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 [deleted]

19.1.1A 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 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 [deleted]

19.1.1 [deleted]
Section 19.1 : Pension transfers, conversions, and opt-outs

**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 [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.

Guidance on assessing suitability

(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

(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 [deleted]

19.1.7A [deleted]

19.1.7B [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 [deleted]

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 (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 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 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 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 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 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 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 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 A firm must ensure that abridged advice is given or checked by a pension transfer specialist.

19.1A.8 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 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 A firm must not arrange a transaction for a client where only abridged advice has been given.

19.1A.11 (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

(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

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

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

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.

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.

(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

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

(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
19.1.10 A firm that charges a retail client in relation to full pension transfer or conversion advice on a contingent basis in reliance on COBS 19.18.9R(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.

19.1.11 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.

19.1.12 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.

19.1.13 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

19.1.14 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.

19.1.15 (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.

19.1.16 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)

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 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 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 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  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  (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

(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 In this section:

(1) 'fact sheet' means the Money Advice Service fact sheet or a statement provided by a firm that gives materially the same information;

(1A) 'Money Advice Service fact sheet' means the guide “Your pension: it's time to choose”, available on www.moneyadviceservice.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 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 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 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 (deleted)

19.4.5A (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
(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 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 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 Money Advice Service 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
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
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
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
(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
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
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
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 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 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 (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 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 The reminder must not include financial promotions for a pension decumulation product.
Key features illustrations

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

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.

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;
4. the client’s state of health; and
5. the client’s lifestyle choices.

Communications about drawdown and uncrystallised funds pension lump sum options

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;
Communications about options to access pension savings

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 Money Advice Service 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 Money Advice Service 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

(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 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 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 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 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 In this section:

(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);

(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;

(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;
"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).

Interpretation

19.5.1B In this section “administration charges” and “transaction costs” have the same meaning as in ■ COBS 19.8.1R.

Purpose

19.5.1B 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 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 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 19.5.10G, §COBS 19.5.11R and §COBS 19.5.12G) 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

(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

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:
   (a) whether default investment strategies within those schemes:
       (i) are designed and executed in the interests of relevant policyholders;
       (ii) have clear statements of aims and objectives;
   (b) 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;
   (c) whether core scheme financial transactions are processed promptly and accurately;
   (d) the levels of charges borne by relevant policyholders;
   (e) the direct and indirect 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, including transaction costs; and
   (f) whether the communications to relevant policyholders are fit for purpose and properly take into account the relevant policyholders’ characteristics, needs and objectives;

(2A) the IGC will assess the ongoing value for money for pathway investors delivered by a pathway investment particularly, though not exclusively, through assessing:
   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;
   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;
   whether core financial transactions are processed promptly and accurately;
the levels of charges borne by pathway investors;
the direct and indirect 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, including transaction costs; and
whether the communications to pathway investors are fit for purpose and properly take into account the pathway investors’ characteristics, needs and objectives;

(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:

(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

(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);

(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 31 July 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; and

(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.

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

19.5.6

(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.

(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**

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  C

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

(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

(1) The effect of COBS 19.5.9 R (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

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.

19.5.11

19.5.12

(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

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 31 July 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.

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.

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.

<table>
<thead>
<tr>
<th>Fund choice</th>
<th>Default Arrangement</th>
<th>Fund A</th>
<th>Fund B</th>
<th>Fund C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Projected pension pot in today’s money</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund choice</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### 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

### 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 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 The annual communication may be included with any other annual communication from the operator to the member of the relevant scheme.

19.5.19 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 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 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 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 This is the table referred to in COBS 19.6.6 R.

<table>
<thead>
<tr>
<th>Contribution percentage charge rate (%)</th>
<th>Accrued rights charge rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 or lower</td>
<td>0.6</td>
</tr>
<tr>
<td>Higher than 1 but no higher than 2</td>
<td>0.5</td>
</tr>
<tr>
<td>Higher than 2 but no higher than 2.5</td>
<td>0.4</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Flat-fee charge (£)</th>
<th>Accrued rights charge rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 or less</td>
<td>0.6</td>
</tr>
<tr>
<td>More than 10 but no more than 20</td>
<td>0.5</td>
</tr>
<tr>
<td>More than 20 but no more than 25</td>
<td>0.4</td>
</tr>
</tbody>
</table>

Compliance with the restrictions on charges

19.6.8 (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 This section applies to an operator of a personal pension scheme or a stakeholder pension scheme.

Purpose
19.6A.2 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 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 (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.
19.6A.5-R

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

(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 Retirement risk warnings

Definitions

19.7.1 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 uncry stallised 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, stakeholder 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.

Application

19.7.2 This section applies to a firm communicating with a retail client in relation to accessing their pension savings using a pension decumulation product.

