- who is within 2 years of their *retirement date*.
- 19.11.26** **G** A firm may provide the *projected pension pot value* or the *annualised projected pension value* in respect of a *relevant pension scheme member* where, under ■ COBS 19.11.24R, or ■ COBS 19.11.25R the *firm* is not required to do so.
- 19.11.27** **R** A firm is not required to provide an *annualised projected pension value* or an *annualised accrued pension value* under ■ COBS 19 Annex 6 3R if the *cash balance benefit* was established in such a way that it was designed to provide a lump sum on retirement.

### Value data – timescales

- 19.11.28** **R** Where a *firm* is required to provide *pension dashboard view data* under **■ COBS 19.11.15R(2)**, it must provide the *value data* immediately after the *pensions dashboard view request* is received, unless the situations set out in **■ COBS 19.11.29R** or **■ COBS 19.11.30R** apply, in which case the timescales set out in those *rules* apply.
- 19.11.29** **R** Where the *value data* has not been generated for a *pension benefits statement* provided to the *relevant pension scheme member* within the past 13 *months*, or is not based on a calculation that was made using the same methodology as would have been used for such a *pension benefits statement* made within the past 12 *months*, the following timescales apply:
- (1) where all of the benefits provided to a *relevant pension scheme member* are *money purchase benefits*, the *value data* must be provided within 3 *working days* from the day after the date on which:
    - (a) a *pension identifier* is registered for a *match made*; or
    - (b) (if relevant) the *Money and Pensions Service* is notified that a *possible match* is a *match made*;
  - (2) in all other cases (including where the benefits provided to a member are *hybrid benefits* which depend on anything other than a *money purchase benefits* calculation), the *value data* must be provided within 10 *working days* from the day after the date on which:
    - (a) a *pension identifier* is registered for a *match made*; or
    - (b) (if relevant) the *Money and Pensions Service* is notified that a *possible match* is a *match made*.
- 19.11.30** **R** Where a *pensions dashboard view request* is issued by a *pensions dashboard service* in respect of a *relevant pension scheme member* within 12 months of the end of that member's first full calendar year, the *firm* must meet the requirements of **■ COBS 19.11.23R**, **■ COBS 19.11.29R**, **■ COBS 19.11.32R** and **■ COBS 19.11.33R** as soon as practicable, and no later than the sooner of:
- (1) the point at which the first *pension benefits statement* has been produced for the *relevant pension scheme member*; or
  - (2) 12 months after the end of the *relevant pension scheme member's* first full calendar year.
- 19.11.31** **R** Where an element of *value data* that a *firm* is required to provide is not returned on time:
- (1) the *firm* must provide a reason for the delay (in particular if there is a system error or a delay in calculation), in accordance with *pensions dashboard standards* relating to data; and
  - (2) the giving of a reason under (1) does not excuse the *firm* from the requirement to provide the element of *value data*.

### Value data – illustration date and contextual information

19.11.32 **R**

The *value data* must:

- (1) be from:
  - (a) a *pension benefits statement* provided to the *relevant pension scheme member* within the last 13 *months*, even if the values in that *pension benefits statement* were calculated more than 13 *months* ago, and whether or not such a calculation was done in response to an earlier *pensions dashboard view request*; or
  - (b) a calculation performed for the *relevant pension scheme member* within the last 12 *months*, whether or not such a calculation was done in response to an earlier *pensions dashboard view request*; and
- (2) have the same *illustration date*.

### Contextual information

19.11.33 **R**

A *firm* must provide the following *contextual information* to the extent relevant in the circumstances:

- (1) the *illustration date*, having regard to *pensions dashboard guidance* relating to value data;
- (2) whether the value is expressed as an annual income, lump sum or as a pot value;
- (3) whether the value displayed contains any *safeguarded benefits*;
- (4) whether the value displayed includes any spouse's or civil partner's or dependant's benefits; and
- (5) whether the benefits, once in payment, could be subject to change;
- (6) the type of illustration provided, as referred to in the *pensions dashboard standards* on data;
- (7) the date from when a benefit is to be payable or, where benefits are to be paid in *tranches*, the date from when each *tranche* of benefit is to be payable;
- (8) if a pension benefit is payable for a fixed term, the date that the benefit is payable to (although benefits payable until death should leave the 'to' date blank);
- (9) additional information to help the *relevant pension scheme member* better understand their *value data*, including whether:
  - (a) the benefits are *hybrid pension benefits*;
  - (b) the pension may increase or decrease in payment;
  - (c) the pension may stop paying out or reduce at a certain age;
  - (d) if there are multiple *tranches* of benefits, more than one *retirement date* has been used to calculate the value;



- (e) the *relevant pension scheme member* should get in touch with the *operator* of the *relevant pension scheme* regarding the value displayed, together with the reason for getting in touch; and
- (f) a calculation method has been used as referred to in
  - COBS 19 Annex 6 2.2(2).

(10) For (2), (3), (4), (5), (8) and (9), the data element in each case should be selected from a fixed list, as set in the *pensions dashboard standards* on data.

### Operational information and reporting

19.11.34 **R** A firm must be in a position to provide *operational information*:

- (a) to the *FCA* when requested to do so by the *FCA*; or
- (b) to the *Money and Pensions Service* when requested to do so by the *Money and Pensions Service*, in accordance with *pensions dashboard standards* relating to reporting.

19.11.35 **R** The *operational information* which may be requested by the *FCA* includes, but is not limited to, information on the following:

- (1) the number of *pensions dashboard find requests* received by the *firm*;
- (2) the *pensions dashboard matching process* used by the *firm*;
- (3) in relation to *positive matches*:
  - (a) the number of matches made that are notified to the *Money and Pensions Service*; and
  - (b) how quickly any uncertainties in relation to *possible matches* were resolved;
- (4) in relation to *possible matches*:
  - (a) the number of *possible matches* that are notified to the *Money and Pensions Service*; and
  - (b) how many of these resulted in a *match made*, resulted in no match being made, or remained unresolved;
- (5) the number of *pensions dashboard view requests* received by the *firm* and the time taken to respond to each one;
- (6) contacts received from users, including details of:
  - (a) queries about pensions information provided;
  - (b) pensions not found following a search; and
  - (c) complaints; and
- (7) any aspect of the *data processing* of a *pensions dashboard user's* request for pensions information.

**19.11.36** **G** The *operational information* which may be requested by the *Money and Pensions Service* includes, but is not limited to, information set out in

- COBS 19.11.35R. Failure to comply with a request by the *FCA* or *Money and Pensions Service* is likely to be considered a breach of *FCA* Principle 11 or
- COBS 19.11.5R and in significant cases might be considered a breach of the *threshold conditions*.

**19.11.37** **R** A *firm* must make, and maintain for 6 years from the end of the calendar year to which it relates, a record of the *operational information* specified in

- COBS 19.11.35R.

