

Chapter 19

Pensions supplementary provisions

19.4 Open market options

Definitions

19.4.1

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In this section:

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

(8) 'signpost' is the requirement in ■ COBS 19.4.16R to provide a written or oral statement encouraging a *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement; and

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

Application

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

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

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

Purpose

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

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

Open market options statementWhen?

19.4.5 **R** [deleted]

19.4.5A **R**

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

- (b) the *client's* pension fund is fully crystallised; or
 - (c) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.
- (2) A *firm* must also give a *retail client* an open market options statement:
 - (a) if the *client* asks a *firm* for a retirement quotation more than four *months* before the *client's* intended retirement date; or
 - (b) if a *firm* does not receive such a request for a retirement quotation, between four and six *months* before the *client's* intended retirement date; or
 - (c) if a *retail client* with open market options tells a *firm* that they are considering, or have decided:
 - to discontinue an *income withdrawal* arrangement; or
 - to take a further sum of money from their pension savings to exercise open market options; or
 - (d) if the *retail client* requests to access their pension savings for the first time, except where the *retail client* requests that their pension fund is paid to them by way of a *serious ill-health lump sum*;
- (2A) The requirement in (2) does not apply if:
 - (a) the *firm* has given the *client* such a statement in the last 12 *months*; or
 - (b) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.
- If after taking reasonable steps to comply with the requirements in (1) or (2) a *firm* has been unable to provide a *retail client* with an open market options statement, the *firm* must provide the statement in good time before it *sells* a pension decumulation product to the *client*.
- (4) Where a *firm's* obligation to send an open market options statement is only dis-applied because of a *client's* request that their pension fund is paid to them by way of a *serious ill-health lump sum* (see ■ COBS 19.4.5AR(1A)(c) or ■ COBS 19.4.5AR(2A)(b)), but that request is subsequently rejected, a *firm* must send to the *client* an open market options statement within two *months* of the decision to reject.

Contents

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19.4.6A R

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

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

Single page summary document

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

- 19.4.6C** **R** The single page summary document must include the following information:
- (1) the *retail client's* name;
 - (2) the *retail client's* intended retirement date;
 - (3) the *firm's* name;
 - (4) if the *retail client* makes or receives employment-related contributions:
 - (a) the employer's name; and
 - (b) the amount that the employer and employee have contributed to the *retail client's* pension savings in the last year (if applicable);
 - (5) the current value of the *retail client's* pension savings;
 - (6) if relevant, a statement warning the *retail client* that the current value of their pension savings may be subject to early exit charges or other withdrawal charges when accessed;
 - (7) a statement about whether any guarantees apply and, if so, where to find out further information;
 - (8) any other relevant special features, restrictions, or conditions that apply, such as (for *with-profits funds*) any market value reduction conditions in place, and how to find out further information;
 - (9) if the document is required to be provided up to six *months* before the *retail client's* intended retirement date, a statement asking the *retail client* to consider whether they are saving enough to meet their needs at retirement;

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

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

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

19.4.8 R

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

Retirement risk warnings

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

Step 1: prepare retirement risk warnings

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

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

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

19.4.8D **G**

- (1) Examples of the risk factors relevant to *retail clients'* exercise of open market options include:
 - (a) the *client's* age and intended retirement date;
 - (b) the amount of the *client's* pension savings;
 - (c) if there are ongoing employer contributions;
 - (d) the existence of means-tested benefits;
 - (e) protection under the *compensation scheme*; and
 - (f) the *client's* need to review, make further decisions about, or take further actions in relation to their pension savings depending on their intended investment objectives.
- (2) *Firms* should also have regard to the examples of risk factors which relate to pension decumulation products at ■ COBS 19.7.12G.

Step 2: identify which warnings to give a retail client

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

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

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

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

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

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.

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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

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- (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

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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

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

Key features illustrations

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

Communications about annuity options

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

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

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

Communications about drawdown and uncrystallised funds pension lump sum options

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

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

Communications about options to access pension savings

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

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

Signposting pensions guidance

19.4.16

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

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

- 19.4.17 G An example of behaviour by or on behalf of a *firm* that is likely to contravene the *client's best interests rule* or *Principle 6* and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from using the *pensions guidance*, for example by:
- (1) leading the *client* to believe that using the *pensions guidance* is unnecessary or would not be beneficial; or
 - (2) obscuring the statement about the availability of the *pensions guidance* or any other information relevant to the exercise of open market options.

Tax implications

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

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