19.7.3 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 (1) The purpose of this section is to ensure that a firm, which is communicating with a retail client about a pension decumulation product, 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 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.

19.7.6 An illustration of the steps a firm is required to take is set out in §COBS 19 Annex 1G.

**Trigger: when does a firm have to follow the steps?**

19.7.7 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, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract to enable the client to:

   (a) access pension savings using a drawdown pension; or

   (b) elect to make one-off, regular or ad-hoc uncry stallised funds pension lump sum payments; or

(3) receive a one-off, regular or ad-hoc uncry stallised funds pension lump sum payment; or

(4) access their pension savings using a drawdown pension; or

(5) withdraw the funds in full from their pension savings, reducing the value of their rights to zero.
Step 1: determine whether the client has received guidance or regulated advice

19.7.8 R
(1) The first step is to ask the retail client whether they have received pensions guidance or regulated advice:

(a) if the client says that they have, the firm must proceed to step 2; or

(b) if the client says that they have not or is unsure, the firm must explain that the decision to access pension savings is an important one and encourage the retail client to use pensions guidance or to take regulated advice to understand their options at retirement.

(2) If, after giving the explanation in §COBS 19.7.8R (1)(b), the retail client does not want to access pensions guidance or take regulated advice, the firm must proceed to step 2.

Step 2: identify risk factors

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.

19.7.9 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.

19.7.9A 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.

19.7.9B 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.

**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**

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.

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.

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**

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**  
Firms must record whether the retail client has received:

1. the retirement risk warnings at step 3 of the process specified in this section;
2. regulated advice; and
3. pensions guidance.
19.8 Disclosure of transaction costs and administration charges in connection with workplace pension schemes

Interpretation

19.8.1 In this section:

(1) ‘administration charges’, in relation to a member of a pension scheme, means any of the following to the extent that they may be used to meet the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members:

(a) any payments made to the scheme by, or on behalf or in respect of, the member; or

(b) any income or capital gain arising from the investment of such payments; or

(c) the value of the member’s rights under the scheme;

but an administration charge does not include any charge made for costs:

(d) incurred directly as a result of buying, selling, lending or borrowing investments; or

(e) incurred solely in providing benefits in respect of the death of such a member; or

(f) incurred in complying with a court order, where that order has provided that the operator, trustee or manager of the scheme may recover those costs; or

(g) arising from earmarking orders or pension sharing arrangements pursuant to regulations made under section 24 or section 41 of the Welfare Reform and Pensions Act 1999.

(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) ‘transaction costs’ are costs incurred as a result of the buying, selling, lending or borrowing of investments.

Application

19.8.2 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 (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 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:
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19.8.5 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 (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 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 (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 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:

\[ \text{transaction cost} = (\text{EP} - \text{AP}) \times (\text{units}) \]

and

(3) where an investment is sold:

\[ \text{transaction cost} = (\text{AP} - \text{EP}) \times (\text{units}) \]

Arrival Price (AP)

19.8.10 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

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

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

(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.

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.

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.

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

**Aggregation**

19.8.20 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 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.
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.

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 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;
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(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

This section applies to a firm that:

19.9.2 R

(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

This section specifies:

19.9.3 G

(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

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 the Money Advice Service 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.

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

19.9.6R (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

19.9.6AR (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.B 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.C (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

19.7 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.

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.

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

1. the facility on the Money Advice Service website; 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.

[Editor’s note: the facility in (1) is at www.moneyadviceservice.org.uk/annuitiesquotes.]

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:
   (a) the guaranteed quote; or
   (b) 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

19.12 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:
   (a) is entitled to a guaranteed annuity rate, a firm must proceed as if the requirement in ■ COBS 19.9.4R(2) is not applicable;
   (b) 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 Part 3 or Part 6 of COBS 19 Annex 3R to provide the applicable pension annuity comparator information.

Medium of disclosure

(3) 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 In this COBS 19:

(1) “cash-like investments” includes cash or near cash, units in a regulated money market fund, or units in a fund authorised as a money market fund for the purposes of the UK version of the European Parliament and Council Regulation on money market funds (2017/1131/EU), which is part of UK law by virtue of the EUWA;

(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.
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(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; and
- 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.
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.

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.

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:
  1. provides a guaranteed income, a guaranteed capital return or both, to the retail client or the retail client’s beneficiary; and
  2. 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).

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.

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.

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

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).

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

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

The second step is to:

1. present the retail client with the following investment pathway options:
   - Option 1: I have no plans to touch my money in the next 5 years;
   - Option 2: I plan to use my money to set up a guaranteed income (annuity) within the next 5 years;
   - Option 3: I plan to start taking my money as a long-term income within the next 5 years;
   - 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.
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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) (i) offer the retail client a pathway investment that corresponds to the investment pathway option selected in step 2; or

(ii) refer the retail client to a firm that offers a pathway investment that corresponds to the investment pathway option selected in step 2; or

(iii) (for pathway investments exempt firms only) refer the retail client to the Money and Pensions Service drawdown comparator;

(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 the Money and Pensions Service is available to assist the retail client with shopping around for pathway investments with an explanation of how they may access the Money and Pensions Service and the Money and Pensions Service drawdown comparator.

