

**CONDUCT OF BUSINESS SOURCEBOOK (RETIREMENT OUTCOMES REVIEW)
(No 2) INSTRUMENT 2019**

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers); and
 - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 November 2019, immediately after the changes in Part 1 of the Conduct of Business Sourcebook (Retirement Outcomes Review) Instrument 2019 (FCA 2019/4).

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business Sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Conduct of Business Sourcebook (Retirement Outcomes Review) (No 2) Instrument 2019.

By order of the Board
24 October 2019

Annex A

Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position. The text is not underlined.

serious ill-health lump sum has the meaning in Part 1 of Schedule 29 to the Finance Act 2004.
[Note: <https://www.legislation.gov.uk/ukpga/2004/12/schedule/29/part/1>]

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

19 Pensions supplementary provisions

...

19.4 Open market options

...

Open market options statement

When?

- 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 55 years of age;~~
between four to ten weeks before the *client* reaches each birthday that is at five year intervals after the *client*'s 50th birthday.
 - (c) ~~at five year intervals after the open market options statement in (b) is sent until the *client*'s pension fund is fully crystallised;~~
[deleted]
- unless
- (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:

...

- (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*;

unless

(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.

...

- (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.

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19.9 Pension annuity comparison information

Definitions

19.9.1 R In this section:

...

- (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) ...

...

...

Eligibility for enhanced annuities

19.9.6A R (1) When a *firm* generates a market-leading *pension annuity* quote it must ~~ask~~ 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.

...

(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.

...

19.9.6C 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.

...

19.9.15 R (1) This rule applies to a *firm* ~~where the firm:~~

(a) ~~asks the retail client questions to determine whether the client is eligible for an enhanced annuity, and the retail client refuses to answer the firm's questions; or~~

(b) 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 ~~from a retail client's the answers and/or~~ 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), and COBS 19.9.7R and COBS 19.9.6AR(4) do not apply;

...

...

TP 2 Other Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provisions: coming into force
...					
2.8F A	<u>COBS 19.9.6AR(4)</u>	<u>R</u>	<p>(1) <u>The rule in column (2) does not apply to a firm until 1 January 2020 and is replaced by TP 2.8FAR(2), the guidance in TP 2.8FB and the guidance in TP 2.8FC below.</u></p> <p>(2) <u>Where a retail client refuses to answer questions that would allow a firm to determine whether a pension annuity on an enhanced basis could be available, a firm must:</u></p> <p>(a) <u>include information warning the retail client that:</u></p> <p>(i) <u>a higher annual income might be obtained;</u> <u>or</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>

			<p>(ii) <u>at least the requested annual income might be obtained for a lower purchase price;</u></p> <p><u>by searching the open market for a pension annuity; and</u></p> <p>(b) <u>as applicable, use the template in Part 3 or Part 6 of COBS 19 Annex 3R,</u></p> <p><u>unless the firm obtains a market leading pension annuity in line with the guidance below in TP 2.8FC.</u></p>		
<u>2.8F B</u>	<u>COBS 19.9.6AR(4)</u>	<u>G</u>	<p><u>A firm in TP 2.8FAR(2) 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.</u></p> <p><u>For example, the wording in the “Did you know?” box in the template in Part 3 or Part 6 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.</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>
<u>2.8F C</u>	<u>COBS 19.9.6AR(4)</u>	<u>G</u>	<p><u>Where a retail client refuses to answer a firm’s questions to allow the firm to determine whether the retail client is eligible for an enhanced annuity, the firm is encouraged to generate a market leading pension annuity quote using the same information that it used to</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>

		<u>generate its guaranteed quote</u> <u>and compare the two.</u>		
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