

## Chapter 19

# Pensions supplementary provisions

## 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*.