(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.

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.

Preparation for step 3

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 Money and Pensions Service drawdown comparator.

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.

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.
(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.

(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

§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.

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 Money and Pensions Service drawdown comparator; and

(4) provide a clear and prominent statement about the availability of advice and pensions guidance.

19.10.31  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  (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 advisor 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  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  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  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

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

Cash warnings

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.

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.

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 Money and Pensions Service’s website.
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**

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.

**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.

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.

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 Money and Pensions Service’s website.

19.10.45 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 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 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 Money and Pensions Service drawdown comparator at step 3:
   (a) the number of retail clients directed to the Money and Pensions Service drawdown comparator;
   (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).

PROD 6.2.2G and 6.3.4G contain further guidance on record-keeping for firms manufacturing or distributing pathway investments.
Retirement risk warnings - steps to take

This annex belongs to COBS 19.7.

COBS 19 Annex 1G
Retirement risk warnings – steps to take

**Trigger**

When a retail client decides to access their pension savings by taking one of the actions in COBS 19.7.7:

- **Firm** to explain that the decision to access pension savings is an important one and encourage the client to use pensions guidance or to take regulated advice to understand their options at retirement.

**Step 1**

- **Yes**: Client has taken pensions guidance or received regulated advice.
- **No or unsure**: Firm to ask whether the client has taken pensions guidance or received regulated advice.

**Step 2**

Based on how the client wants to access their pension savings, the firm must ask the client questions to identify whether risk factors are present.

**Step 3**

Firm to give the client appropriate retirement risk warnings in response to the client’s answers to the firm’s questions.
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

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

Table 2: Requirements for other communications

<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of communication</th>
<th>Contents of communication</th>
<th>Trigger</th>
</tr>
</thead>
</table>
| 19.4.12R            | Pension annuity options                     | Information about how the client’s circumstances can affect pension annuity retirement income calculations and payments.

Firms may also be required to provide a key features illustration (COBS 14.2.1R) or signpost pensions guidance (COBS 19.4.16R).

19.4.14R             | Drawdown pension                            | Relevant information about drawdown pension option.                                                      | Any communication with a client about their drawdown pension options  |

A firm may also be required to provide a key features illustration (COBS 14.2.1R) or signpost pensions guidance (COBS 19.4.16R).

19.4.14R             | Uncrystallised funds pension lump sum       | Relevant information about uncrystallised funds pension lump sum option.                                  | Any communication with a client about their uncrystallised funds pension lump sum options |

Firms may also be required to provide a key
<table>
<thead>
<tr>
<th>Handbook reference</th>
<th>Subject of communication</th>
<th>Contents of communication</th>
<th>Trigger</th>
</tr>
</thead>
<tbody>
<tr>
<td>19.4.15G</td>
<td>Communications about options to access pension savings</td>
<td><strong>Features illustration</strong> (COBS 14.2.1R) or signpost pensions guidance (COBS 19.4.16R).</td>
<td>Any communication with a <em>client</em> about their options to access their pension savings.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>A firm</strong> should refer to the guidance in COBS 19.4.15G when communicating with a <em>client</em> about their options to access pension savings.</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Firms</strong> may also be required to signpost pensions guidance (COBS 19.4.16R) and in some circumstances provide an open market options statement (COBS 19.4.5AR(2)(d)).</td>
<td></td>
</tr>
<tr>
<td>19.4.18R</td>
<td>Client applies to access pension savings</td>
<td><strong>A firm</strong> must provide a description of the tax implications unless it is provided in accordance with COBS 14.2.1R.</td>
<td>Firm receives an application from a <em>client</em> to access pension savings</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Firms</strong> may be required to provide retirement risk warnings (COBS 19.7.7R).</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Firms</strong> may also be required to signpost pensions guidance (COBS 19.4.16R).</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>If the <em>client</em> asks to access their pension savings for the first time the <em>firm</em> must provide an open market options statement (COBS 19.4.5AR(2)(d)).</td>
<td></td>
</tr>
</tbody>
</table>
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 firm is creating the two bar graphs as set out in Part 1, the firm must ensure:
   (1) the annual income offered by the pension annuity 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 pension annuity being offered by the firm in the guaranteed quote;
      (b) use a scale which clearly and fairly depicts the difference in annual income that a retail client will obtain if a market-leading pension annuity quote is accepted; and
      (c) not include any numbers or details which are not required by the rules 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 firm is creating the two bar graphs as set out in Part 4, it must ensure:
   (1) the lowest purchase price of the pension annuity 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 firm’s 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 pension annuity quote;
      (b) use a scale which clearly and fairly depicts the difference in the purchase price of the pension annuity offered by the market-leading quote and the firm’s guaranteed quote; and
      (c) only include numbers or details which are required by the rules 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
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

