

Chapter 19

Pensions supplementary provisions

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.