### Record keeping

---

**19.11.38** **G** The *rules* in this section regarding record keeping are in addition to any other record-keeping requirements to which the *firm* is subject.

## 19.12 Non-workplace pensions: default options and cash warnings

### Definitions

19.12.1 **R** In ■ COBS 19.12:

- (1) 'cash warning' is the warning in ■ COBS 19.12.31R;
- (2) 'distributes' includes having an arrangement with a third party to arrange an *investment*, or to promote *platform services* that distribute *investments*;
- (3) 'filtering tool' means a tool whereby a *firm* makes the list of the *investments* it sells easier to search by allowing the *customer* to filter products based on factors presented by the *firm* and selected by the *customer*, and showing to the *customer* the *investments* that meet the factors selected by the *customer*; and
- (4) 'pre-purchase questioning tool' means a tool which involves putting a sequence of questions in order to extract information from a *person* to help them best select an *investment* that meets their needs. A decision tree is an example of a pre-purchase questioning tool. The process of going through the questions will usually narrow down the range of options that are available.

### Application of default option rules

19.12.2 **R** ■ COBS 19.12.10R to ■ COBS 19.12.22G apply to an *operator* of a *non-workplace pension scheme* that:

- (1) offers, distributes or promotes *investments*, or promotes *platform services* that distribute *investments*, in relation to their inclusion in a *non-workplace pension* of the *operator*; or
- (2) accepts, for inclusion in a *non-workplace pension*, *investments* which are offered, distributed or promoted by another *person* where that other *person*, or another *person* connected to it, also arranges for the *retail client* to enter into the *non-workplace pension* with the *operator*.

19.12.3 **G** The effect of ■ COBS 19.12.2R is that ■ COBS 19.12.10R to ■ COBS 19.12.22G:

- (1) do not apply where an *operator* only *arranges* an *investment* for inclusion in, or the provision of *platform services* in respect of, a *retail client's non-workplace pension*, at the request of the *retail client*. In

these circumstances, therefore, the *operator* does not offer, distribute or promote any *investments*, nor does it promote *platform services* that distribute *investments*.

- (2) apply where an *operator* accepts, for inclusion in a *retail client's non-workplace pension*, an *investment* offered, distributed or promoted by a third party, including a *platform services provider* or an introducer, where that third party or someone connected to that third party also arranges for the *retail client* to enter into the *non-workplace pension* with the *operator* unless the *retail client* has received or will receive, either as part of transactional or ongoing advice, a *personal recommendation* in relation to the *investment* of their contributions to, or assets in, the *non-workplace pension* (see ■ COBS 19.12.5R).

- 19.12.4 **R** ■ COBS 19.12.10R to ■ COBS 19.12.22G do not apply where an *operator* starts treating a *retail client's* workplace pension arrangements as a *non-workplace pension* after the *retail client* has become a deferred member of the relevant *qualifying scheme*, so long as the *firm* does not offer, distribute or promote to the *retail client* any *investments* or *platform services* other than those available in connection with the former workplace pension arrangements, including the *default arrangement* and any *investments* available on a self-select basis.

#### Exclusion from default option rules in relation to advised clients

- 19.12.5 **R** ■ COBS 19.12.10R to ■ COBS 19.12.22G do not apply in relation to a *non-workplace pension* where the *firm* has determined, on reasonable grounds, that the *retail client*:
- (1) has received or will receive, either as part of transactional or ongoing advice, a *personal recommendation* in relation to the investment of their contributions to, or assets in, the *non-workplace pension*; or
  - (2) has appointed an *investment manager* in relation to the investment of the *retail client's* contributions to, or assets in, the *non-workplace pension*.

- 19.12.6 **G** A *firm* will not have reasonable grounds to determine that a *retail client* has received, or will receive, a *personal recommendation* for the purpose of ■ COBS 19.12.5R(1) if the determination is based solely on information that:
- (1) is over 12 *months* old;
  - (2) the *retail client* is in, or transferring from, an advised product; or
  - (3) the *retail client* provides *remuneration* to an *adviser* in relation to other *investments*.

#### Application of cash warning rules

- 19.12.7 **R** ■ COBS 19.12.23R to ■ COBS 19.12.33G apply to an *operator* of a *non-workplace pension scheme*.

- 19.12.8 **R** ■ COBS 19.12.23R to ■ COBS 19.12.33G do not apply in relation to a *non-workplace pension* where the *firm* has determined, on reasonable grounds, that the *retail client* has appointed an *investment manager* in relation to the investment of their contributions to, or assets in, the *non-workplace pension*.

### Purpose

- 19.12.9 **G**
- (1) The purpose of this section is to specify the circumstances where a *firm* must:
    - (a) offer a *default option* to a *non-advised client* in connection with their *non-workplace pension*; and
    - (b) provide warnings to a *retail client* who has invested, for a sustained period of time, over a certain percentage of their *non-workplace pension* in *cash-like investments*.
  - (2) The *default option* rules in ■ COBS 19.12 are designed to help *non-advised clients* who are generally unable or unwilling to engage with *investment* decisions, or find it difficult to identify appropriate *investments* for inclusion in their *non-workplace pensions*, including where questionnaires or filtering tools are used. The purpose of the rules in ■ COBS 19.12 is to help these *non-advised clients* to choose an appropriate *investment* option.

### Requirement to offer a default option

- 19.12.10 **R** A *firm* must offer its *retail clients* a *default option* for inclusion in the *non-workplace pensions* it operates for those clients.

- 19.12.11 **R** A *firm* must not:
- (1) offer more than one *default option* to each *retail client*; or
  - (2) make the decision as to which *default option* to offer to each *retail client* by depending on the *retail client's* answers to questions set out in a pre-purchase questioning tool or a filtering tool.

- 19.12.12 **G** A *firm* may, as a single *default option*, offer a series of different *target date funds* that depend on *retail clients' target retirement dates*.

### When and where to offer a default option

- 19.12.13 **R** A *firm* must offer the *default option*:
- (1) at the time the *retail client* enters into the *non-workplace pension* operated by the *firm* (regardless of whether an initial cash contribution is made at this stage); and
  - (2) again at the time the *retail client* makes their initial cash contribution (if one has not already been made on entry) into the *non-workplace pension*,

unless the *retail client* is, at the point of entry into the *non-workplace pension* with the *firm*, only transferring in *investments* they already hold

elsewhere and will continue to use the investment strategy associated with those *investments* when making requests of the *firm*.

19.12.14 **G** Where a *retail client*:

- (1) makes their initial cash contribution at the point of entry into the *non-workplace pension* with the *firm*, the *firm* will need to bring the existence of the *default option* to the attention of the *retail client* at that stage; and
- (2) makes their initial cash contribution after the point of entry into the *non-workplace pension* with the *firm*, the *firm* will need to comply with **COBS 19.12.13R** by offering the *default option* both at the stage at which the *client* enters the *non-workplace pension* and again at the point they make their initial cash contribution.

