

**PENSIONS (ANNUITISATION AND INCOME WITHDRAWALS RULES)
(AMENDMENT) INSTRUMENT 2011**

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers); and
 - (3) section 157(1) (Guidance).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) Part 2 of Annex B to this instrument comes into force on 6 April 2011.
(2) The remainder of this instrument comes into force when the Finance Act 2011 comes into force.

Amendments to the Handbook

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

Citation

- F. This instrument may be cited as the Pensions (Annuitisation and Income Withdrawals Rules) (Amendment) Instrument 2011.

By order of the Board
24 March 2011

Annex A

Amendments to the Glossary of definitions

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

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

drawdown pension (as defined in paragraph 4 of Schedule 28 to the Finance Act 2004):

- (a) a *short-term annuity*; or
- (b) an *income withdrawal*.

Amend the following as shown.

- income withdrawals* (a) (as defined in paragraph 7 of Schedule 28 to the Finance Act 2004) in relation to a member of a pension scheme, amounts (other than an annuity) which the member is entitled to be paid from the member's drawdown pension fund (as defined in paragraph 8 of that Schedule) in respect of an arrangement; or:
- (i) ~~if the member has not reached the age of 75, amounts (other than the payment of annuity) which the member is entitled to be paid from the member's unsecured pension fund (as defined in paragraph 8 of that Schedule) in respect of an arrangement;~~
 - (ii) ~~if the member has reached the age of 75, amounts which the member is entitled to be paid from the member's alternatively secured pension fund (as defined in paragraph 11 of that Schedule) in respect of an arrangement; or~~
- (b) payments made under interim arrangements in accordance with section 28A of the Pension Schemes Act 1993;

in respect of an election to make income withdrawals, a reference to a *retail client*, an investor or a *policyholder* includes, after that *person's* death, his surviving spouse, his surviving civil partner or anyone

who is, at that time, his dependant, or both.

short-term annuity

(as defined in paragraph 6 of Schedule 28 to the Finance Act 2004) in relation to a member of a pension scheme, an annuity payable to the member if:

- (a) it is purchased by the application of sums or assets representing the whole or any part of the member's ~~unsecured~~ drawdown pension fund (as defined in paragraph 8 of that Schedule) in respect of an arrangement;
- (b) it is payable by an insurance company;
- (c) the member had an opportunity to select an insurance company;
- (d) it is payable for a term which does not exceed five years ~~and ends before the member reaches age 75~~; and
- (e) it is either a level annuity, an increasing annuity or a relevant linked annuity.

Delete the following definitions.

~~*alternatively secured pension*~~

~~(as defined in paragraph 5 of Schedule 28 to the Finance Act 2004) *income withdrawal*.~~

~~*unsecured pension*~~

~~(as defined in paragraph 4 of Schedule 28 to the Finance Act 2004):~~

- ~~(a) a *short-term annuity*; or~~
- ~~(b) an *income withdrawal*.~~

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

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

Part 1: Comes into force when the Finance Act 2011 comes into force

9.4 Suitability reports

...

Additional content for income withdrawals

9.4.10 G When a *firm* is making a *personal recommendation* to a *retail client* about *income withdrawals* or purchase of *short-term annuities*, explanation of possible disadvantages in the *suitability report* should include the risk factors involved in entering into an *income withdrawal* or purchase of a *short-term annuity*. These may include:

...

- (5) ~~the maximum income that can be withdrawn under an alternatively secured pension after age 75 is significantly less than the maximum that applies before age 75. [deleted]~~

...

13 Annex 2 Projections

...

R		
Additional requirements: unsecured and alternatively secured <u>drawdown</u> pensions		
2.9	(1)	A <i>standardised deterministic projection</i> for an unsecured or alternatively secured pension <u>a drawdown pension</u> must be based on the requirements contained in (2) to the extent that they impose additional or conflicting requirements to the balance of the <i>rules</i> in this section.
	(2)	A <i>standardised deterministic projection</i> for an unsecured or alternatively secured pension <u>a drawdown pension</u> must be based on an assumption that the current gilt-index yield will continue to apply throughout the relevant term and include:
	(a)	<u>where relevant</u> , the maximum initial income specified in the tables published by the Government Actuaries Department for

			an unsecured or alternatively secured pension (as the case may be) <u>a drawdown pension</u> ;
		...	
		(d)	(under the heading ‘What the benefits might be’), the amount of income and the projected value of the fund at each fifth anniversary for the <i>lower, intermediate and and higher rate of return</i> for as long as the fund is projected to exist at the <i>higher rate of return</i> ;
		(e)	the projected open market values and the amounts of annuity at age 75 or the date at which it is reasonably assumed that an annuity will be purchased (which, for an <i>alternatively secured pension</i> , must be after ten years) <u>that might be purchased after 10 years</u> ; and
		...	

...

13 Annex 3 Charges

...

2.2 The effect of charges table:

...

(3) must be completed in accordance with the following notes:

R		
1A	(a)	...
	...	
	(d)	For an alternatively secured <u>a drawdown pension</u> <u>include</u> figures <u>must be included for each year for a term of ten years for each of the first ten years, or less if the value of the fund is projected at the higher rate of return to reach zero before then.</u>
	...	
1B	(a)	...
	(b)	For an alternatively secured pension figures <u>must be included for each year for a term of ten years.</u> [deleted]
	...	

14.2 Providing product information to clients

The provision rules

14.2.1 R A *firm* that sells:

...

(3B) the variation of a *personal pension scheme* to a *retail client*, which involves an election by the *client* to make *income withdrawals* or a purchase of a *short-term annuity*, must provide that *client* with such information as is necessary for the *client* to understand the consequences of the variation, including where relevant, the information required by COBS 13 Annex 2.2.9R (Additional requirements: ~~unsecured and alternatively secured~~ drawdown pensions);

...

Part 2: Comes into force on 6 April 2011

TP 2 Other Transitional Provisions					
(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provisions: coming into force
...					
<u>2.15</u>	<u>COBS 9.4.10G</u> ; <u>COBS 13 Annex 2</u> ; <u>COBS 13 Annex 3</u> ; <u>COBS 14.2.1R</u>	<u>R</u>	<u>A firm which anticipates the coming into force of the Finance Act 2011 by carrying on any regulated activity in relation to a drawdown pension (as defined in paragraph 4 of Schedule 28 to the Finance Act 2004) must act as if the amendments to the Handbook set out in Annex A and Annex</u>	<u>6 April 2011 until the coming into force of the Finance Act 2011</u>	<u>6 April 2011</u>

			<u>B Part 1 to the Pensions (Annuitisation and Income Withdrawals) (Amendment) Instrument 2011 (FSA 2011/19) were in force.</u>		
<u>2.16</u>	<u>COBS 9.4.10G;</u> <u>COBS 13 Annex 2;</u> <u>COBS 13 Annex 3;</u> <u>COBS 14.2.1R</u>	<u>G</u>	<u>A firm intending to anticipate the coming into force of the Finance Act 2011 by carrying on any regulated activity in relation to a drawdown pension (as defined in paragraph 4 of Schedule 28 to the Finance Act 2004) should satisfy itself that it would be acting lawfully in so doing.</u>	<u>6 April 2011 until the coming into force of the Finance Act 2011</u>	<u>6 April 2011</u>