

Chapter 6

Information about the firm, its
services and remuneration



6.1D Product provider requirements relating to consultancy charging and remuneration

Application - Who? What?

- 6.1D.1 **R** This section applies to a *firm* that is a *group personal pension scheme* or *group stakeholder pension scheme* provider, but only if the *firm* providing the relevant scheme (or another *firm*) gives advice, or provides services, to an employer in connection with that scheme.

Application - Where?

- 6.1D.2 **R** This section does not apply if the employer is outside the *United Kingdom*.

Interpretation

- 6.1D.3 **R** In this section 'giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme*' includes:
- (1) giving advice or assistance to an employer on the operation of such a scheme;
 - (2) taking, or helping the employer to take, the steps that must be taken to enable an employee of the employer to become a member of such a *scheme*; and
 - (3) giving advice to an employee, pursuant to an agreement between the employer and the advisor, about the benefits that are, or might be, available to the employee if he is, or if he becomes, a member of such a scheme.

Requirement not to offer commission, provide factoring or offer credit to a third party

- 6.1D.4 **R** (1) Except as specified in **■** COBS 6.1D.6A R, a *firm* must not offer or pay (and must ensure that none of its *associates* offers or pays) any commissions, remuneration or benefit of any kind to another *firm*, an *employee benefit consultant* or to any other third party for the benefit of that *firm*, *employee benefit consultant* or third party in relation to the sale or purchase of:
- (a) a *group personal pension scheme* or *group stakeholder pension scheme*, whether or not that sale or purchase is accompanied or

facilitated by advice given to the purchasing employer or the employer's employees; or

(b) an *investment*, if that sale or purchase is, or was, for the benefit of an *occupational pension scheme* established as an alternative to a *group personal pension scheme* or *group stakeholder pension scheme*.

(2) Except in connection with a *qualifying scheme*, paragraph (1)(a) does not prevent a *firm* from making a payment to a third party that has facilitated the payment of a *consultancy charge* from a *group personal pension scheme* or *group stakeholder pension scheme*, provided that that payment is only in respect of that facilitation.

(3) For the purposes of (1)(b) only, an *occupational pension scheme* will be established as an alternative to a *group personal pension scheme* or *group stakeholder pension scheme* if, in order to meet the most material of its objectives, an employer could reasonably have chosen to establish an *occupational pension scheme* on the one hand, or a *group personal pension scheme* or *group stakeholder pension scheme* on the other, and it chose to establish an *occupational pension scheme*.

6.1D.5 **G** The requirement not to offer or pay commission does not prevent a *firm* from making a payment to a third party in respect of administration or other charges incurred, for example a payment to a fund supermarket or a third party administrator.

6.1D.6 **R** A *firm* that produces a *group personal pension scheme* or *group stakeholder pension scheme* must not offer or make any credit available out of its own funds, and to or for the benefit of another *firm*, an *employee benefit consultant* or another third party.

6.1D.6A **R** A *firm* and its *associates* may, except in connection with a *qualifying scheme*:

(1) offer and pay a commission, remuneration or benefit of any kind in the circumstances set out in **COBS 6.1D.4 R** if:

(a) the employer's part of the relevant scheme was established on or before 30 December 2012; and

(b) the offer or payment was permitted by the *rules* in force on 30 December 2012; and

(2) enter into an arrangement under which the right to receive the commission, remuneration or benefit of any kind in (1) is transferred to another *firm* or its *associate*.

Distinguishing product charges from consultancy charges

6.1D.7 **R** A *firm* must:

(1) take reasonable steps to ensure that its *group personal pension scheme* and *group stakeholder pension scheme* charges are not structured so that they could mislead or conceal from an employer

the distinction between those charges and any *consultancy charges* payable in respect of the scheme; and

- (2) not include in any marketing materials in respect of its *group personal pension schemes* or *group stakeholder pension schemes* any statements about the appropriateness of levels of *consultancy charges* that a *firm* could charge in giving advice to an employer in relation to a such a scheme.

6.1D.8 G A *firm* should not offer to invest more than 100% of the *retail client's* contribution to a *group personal pension scheme* or *group stakeholder pension scheme*.

Requirements on firms facilitating the payment of consultancy charges

6.1D.9 R A *firm* that offers to facilitate, directly or through a third party, the payment of *consultancy charges* must:

- (1) obtain and validate instructions from the relevant employer in relation to the *consultancy charge*;
- (2) offer sufficient flexibility in terms of the *consultancy charges* it facilitates;
- (3) not pay out or advance *consultancy charges* to the *firm* to which the *consultancy charge* is owed over a materially different time period, or on a materially different basis to that in which it recovers the *consultancy charges* from the employee (including paying any *consultancy charges* to the *firm* that it cannot recover from the employee); and
- (4) ensure that the *consultancy charges* levied do not exceed those agreed between the employee's employer and the relevant adviser (unless the prior written consent of the employee is obtained).

6.1D.9A G A *firm* facilitates the payment of *consultancy charges* for the purposes of ■ COBS 6.1D.9 R if the *consultancy charge* is not paid directly by the employee, but is instead paid on behalf of the employee via the *firm*.

6.1D.9B G A *firm* facilitates the payment of *consultancy charges* for the purposes of ■ COBS 6.1D.9 R by:

- (1) selling all or part of, or rights under, the employee's investment in a *group personal pension scheme* or *group stakeholder pension scheme* to pay the *consultancy charge*; or
- (2) disposing of or reducing all or part of the employee's rights under the *group personal pension scheme* or *group stakeholder pension scheme* (for example, by way of a part disposal which creates benefits under a *life policy*) to pay the *consultancy charge*; or
- (3) separating out an amount or amounts for the payment of the *consultancy charge* from the amount received from the employer on

behalf of the employee or from the premium in the case of a *life policy*.

6.1D.10 G A *firm* should consider whether the flexibility in levels of *consultancy charges* it offers to facilitate is sufficient so as not to unduly influence or restrict the charging structure and *consultancy charges* that the *firm* providing advice to an employer in relation to a *group personal pension scheme* or *group stakeholder pension scheme* can use.

Disclosure of total consultancy charges payable.....

6.1D.11 R A *firm* must, in good time, provide an employee with sufficient information on the total *consultancy charge* payable by the employee.

6.1D.12 G To comply with ■ COBS 6.1D.11R, a *firm's* disclosure should be in *cash terms* (or convert non-cash terms into illustrative cash equivalents) and should:

- (1) include information as to the period over which the *consultancy charge* is payable;
- (2) provide information on the implications for the employee if the employee leaves the employer's service or their contributions to the *group personal pension scheme* or *group stakeholder pension scheme* are cancelled before the *consultancy charge* is fully paid.

6.1D.13 G A *firm* may provide the disclosure in ■ COBS 6.1D.11R at the same time as it provides a *key features document*.