19.12.15 **R** Additionally, where a *firm*, or any other *person* involved in the offer, distribution or promotion of *investments* for inclusion in a *non-workplace pension* of the *firm*:

- (1) sets out, in menus or otherwise, the other *investments* available to the *retail client* for inclusion in their *non-workplace pension*, the *firm* must set out the *default option* in a location most likely to bring it to the attention of that *retail client*;
- (2) makes available pre-purchase questioning tools or filtering tools that enable a *retail client* to select *investments* for inclusion in their *non-workplace pension*, the *firm* must set out the *default option* alongside those tools.

19.12.16 **G** It is unlikely that complying with **COBS 19.12.15R(1)** would require a *firm* to set out the *default option* in every menu, or in every level of a menu, where other *investments* are set out.

### How to present the default option

19.12.17 **R** A *firm* must present a *default option*:

- (1) when complying with **COBS 19.12.13R**, prominently and on a standalone basis; and
- (2) when complying with **COBS 19.12.15R**, with at least equal prominence to any other *investment*, pre-purchase questioning tool or filtering tool made available to *retail clients* alongside the *default option*.

19.12.18 **R** When complying with **COBS 19.12.13R** and **COBS 19.12.15R**, a *firm* must ensure that it:

- (1) labels a *default option* in a sufficiently clear way to give an indication of the nature of it and also to distinguish it from the *firm's* other offerings;

- (2) sets out, in a clear and prominent way, the aims of the *default option*, explains that the *default option* has been designed to meet the needs, objectives and characteristics of a typical *non-advised client* in the target market for the *default option*, and sets out what the *manufacturer* considers those needs, objectives and characteristics to be; and
- (3) makes it clear that the *default option* is not tailored to the specific needs, objectives or characteristics of each *retail client*, and that if the *retail client*:
  - (a) considers that their needs, objectives and characteristics may fall outside those of the typical *non-advised client* in the target market as described by the *firm*, they may wish to consider other investment options;
  - (b) wishes to ensure that the *non-workplace pension* and any *investments* included in it (including the *default option*) are suitable for them, the *retail client* should consider seeking *investment advice*.

#### Preparing to offer a default option

- 19.12.19 **R** A *firm* must be in a position to offer a *default option* in good time before it has to offer the *default option* pursuant to **COBS 19.12.10R**, in order to allow for sufficient internal product governance.
- 19.12.20 **G** The *default option* may be *manufactured* by either the *operator* alone, by another *firm*, or by both, and *distributed* by either the *operator* alone, or by the *operator* and another *firm*.
- 19.12.21 **G** *Manufacturers* and *distributors* of *default options* must comply with the applicable product governance requirements in *PROD*. Where the manufacturing is done by another *firm* (either alone or with the *operator*), the *operator* is still responsible for the obligations under **COBS 19.12.10R** to **COBS 19.12.18R**.
- 19.12.22 **G**
- (1) Where *firms* decide to replace a *default option*, they may need to consider whether it would be appropriate to transfer existing clients to the new *default option*.
  - (2) This may be the case, for example, if the transfer is required to prevent consumer harm and avoid risking non-compliance with our *rules*, for example *Principle 6*. This could be the case where *firms* determine that the *default option* no longer meets the applicable product governance requirements in *PROD* and existing clients are likely to suffer harm as a result.
  - (3) If *firms* decide to transfer existing clients to a new *default option*, they will need to consider the information needs of their clients, and communicate to them appropriately and in good time, in a manner that is clear, fair and not misleading.
  - (4) *Firms* are required to have appropriate contractual arrangements in place (including contractual powers that are fair and transparent and

comply with the *CRA*) to enable them to transfer existing *clients* to a new *default option* and to comply with their obligations under the *regulatory system*.

### Cash warnings: conditions

**19.12.23** **R** At least once during every *3-month* period, for each of the *non-workplace pensions* that *retail clients* have entered into with the *firm*, the *firm* must assess whether the following conditions are met at the time of the assessment:

- (1) more than 25% of the *non-workplace pension* is invested in *cash-like investments*, excluding any *cash-like investments* held in connection with *lifestyling* or within a *target date fund*;
- (2) the amount of the cash holding in (1) is greater than £1,000;
- (3) the conditions in (1) and (2) were also met in all the other assessments carried out during the *6-month* period preceding the day of the assessment; and
- (4) the *retail client* is more than 5 years away from:
  - (a) normal minimum pension age, as defined in primary legislation from time to time; or
  - (b) if lower, a protected pension age.

**19.12.24** **R** For the purposes of **COBS 19.12.23R**, the start of the *3-month* period is

- (1) initially determined by reference to the date members enter into their *non-workplace pensions* with the *firm*; and
- (2) after the initial *3-month* period, by reference to the date when, for each *retail client*, the *firm* last carried out, or should have carried out, the assessment under the *rule*.

### Cash warnings: timing

**19.12.25** **R** If all the conditions in **COBS 19.12.23R** are met, the *firm* must provide the *retail client* with a cash warning within an appropriate timeframe after the date when the assessment in that *rule* was carried out.

**19.12.26** **G** For the purposes of **COBS 19.12.25R**, an 'appropriate timeframe' is likely to be within *3 months* of carrying out the assessment in **COBS 19.12.23R**, unless the current market conditions would make it inappropriate to warn the *retail client* about their cash holdings within that timeframe, although providing the cash warning later than *6 months* after the date of the assessment is unlikely to be appropriate.

**19.12.27** **R** If a *firm* has provided a cash warning pursuant to **COBS 19.12.25R**, the requirement in **COBS 19.12.25R** does not apply again until after 1 year of the *firm* providing the previous cash warning.



19.12.28 **G** Notwithstanding **■ COBS 19.12.27R**, a *firm* can choose to provide a new cash warning during the year following the previous cash warning, in which case **■ COBS 19.12.27R** would apply from the date when the new cash warning is provided.

19.12.29 **G** Where the condition in **■ COBS 19.12.23R(4)** is no longer met, a *firm* should consider whether it would be appropriate to keep providing the cash warning up until the time a *retail client* accesses their pension.

19.12.30 **G** A *firm* may send the cash warning with other client communications, provided that the cash warning is included in a document separate to those other client communications.

### Cash warning: form and content

19.12.31 **R** The cash warning at **■ COBS 19.12.25R** must:

- (1) be provided in a *durable medium*;
- (2) using plain language, warn the *retail client* that:
  - more than 25% of their *non-workplace pension* is invested in *cash-like investments*; and
  - the value of their *non-workplace pension* is at risk of being eroded by inflation;
- (3) include a generic example (provided as an explanation, an illustration or both) of how inflation erosion would affect a £10,000 cash pot over 10 years, assuming 0% interest and using a measure of inflation generally accepted in the *United Kingdom*; and
- (4) inform the *retail client* that they should consider whether their current investments are likely to grow sufficiently to meet their objectives.

