

## **Traded Endowment Policy and Open Market Option Disclosure Requirements Instrument 2002**

### **Powers exercised**

- A. The Financial Services Authority amends the Conduct of Business sourcebook and the Glossary in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):
- (1) section 138 (General rule-making power);
  - (2) section 156 (General supplementary powers);
  - (3) section 157 (1) (Guidance).
- B. The provisions of the Act relevant to making rules and listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

### **Commencement**

- C. This instrument comes into force on 1 September 2002.

### **Amendments to the Conduct of Business sourcebook and the Glossary**

- D. The Conduct of Business sourcebook is amended in accordance with Annex A to this instrument.
- E. Schedule 1 to the Conduct of Business sourcebook (Record keeping requirements) is amended in accordance with Annex B to this instrument.
- F. The Glossary is amended in accordance with Annex C to this instrument.

### **Citation**

- G. This instrument may be cited as the Traded Endowment Policy and Open Market Option Disclosure Requirements Instrument 2002.

By order of the Board  
18 April 2002

## Annex A

### Amendments to the Conduct of Business sourcebook

In COB 6.1.1R (4), replace the full stop with “; or” and insert:

- (5) which is a *long-term insurer* and receives:
  - (a) a request from a *private customer* for a quotation for the surrender value of a *life policy*; or
  - (b) any other indication that a *private customer* wishes to surrender a *life policy*: or
- (6) which receives a request from a *private customer* for a retirement quotation in respect of any of the following contracts provided by it:
  - (a) a *personal pension scheme*;
  - (b) a *stakeholder pension scheme*;
  - (c) a *free-standing additional voluntary contribution* contract;
  - (d) (where an *open market option* is available under the contract terms) a *retirement annuity* contract; or
  - (e) (where an *open market option* is available under the contract terms) a *pension buy-out contract*.

After COB 6.5.49R, insert:

#### Life policies: requests for quotations for surrender values

6.5.50R

When a *long-term insurer* receives:

- (1) a request from a *private customer* for a quotation for the *surrender value* of a *life policy*; or
- (2) any other indication that a *private customer* wishes to surrender a *life policy*;

which is of a type which may be traded on an existing secondary market for *life policies*, it must, before or when providing the quotation (or, if no quotation is provided, before accepting a surrender), make the *policyholder* aware in writing of:

- (3) the fact that, as an alternative to surrendering to the *long-term insurer*, the *life policy* may be traded on that secondary market;

- (4) the fact that there may be financial benefits in trading the *life policy* when compared to surrendering it to the *long-term insurer*;
- (5) how the *policyholder* may trade the *life policy* on the secondary market should he decide to do so; and
- (6) other relevant options available to the *policyholder*.

6.5.51G

- (1) When complying with COB 6.5.50R, a *long term insurer* may identify whether the policy is of a type which may be traded by obtaining information from a trade association or other body which holds information on the relevant secondary market.
- (2) COB 6.5.50R(5) requires a *firm* to ensure that the *policyholder* is made aware of the existence of the secondary market and how he might access it. A *firm* may, if it wishes, go further than this (for example, by telling the *policyholder* more about the market and the procedures) but it is not obliged to do so.
- (3) The other relevant options referred to in COB 6.5.50R(6) may, for example, include informing the *policyholder* about making the policy paid-up or taking a loan against the policy, and about the desirability of obtaining professional advice before surrendering.

6.5.52R

Where a *long-term insurer* believes that COB 6.5.50R does not apply because its own policies are of a type which are not tradable, it must review the position every six months and make and retain records indefinitely to support its view.

### Open market option: “Wake-up letter”

6.5.53R

- (1) A *firm* must provide a scheme member or *policyholder* described in (2) with the information set out in (3) in writing:
  - (a) when there is a request for a retirement quotation more than four months before the scheme member's or *policyholder's* *intended retirement date*; and
  - (b) at least four months before the scheme member's or *policyholder's* *intended retirement date*.
- (2) A person in relation to whom (1) applies is a *private customer* who:
  - (a) is a member of a *personal pension scheme*; or
  - (b) is a member of a *stakeholder pension scheme*; or

- (c) is the holder of a *free-standing additional voluntary contribution* contract; or
- (d) (where an *open market option* is available under the contract terms) is the holder of a *retirement annuity* contract; or
- (e) (where an *open market option* is available under the contract terms) is the holder of a *pension buy-out contract*.

(3) The information which a *firm* must provide in writing under (1) is an explanation of:

- (a) the *open market option* (including the fact that companies offer different annuity rates and different types of annuity, and that the scheme member or *policyholder* may get a better deal by shopping around);
- (b) the financial advantages and disadvantages in general terms of making use of this option when compared with taking a pension annuity with that *firm*;
- (c) how the scheme member or *policyholder* may make use of the *open market option* should he decide to do so; and
- (d) the advisability of taking professional advice.

6.5.54G *Principle 7* (Communications with clients) requires a *firm* to pay due regard to the information needs of its *clients* and communicate information to them in a way which is clear, fair and not misleading. In the *FSA's* view, a *firm* would not normally be able to satisfy its obligations under *Principle 7* if it sent the information required under COB 6.5.53R(1)(b) more than six months before the scheme member's or *policyholder's* intended retirement date.

6.5.55G (1) A *firm* may comply with its obligations under COB 6.5.53R(3)(a) (b) (c) and (d) by providing a copy of the *FSA's* factsheet about annuities entitled "Your pension – it's time to choose". However, if a *firm* is aware that its pension scheme or contract offers particular features which are likely to be relevant to customers' decisions (for example, an option to acquire an annuity at a guaranteed rate of interest) then the *firm* would also be expected to draw attention to those features. *Firms* can obtain copies of this factsheet by contacting the *FSA's* Consumer Helpline on 0845 606 1234.

(2) Where a *firm* provides the *FSA's* factsheet about annuities ("Your pension – it's time to choose") under COB 6.5.53R, it may wish to include the following wording in its covering letter:

"The enclosed factsheet about your options is from the Financial Services Authority (FSA), the independent watchdog set up by Parliament. Please read this document carefully."

Open market option: “Reminder letter”

6.5.56R      A *firm* which has provided information under COB 6.5.53R must, at least six weeks before his *intended retirement date*, remind the scheme member or *policyholder* of that communication, and must provide him with an estimated *final transfer value*.

## Annex B

### Amendments to Conduct of Business Schedule 1 (Record keeping requirements)

In the table, after COB 5.3.27R insert:

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
COB 6.5.52R	Non-tradable life policy	Sufficient information to support classification that own policies are not tradable	Upon assessment of the firm's position and every 6 months thereafter	Indefinitely

## Annex C

### Amendments to the Glossary

Insert the following new definitions in the appropriate alphabetical position:

*intended retirement date*

(a) according to the most recent recorded information available to the provider, the date when the scheme member or *policyholder* intends to retire, or to bring the benefits in the scheme or *policy* into payment, whichever is the earlier; or

(b) where no such date is recorded, the scheme member's or *policyholder's* state pension age.

*final transfer value*

the sum of money available at retirement to provide retirement benefits through the *open market option*.