<table>
<thead>
<tr>
<th>Annuity features</th>
<th>keyfacts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase price £XX,XXX</td>
<td>[Other key features of annuity]</td>
</tr>
<tr>
<td>Paid quarterly in advance</td>
<td>Payments increase by 2% per year</td>
</tr>
<tr>
<td>Dependents income</td>
<td></td>
</tr>
</tbody>
</table>

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 moneyadviceservice.org.uk/annuitiestquotess or call 0800 138 777.

Company contact details and other key information

Part 3: Template for cases where the a retail client refuses to answer questions to determine whether the client is eligible for an enhanced annuity, or does not consent to a market-leading quote being generated

Where the retail client refuses to answer questions to determine whether the client is eligible for an enhanced annuity, or appropriate consent has not been given to allow a firm to generate a market-leading quote
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

---

**Annuity features**

<table>
<thead>
<tr>
<th>Feature</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase price</td>
<td>£XX,XXX</td>
</tr>
<tr>
<td>Paid quarterly in advance</td>
<td></td>
</tr>
<tr>
<td>Dependants income</td>
<td>[Other key features of annuity]</td>
</tr>
</tbody>
</table>

**No guarantee period**

- Payments increase by 2% per year

---

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 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 moneyadviceservice.org.uk/annuitiestoquotes 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 moneyadviceservice.org.uk/annuitiestoquotes or call 0800 1387777 to find out more.

---

**Company contact details and other key information**
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
Part 6: Template for cases where the retail client refuses to answer questions to determine whether the
client is eligible for an enhanced annuity, or does not consent to a market-leading quote being generated.

Where the retail client refuses to answer questions to determine whether the client is eligible for an enhanced annuity, or appropriate consent has not been given to allow a firm to generate a market-leading quote.

---

**Annuity features**

<table>
<thead>
<tr>
<th>Feature</th>
<th>Specification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Annual Income</td>
<td>£XX,XXX</td>
</tr>
<tr>
<td>Paid</td>
<td>quarterly</td>
</tr>
<tr>
<td></td>
<td>In advance</td>
</tr>
<tr>
<td>Dependents income</td>
<td></td>
</tr>
<tr>
<td>No guarantee period</td>
<td>Payments increase by 2% per year</td>
</tr>
<tr>
<td>[Other key features of annuity]</td>
<td></td>
</tr>
</tbody>
</table>

---

If relevant, include key information here such as:

You are entitled to a guaranteed annuity rate from [date/customer's age] paying an [estimated] annual income of £X,XXX [when applied to the total value of your pension pot (£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**

Buying this annuity from us will cost you:

£A,AAA

**Can you pay less for your annuity?**

You may be able to pay less for an annuity providing £XX,XXX a year by shopping around.

If you want to see what other options are available from other providers please visit moneyadvice.service.org.uk/annuitiesquotes 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 moneyadvice.service.org.uk/annuitiesquotes or call 0800 1387777 to find out more.

*Company contact details and other key information*
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](https://www.fca.org.uk/publication/finalised-guidance/fg21-3.pdf)

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:
   - 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;
   - 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:
   - meeting the *retail client’s* income needs throughout retirement (relative to other means available to meet those needs);
   - 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.

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).

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

<p>| | |</p>
<table>
<thead>
<tr>
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<th></th>
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</thead>
<tbody>
<tr>
<td>R</td>
<td></td>
</tr>
</tbody>
</table>
| 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:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
</table>
| (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

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>R</td>
<td></td>
</tr>
</tbody>
</table>
| 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]

<table>
<thead>
<tr>
<th>R</th>
<th>The firm must:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(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);</td>
</tr>
<tr>
<td></td>
<td>(2) determine the estimated future cost of the pension annuity in accordance with the assumptions in COBS 19 Annex 4C 1R(2); and</td>
</tr>
<tr>
<td></td>
<td>(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.</td>
</tr>
<tr>
<td>2</td>
<td>[deleted]</td>
</tr>
<tr>
<td>3</td>
<td>[deleted]</td>
</tr>
</tbody>
</table>
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 PMA08 and PFA08 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.
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).

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

This rule applies for the purposes of COBS 19 Annex 4B 1R(3).

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.

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.

The product charges prior to future income benefits coming into payment must be assumed to be: 0.4%

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

This rule applies for the purposes of COBS 19 Annex 4C 1R(2)(f).

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.

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.

![Diagram showing transfer value offered and estimated current replacement cost of your pension income]

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]