19.12.32 **G** The *firm* should also:

- (1) inform the *retail client* that:
  - (a) the cash warning is not advice or a substitute for it; and
  - (b) the value of any *investment* can fall as well as rise;
- (2) explain to and/or illustrate for the *retail client* that different types of *investment* have a different balance of risk to potential gain; and
- (3) include in the cash warning a statement to the effect that, where applicable, the *firm* makes available *investments* for inclusion in *non-workplace pensions*, including the *default option*.

19.12.33 **G** In the *FCA's* view, the Consumer Prices Index is a national index of retail prices and so may be used as a measure of the current inflation rate for the purposes of **■ COBS 19.12.31R(3)**.

**Record keeping**

**19.12.34** **G** A *firm* to which the record-keeping rules in ■ SYSC 3 (Systems and controls) or ■ SYSC 9 (Record-keeping) apply will need to maintain a record of its compliance with the requirements in this ■ COBS 19.12 section including, where relevant, how it has determined on reasonable grounds (including records of the evidence it has relied upon) that, in accordance with ■ COBS 19.12.5R, a *retail client* is not a *non-advised client*.

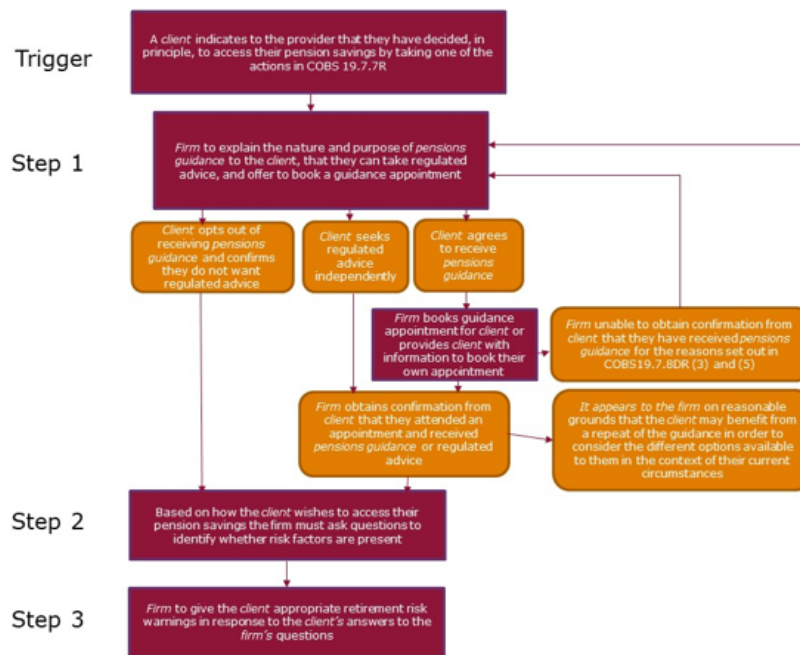
**19.12.35** **R** A *firm* must also maintain a record of:

- (1) the number of *non-advised clients* entering into a *non-workplace pension* with the *firm* each year;
- (2) the number of those *retail clients* in (1) who chose the *default option*;
- (3) the number of *retail clients* not included in (1) that choose the *default option* each year, distinguishing between *retail clients* who were *clients* of the *firm* before ■ COBS 19.12.10R to ■ COBS 19.12.22G came into force and those who became *clients* later;
- (4) the volume of contributions made by *retail clients* to the *default option* each year;
- (5) the volume of assets under management attributable to the *default option*;
- (6) a description of the product approval process for the *default option* and of any reviews undertaken in compliance with ■ PROD 6;
- (7) in relation to cash warnings, differentiating between advised clients and *non-advised clients*, as well as between those *retail clients* who were *clients* of the *firm* before ■ COBS 19.12.23R to ■ COBS 19.12.33G came into force and those who became *clients* later:
  - (a) the dates when assessments were carried out, alongside the number of *retail clients* assessed on those dates;
  - (b) of the *retail clients* in 7(a), the number who met the conditions at ■ COBS 19.12.23R; and
  - (c) of the *retail clients* in 7(b), the number who continue to meet the conditions at ■ COBS 19.12.23R in subsequent assessments.

## Pensions nudge and retirement risk warnings - steps to take

This annex belongs to COBS 19.7.  
COBS 19 Annex 1G

Retirement risk warnings-steps to take



Step 2: identify risk factors  
COBS 19.7.9R

Based on how the retail client wants to access their pension savings, at step 2 the firm must ask the client questions to identify whether any risk factors are present, except where COBS 19.7.9AR applies.



## Communications about options to access pension savings

This annex belongs to ■ COBS 19.4.

The definitions in ■ COBS 19.4.1R are applied to these tables.

Table 1: Communications required to be made by the firm at specified times

Handbook reference	Matters to be communicated	Contents of communication	When
19.4.5AR	Open market option statement	A statement satisfying the requirements of  COBS 19.4.6AR, COBS 19.4.8R and COBS 19.4.10R	Trigger events specified at COBS 19.4.5AR
19.4.9R	Reminder	A statement satisfying the requirements of  COBS 19.4.6R, COBS 19.4.8R and COBS 19.4.10R	At least six weeks before the <i>client's</i> intended retirement date

Table 2: Requirements for other communications

Handbook reference	Subject of communication	Contents of communication	Trigger
19.4.12R	<i>Pension annuity options</i>	Information about how the <i>client's</i> circumstances can affect <i>pension annuity</i> retirement income calculations and payments.  <i>Firms</i> may also be required to provide a <i>key features illustration</i> (COBS 14.2.1R) or sign-post <i>pensions guidance</i> (COBS 19.4.16R).	Any communication with a <i>client</i> about their <i>pension annuity</i> options
19.4.14R	<i>Drawdown pension</i>	Relevant information about <i>drawdown pension</i> option.  A <i>firm</i> may also be required to provide a <i>key features illustration</i> (COBS 14.2.1R) or sign-post <i>pensions guidance</i> (COBS 19.4.16R).	Any communication with a <i>client</i> about their <i>drawdown pension</i> options
19.4.14R	<i>Uncrystallised funds pension lump sum</i>	Relevant information about <i>uncrystallised funds pension lump sum</i> option.  <i>Firms</i> may also be required to provide a <i>key</i>	Any communication with a <i>client</i> about their <i>uncrystallised funds pension lump sum</i> options

Handbook reference	Subject of communication	Contents of communication	Trigger
19.4.15G	Communications about options to access pension savings	<p><i>features illustration</i> (COBS 14.2.1R) or signpost <i>pensions guidance</i> (COBS 19.4.16R).</p> <p>A <i>firm</i> should refer to the guidance in COBS 19.4.15G when communicating with a <i>client</i> about their options to access pension savings.</p> <p><i>Firms</i> may also be required to signpost <i>pensions guidance</i> (COBS 19.4.16R) and in some circumstances provide an open market options statement (COBS 19.4.5AR(2)(d)).</p>	Any communication with a <i>client</i> about their options to access their pension savings
19.4.18R	<i>Client</i> applies to access pension savings	<p>A <i>firm</i> must provide a description of the tax implications unless it is provided in accordance with COBS 14.2.1R.</p> <p><i>Firms</i> may be required to provide retirement risk warnings (COBS 19.7.7R).</p> <p><i>Firms</i> may also be required to signpost <i>pensions guidance</i> (COBS 19.4.16R).</p> <p>If the <i>client</i> asks to access their pension savings for the first time the <i>firm</i> must provide an open market options statement (COBS 19.4.5AR(2)(d)).</p>	<i>Firm</i> receives an application from a <i>client</i> to access pension savings

## Format for annuity information

This annex belongs to ■ COBS 19.9.7R(3) and ■ COBS 19.9.15R(3)(c).

1	Format of bar graph in the Part 1 template
1.1	Format of bar graph (where annual income is depicted)
1.1.1	When a <i>firm</i> is creating the two bar graphs as set out in Part 1, the <i>firm</i> must ensure:
	(1) the annual income offered by the <i>pension annuity</i> in the guaranteed quote is presented on the left hand side of the two bar graphs;
	(2) the y-axis must:
	(a) start with a monetary value which is £20 below the annual income of the <i>pension annuity</i> being offered by the <i>firm</i> in the guaranteed quote;
	(b) use a scale which clearly and fairly depicts the difference in annual income that a <i>retail client</i> will obtain if a market-leading <i>pension annuity</i> quote is accepted; and
	(c) not include any numbers or details which are not required by the <i>rules</i> in COBS 19.9 or the provisions of this annex.
1.2	Format of bar graph in Part 4 (where the purchase price of the pension annuity is depicted)
1.2.1	When a <i>firm</i> is creating the two bar graphs as set out in Part 4, it must ensure:
	(1) the lowest purchase price of the <i>pension annuity</i> offered by the market-leading quote is presented on the left-hand side of the two bar graphs with the higher purchase price in the <i>firm's</i> guaranteed quote appearing on the right-hand side;
	(2) the y-axis must:
	(a) start with a monetary value which is £20 below the purchase price of the lowest <i>pension annuity</i> quote;
	(b) use a scale which clearly and fairly depicts the difference in the purchase price of the <i>pension annuity</i> offered by the market-leading quote and the <i>firm's</i> guaranteed quote; and
	(c) only include numbers or details which are required by the <i>rules</i> in COBS 19.9 or the provisions of this annex.

Part 1: Template for cases where the guaranteed quote does not provide highest annual income

**Where the guaranteed quote does not provide the highest annual income**

Firm Logo

keyfacts<sup>®</sup>

**Annuity features**

Purchase price <b>£XX,XXX</b>	<b>No guarantee period</b>
Paid <b>quarterly</b> in advance	Payments <b>increase</b> by 2% per year
<b>Dependants income</b>	<i>[Other key features of annuity]</i>

If relevant, include key information here such as:

You are entitled to a **[guaranteed annuity rate]**[**minimum level of guaranteed pension**] from **[date/customer's age]** paying an **[estimated]** annual income of **£X,XXX**.

**You are entitled to tax free cash greater than 25% of your pension pot. You may lose this right if you switch provider.** Your existing pension provider will be able to provide more information about this.

For arranging this policy, your intermediary will receive **EZZZ** commission from your provider. You have agreed with your adviser that the cost of their services will be taken from this policy as follows **[provide details here]**.

**Our quote**  
This annuity would provide you with an annual income of:

£A,AAA

Can you get a better income from your annuity?

You may be able to get a higher Income by shopping around.

If you want to see what other options are available from other providers please visit [moneyhelper.org.uk/guaranteed-income](http://moneyhelper.org.uk/guaranteed-income) or call 0800 138 7777.

Did you know?

If you've not already been asked questions about your health or lifestyle, answering these could get you even more income.

For example - if you've smoked tobacco, been advised by a medical professional to adjust your lifestyle to improve your health or had a medical condition requiring prescribed medication or hospital treatment- you may be entitled to more income than is quoted above.

Visit [moneyhelper.org.uk/guaranteed-income](http://moneyhelper.org.uk/guaranteed-income) or call 0800 1387777 to find out more.

*Company contact details and other key information*

Part 2: Template for cases where the guaranteed quote, the guaranteed annuity rate, a guaranteed minimum pension or section 9(2B) rights offer the highest annual income

**Where a guaranteed quote, a guaranteed annuity rate, a guaranteed minimum pension or section 9(2B) rights offers the highest annual income**



Firm Logo	<b>keyfacts</b> <sup>®</sup>
<b>Annuity features</b>	
Purchase price £XX,XXX	No guarantee period
Paid quarterly in advance	Payments increase by 2% per year
Dependents income	[Other key features of annuity]

If relevant, include key information here such as:

You are entitled to a [guaranteed annuity rate][minimum level of guaranteed pension] from [date/customer's age] paying an [estimated] annual income of £X,XXX.

**You are entitled to tax free cash greater than 25% of your pension pot. You may lose this right if you switch provider.** Your existing pension provider will be able to provide more information about this.

For arranging this policy, your intermediary will receive £ZZZ commission.

You have agreed with your adviser that the cost of their services will be taken from this policy as follows [provide details here].

**Our quote**  
This annuity would provide you with an annual income of:

**£A,AAA**

**Can you get a better income from your annuity?**

Based on your key information, our quote is the highest available to you.

Or in the event that the consumer is entitled to a guaranteed annuity rate or minimum level of guaranteed pension which is higher:

You are entitled to a [guaranteed annuity rate from your current pension provider] [minimum level of guaranteed pension] from [date/customer's age] paying an [estimated] annual income of £X,XXX. If you select our product, you could be **losing out on £DD per year.**

The Financial Conduct Authority is a financial services regulator. It requires us to inform you that you can shop around if you want to. If you want to see what other options are available from other providers please visit [moneyhelper.org.uk/guaranteed-income](https://moneyhelper.org.uk/guaranteed-income) or call 0800138 7777.

*Company contact details and other key information*

Part 3: Template for cases where the retail client's consent is required to allow a firm to generate a market-leading pension annuity quote and that consent has not been given

**Where the retail client's consent is required to allow a firm to generate a market-leading pension annuity quote and that consent has not been given**

Firm Logo

keyfacts®

**Annuity features**

Purchase price £XX,XXX	No guarantee period
Paid quarterly in advance	Payments increase by 2% per year
Dependents income	[Other key features of annuity]

If relevant, include key information here such as:

You are entitled to a [guaranteed annuity rate][minimum level of guaranteed pension] from [date/customer's age] paying an [estimated] annual income of £X,XXX.

You are entitled to tax free cash greater than 25% of your pension pot. You may lose this right if you switch provider. Your existing pension provider will be able to provide more information about this.

For arranging this policy, your intermediary will receive £ZZZ commission from your provider.

You have agreed with your adviser that the cost of their services will be taken from this policy as follows [provide details here].

**Our quote**  
This annuity will provide you with an annual income of:

**£A,AAA**

**Can you get a better income from your annuity?**

Based on your key information, there are quotes available from other providers offering higher rates. If you select our product, you would be losing out on £BB per year.

And, if applicable: You are entitled to a [guaranteed annuity rate from your current pension provider][minimum level of guaranteed pension] from [date/customer's age] paying an [estimated] annual income of £X,XXX. If you select our product, you could be losing out on £DD per year.

[y-axis]

[x-axis]

The Financial Conduct Authority is a financial services regulator. It requires us to inform you that you can shop around if you want to. If you want to see what other options are available from other providers please visit [moneyhelper.org.uk/guaranteed-income](http://moneyhelper.org.uk/guaranteed-income) or call 0800138 7777.

Company contact details and other key information

Part 4: Template for cases where the market-leading quote offers the lowest purchase price pension annuity

**Where the market-leading quote offers the lowest purchase price**

/MILES/PKF/fca/  
graphics/Graphics  
/COBS 19\_Annex  
3\_Part 4.png.png

Part 5: Template for cases where the income quote or the application of a retail client's guaranteed annuity rate offers the lowest purchase price pension annuity

**Where the income quote or a guaranteed annuity rate offers the lowest price pension annuity**

/MILES/PKF/fca/  
graphics/Graphics  
/COBS 19\_Annex  
3\_Part 5.png.png

Part 6: Template for cases where the retail client has requested an income quote and the retail client's

---

consent is required to allow a firm to generate a market-leading pension annuity quote and that consent has not been given

**Where the retail client has requested an income quote and the retail client's consent is required to allow a firm to generate a market-leading pension annuity quote and that consent has not been given**

/MILES/PKF/fca/  
graphics/Graphics  
/COBS 19\_Annex  
3\_Part 6.png.png



## Appropriate pension transfer analysis

This annex belongs to ■ COBS 19.1.2BR.

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### *appropriate pension transfer analysis*

R

- 1 In preparing an *appropriate pension transfer analysis*, a firm must:
  - (1) use rates of return which reflect the investment potential of the assets in which the *retail client's* funds would be invested under the *proposed arrangement*;
  - (2) where the *proposed arrangement* includes a UK lifetime *pension annuity* that is being purchased on normal terms, use the assumptions in COBS 19 Annex 4C 1R(2) to assess the benefits likely to be paid under the *proposed arrangement*;
  - (3) use the assumptions in COBS 19 Annex 4C 1R(4) to project the level of income likely to be paid under the *ceding arrangement* at the point of retirement;
  - (4) take into account:
    - (a) the impact of the proposed transfer on the tax position of the *retail client*, particularly where there would be a financial impact from crossing a tax threshold or entering a new tax band;
    - (b) the impact (if any) on the *retail client's* access to state benefits;
  - (5) have regard to the likely pattern of benefits that might be taken from both the *ceding arrangement* and the *proposed arrangement*;
  - (6) undertake any comparisons of benefits and options consistently;
  - (7) plan for a reasonable period beyond average life expectancy particularly where a longer period would better demonstrate the risk of funds not lasting throughout retirement;
  - (8) consider how each of the arrangements would play a role in:
    - (a) meeting the *retail client's* income needs throughout retirement (relative to other means available to meet those needs);
    - (b) the provision of death benefits, where relevant (including by providing comparisons on a fair and consistent basis between the *ceding* and *proposed arrangement* both at present and at various future points in time);
  - (9) consider the trade-offs that may occur by prioritising differing *client* objectives (e.g. prioritising income needs throughout retirement over the provision of death benefits and vice-versa); and
  - (10) use more cautious assumptions where appropriate.

G

- 2
  - (1) When making assumptions about the rate of return under COBS 19 Annex 4A 1R(1), a firm should consider consistency with other assumptions (such as inflation and exchange rates).
  - (2) COBS 19 Annex 4A 1R(1), 1R(2) and 1R(3) do not prevent a firm from preparing the *appropriate pension transfer analysis* on additional assumptions (such as to demonstrate variability of returns) as long as such analyses are not given more prominence than an analysis prepared in accordance with this Annex.

- (3) When providing an indication of life expectancy or mortality which is not linked to an annuity, *firms* should use appropriate published population statistics which allow for future cohort mortality improvements, such as those published by the Office for National Statistics.
- (4) When the *proposed arrangement* includes a *pension annuity*, the assumptions in COBS 19 Annex 4C 1R(2) may not always be relevant (for example, if the *retail client* is considering a transfer to access an impaired life annuity or an overseas annuity). In such circumstances the *firm* should assess the benefits likely to be paid under the *proposed arrangement* in an alternative way (for example by obtaining quotations).

#### Charges used for the *appropriate pension transfer analysis*

R

3 An *appropriate pension transfer analysis* must take account of all charges that may be incurred by the *retail client* as a result of a *pension transfer* or *pension conversion* and subsequent access to funds following such a transaction, other than:

- (1) *adviser charges* paid by a third party (e.g. an employer); and
- (2) *adviser charges* that would be payable whether the *pension transfer* or *pension conversion* happened or not.

G

4 The charges in COBS 19 Annex 4A 3R include, but are not limited to, any of the following:

- (1) product charges, including those on any investments within the product;
- (2) *platform charges*;
- (3) *adviser charges* in relation to the *personal recommendation* and subsequently during the pre-retirement period as well as at benefit crystallisation and beyond, where likely to be relevant; and
- (4) any other charges that may be incurred if amounts are subsequently withdrawn.

#### Cashflow model

R

5 Where a *firm* prepares a cashflow model, it must:

- (1) produce the model in real terms in line with the CPI inflation rate in COBS 19 Annex 4C1R (4)(d);
- (2) (if the net income is being modelled) ensure that the tax bands and tax limits applied are based on reasonable assumptions;
- (3) take into account all relevant tax charges that may apply in both the *ceding arrangement* and the *proposed arrangement*; and
- (4) include stress-testing scenarios to enable the *retail client* to assess more than one potential outcome.

## Transfer value comparator

This annex belongs to ■ COBS 19.1.3AR.

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### *Transfer value comparator*

R

- 1 The firm must:
  - (1) revalue the future income benefits in COBS 19.1.3AR(1) by projecting them to the date they would normally be paid in accordance with the assumptions in COBS 19 Annex 4C 1R(4);
  - (2) determine the estimated future cost of the *pension annuity* in accordance with the assumptions in COBS 19 Annex 4C 1R(2); and
  - (3) apply the rate of return and charges in COBS 19 Annex 4C 2R to the amount determined in (2) to determine the estimated value needed at the calculation date.

R

2 [deleted]

G

3 [deleted]





## Assumptions

This annex belongs to ■ COBS 19.1.2BR and ■ COBS 19.1.3AR.

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

### Assumptions

R

- 1 (1) A firm must use the assumptions in (2) when:
- (a) the *proposed arrangement* includes a *pension annuity* and COBS 19 Annex 4A 1R(2) applies; or
  - (b) it determines the estimated cost of future income benefits as a *pension annuity* under COBS 19 Annex 4B 1R(2) or COBS 19 Annex 4B 2R(2).
- (2) The assumptions are:
- (a) the index-linked annuity interest rate for pension benefits linked to the *RPI* is the average of the previous 3 *months'* intermediate rate of return in COBS 13 Annex 2 3.1R(6) for annuities linked to the *RPI* (using the 6th day of any *month* as the starting point for calculation purposes), but determined as if the annual provision applies on the 15th of each *month*;
  - (b) the index-linked annuity interest rate for pension benefits linked to the *CPI* is the annuity rate in (a) plus 1.0%;
  - (c) the annuity interest rate is the average of the previous 3 *months'* intermediate rate of return in COBS 13 Annex 2 3.1R(6) for annuities with a level or fixed rate of increase (using the 6th day of any *month* as the starting point for calculation purposes), but determined as if the annual provision applies on the 15th of each *month*;
  - (d) the annuity interest rate for post-retirement *limited price indexation* based on the *RPI* with maximum pension increases less than or equal to 3.5%, or with minimum pension increases more than or equal to 3.5%, is the rate in (c) allowing for increases at the maximum or minimum rate of pension increase respectively; otherwise it is the rate in (a);
  - (e) the annuity interest rate for post-retirement *limited price indexation* based on the *CPI* with maximum pension increases less than or equal to 2.5% or with minimum pension increases more than or equal to 3.0%, is the rate in (c) above allowing for increases at the maximum or minimum rate of pension increase respectively; otherwise it is the rate in (b) above;
  - (f) the mortality rate used to determine the annuity is based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables PMA16 and PFA16 and including mortality improvements derived from each of the male and female annual mortality projections models, in equal parts;
  - (g) the annuity expense allowance is: 4.0%
  - (h) the *transfer value comparator* should be calculated on the basis that:
    - (i) a female member of the scheme has a male spouse or partner who is 3 years older; or
    - (ii) a male scheme member has a female spouse or partner who is 3 years younger.

- (3) A firm must use the assumptions in (4) when it:
- (a) projects the level of income likely to be paid under the *ceding arrangement* at the point of retirement under COBS 19 Annex 4A 1R(3); or
  - (b) revalues the future income benefits in COBS 19.1.3AR(1) by projecting them to the date they would normally be paid under COBS 19 Annex 4B 1R(1).

(4) The assumptions are:

- (a) the RPI is: 3.0%
- (b) the average earnings index and the rate for section 148 orders is: 3.5%
- (c) for benefits linked to the RPI, the pre-retirement *limited price indexation* revaluation is: 3.0%
- (d) for benefits linked to the CPI, the pre-retirement *limited price indexation* revaluation is: 2.0%

[Note: section 148 orders are orders made by the Secretary of State under section 148 of the Social Security Administration Act 1992. Section 148(7) of this Act provides that orders made previously under section 21 of the Social Security Pensions Act 1975 will be treated as orders made under section 148.]

#### Rate of return and charges

R

- 2
- (1) This rule applies for the purposes of COBS 19 Annex 4B 1R(3).
  - (2) The rates of return for valuing future income benefits between the date of calculation and the date when the future income benefits would normally come into payment must be based on the fixed coupon yield on the UK FTSE Actuaries Indices for the appropriate term.
  - (2A) The fixed coupon yields in (2) are derived using the appropriate term from one of the following indices:
    - (a) up to 5 years;
    - (b) up to 5-10 years;
    - (c) up to 10-15 years; or
    - (d) over 15 years.
  - (3) The product charges prior to *future income benefits* coming into payment must be assumed to be: 0.4%
  - (4) The fixed coupon yields in (2) are updated on the 6th day of each month based on the yield that applied on the 15th day of the previous month.

#### Mortality rate

E

- 3
- (1) This rule applies for the purposes of COBS 19 Annex 4C 1R(2)(f).
  - (2) For any year commencing 6 April, the male and female annual CMI Mortality Projections Models in the series CMI (20YY-2)\_M\_[1.25%] and CMI (20YY-2)\_F\_[1.25%], where YY-2 is the year of the Model, should be used.
  - (3) Contravention of (2) may be relied on as tending to establish contravention of the rule referred to in (1).

## Format for provision of transfer value comparator

This annex belongs to ■ COBS 19.1.3AR.

[Note: The FCA has also issued non-Handbook guidance for firms who advise on pension transfers. See <https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf>]

1

1.1 The first page of the *transfer value comparator* must follow the format and wording shown in Table 1, except that alternative colours may be used in the chart and the scale of the charts may be changed (as long as the y-axis starts at £0). Note that the figures in Table 1 are used for illustration only. The second page of the *transfer value comparator* must contain the notes set out in Table 2.

1.2 [deleted]

1.3 [deleted]

**Table 1**

This table belongs to COBS 19 Annex 5 1.1R.

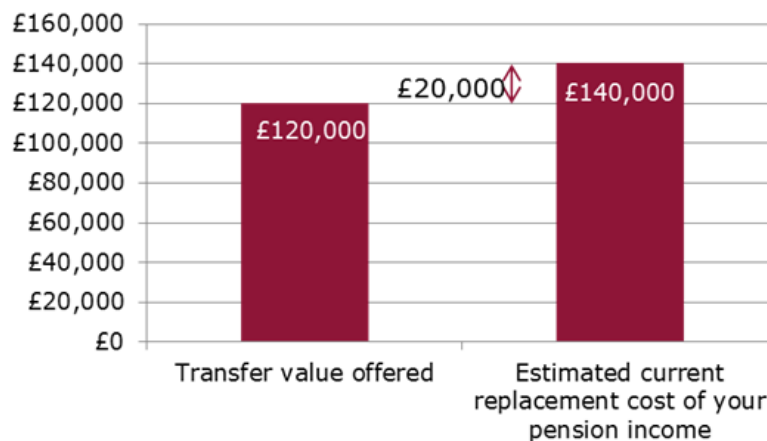
You have been offered a cash equivalent transfer value of £120,000 in exchange for you giving up any future claims to a pension from the scheme.

**Will I be better or worse off by transferring?**

- We are required by the Financial Conduct Authority to provide an indication of what it might cost to replace your scheme benefits.
- We have done this by looking at the amount you might need to buy the same benefits from an insurer.

It could cost you £140,000 to obtain a comparable level of income from an insurer.

This means the same retirement income could cost you £20,000 more by transferring.



See 'Notes' on the next page for a detailed explanation of this information.

**Table 2**

This table belongs to COBS 19 Annex 5 1.2R.

*Notes*

- 1. The estimated replacement cost of your pension income is based on assumptions about the level of your scheme income at normal retirement age (or the retirement age assumed in the calculation of the transfer value if you have passed the normal retirement age or the earliest age at which you can take unreduced benefits without consent being required) and the cost of replacing that income (including spouse's benefits) for an average healthy person using today's costs.*
- 2. The estimated replacement value takes into account risk free investment returns after any product charges that you might be expected to pay.*
- 3. No allowance has been made for taxation or adviser charges prior to benefits commencing.*

**Table 3 [deleted]**

## Value data requirements

This annex belongs to ■ COBS 19.11.23R

### Money purchase benefits

R

- 1 This section sets out the *value data* required in relation to a *relevant pension scheme member* with *money-purchase benefits*.
- 1.1 Subject to 1.2, the *value data* to be provided is:
- (1) an *accrued pension pot value*;
  - (2) an *annualised accrued pension value*, prepared using the methodology set out in the *relevant pension guidance*, less the elements regarding future contributions and growth and calculated as if the *relevant pension scheme member* has reached their *retirement date* on the *illustration date*;
  - (3) if held, a *projected pension pot value*, prepared using the methodology set out in the *relevant pension guidance*; and
  - (4) an *annualised projected pension value*, prepared using the methodology set out in the *relevant pension guidance*.
- 1.2 The *value data* in 1.1(2) to 1.1(4) need only be provided once a *pension illustration* has been given after 1 October 2023.
- 1.3 Before 1 October 2023, and between 1 October 2023 and a *firm* producing a *pension illustration*, a *firm* may provide the *value data* referred to in COBS 19 Annex 6 1.1R(2) to 1.1R(4) on a voluntary basis, but if it does, it must use the version of the *relevant guidance* available at the *illustration date*.

### Non-money purchase benefits (other than cash balance benefits)

R

- 2 This section sets out the *value data* required in relation to a *relevant pension scheme member* with *non-money purchase benefits*, other than *cash balance benefits*.
- 2.1 In respect of an *active pension scheme member*, *value data* required is:
- (1) an *accrued pension value* calculated in accordance with the *relevant pension scheme's* rules, valued to the *illustration date* as if the *relevant pension scheme member* has reached their *retirement date* on the *illustration date* and without regard to possible increases in earnings;
  - (2) a projected value calculated in accordance with the *relevant pension scheme's* rules and without regard to possible increases in earnings, that would be payable from the date benefits are payable if the *relevant pension scheme member* was to cease to accrue benefits in the *relevant pension scheme* on reaching their *retirement date*.
- 2.2 In respect of a *deferred pension scheme member* or a *pension credit member*:
- (1) a *firm* must provide an *accrued pension value* calculated in accordance with the *relevant pension scheme* rules and valued to the *illustration date*, as if the *relevant pension scheme member* has reached their *retirement date* on the *illustration date*; or
  - (2) a simplified *accrued pension value* calculated using a method of adjustment which the *firm* considers to be appropriate and valued to the *illustration date* and as if the *relevant pension scheme member* has reached

their *retirement date* on the *illustration date*, where each of the following conditions applies:

- (a) no more than 2 years has passed since the *firm* has connected to the *MaPS dashboards digital architecture*;
- (b) a value in accordance with (1) above could not be provided within the timescales required under COBS 19.11.29R(2) without disproportionate cost and within a reasonable time; and
- (c) the *firm* is content that the simplified *accrued pension value* in (2) is an appropriate representation of the value of the benefits.

(3) A *firm* in 2.2(2) may consider it to be appropriate to use rates of inflation as part of the method of adjustment.

2.3

- (1) The *value data* described within this section may be provided as an income or a fixed lump sum or both, where a fixed lump sum is the actuarial value of a benefit which is designed to be taken as a lump sum.
- (2) Where the *value data* set out in 2.1 and 2.2 is comprised of *tranches*, a *firm* must provide:
  - (a) whichever of the following it considers would provide the best representation of the benefit:
    - (i) a combined value covering all the *tranches* of benefit, along with a single common *retirement date*; or
    - (ii) a separate set of values for different combinations of *tranches* of benefits, along with a *retirement date* in relation to each; and
  - (b) in accordance with the *pensions dashboard standards* on data, an explanation of the circumstances in which a benefit referred to may cease or reduce from a certain age.

Cash balance benefits

R

3

This section sets out the *value data* required in relation to a *relevant pension scheme member* with *cash balance benefits*.

3.1

In respect of an *active pension scheme member*, the *value data* required is:

- (1) an *accrued pension fund value* calculated in accordance with the *relevant pension scheme's* rules valued to the *illustration date* and without regard to possible increases in earnings;
- (2) a *projected pension fund value* calculated in accordance with the *relevant pension scheme's* rules and without regard to possible increases in earnings, that would be payable from the date benefits are payable if the *relevant pension scheme member* was to cease to accrue benefits in the *relevant pension scheme* on reaching their *retirement date*;
- (3) an *annualised accrued pension value*, which is:
  - (a) based on the *accrued pension fund value* referred to in (1) above; and
  - (b) prepared using the methodology set out in the *relevant pension guidance*, less the elements regarding future contributions and growth and calculated as if the *relevant pension scheme member* has reached their *retirement date* on the *illustration date*; and
- (4) an *annualised projected pension value* which is:

	(a)	based on the <i>projected pension fund value</i> referred to in (2) above; and
	(b)	calculated in accordance with the <i>relevant pension guidance</i> , less the elements regarding future contributions and growth.
3.2		In respect of a <i>deferred pension scheme member</i> or a <i>pension credit member</i> , the <i>value data</i> required is:
	(1)	an <i>accrued fund value</i> which is calculated in accordance with the <i>relevant pension scheme's</i> rules and is valued to the <i>illustration date</i> ; and
	(2)	an <i>annualised accrued pension value</i> based on the <i>relevant pension scheme</i> rules and calculated as if the <i>relevant pension scheme member</i> has reached their <i>retirement date</i> on the <i>illustration date</i> .
Hybrid benefits		
R		
4		This section sets out the <i>value data</i> required in relation to a <i>relevant pension scheme member</i> with <i>hybrid benefits</i> .
4.1		In respect of a <i>relevant pension scheme member</i> with <i>hybrid benefits</i> , the <i>value data</i> required is that which the <i>firm</i> considers best represents the value of the <i>relevant pension scheme member's</i> benefits under the scheme, calculated in accordance with what the <i>firm</i> considers to be the appropriate methodology from COBS 19 Annex 6 1R to COBS 19 Annex 6 3R above and indicating which methodology it has applied to the calculation for each benefit.

