

**CONDUCT OF BUSINESS SOURCEBOOK (RETIREMENT GUIDANCE
GUARANTEE) INSTRUMENT 2015**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following sections of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) section 139A (Power of the FCA to give guidance); and
 - (d) section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance); and
 - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA’s Handbook.
- B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. (1) Annex A and Part 1 of Annex B to this instrument come into force on the date on which the Pension Schemes Act 2015 comes into force.
(2) Part 2 of Annex B to this instrument comes into force on 6 April 2015.

Amendments to the FCA 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 Conduct of Business Sourcebook (Retirement Guidance Guarantee) Instrument 2015.

By order of the Board of the Financial Conduct Authority
26 February 2015

Annex A**Amendments to the Glossary of definitions**

Comes into force on the date on which the Pensions Schemes Act 2015 comes into force

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

*designated
guidance providers* the bodies listed in section 333E(1) of the *Act* to provide the *pensions
guidance*.

pensions guidance the guidance made available by HM Treasury in accordance with
section 333B of the *Act*.

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 on the date on which the Pensions Schemes Act 2015 comes into force

19.4 Open market options

...

- 19.4.5 **R** (1) Where 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 provide the *client* with a clear and prominent statement about the availability of the *pensions guidance* including:
- (a) how to access the *pensions guidance* and its contact details;
 - (b) that the *pensions guidance* can be accessed on the internet, telephone, or face to face;
 - (c) that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and
 - (d) 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 option; or
 - (ii) facilitating access to the proceeds of the *client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract*; or
 - (b) the *client* has already accessed the *pensions guidance*.

Part 2: Comes into force on 6 April 2015

9.4 Suitability reports

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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:

...

(4) ~~when maximum withdrawals are taken or the maximum short term annuity is purchased, high level~~ the levels of income provided may not be sustainable; and

(5) ~~{deleted}~~ there may be tax implications.

...

19.4 Open market options

Definitions

19.4.1 R In this section:

...

(2) 'open market ~~option options~~' means the option options available to a scheme member to use the proceeds of a personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract to purchase an annuity on the open market; and

(3) 'open market ~~option options~~ statement' means the information specified in COBS 19.4.1AR which is provided in a durable medium to assist the retail client to make an informed decision about their open market options.

(a) ~~the fact sheet "Your pension: it's time to choose" available on www.moneyadvice.service.org.uk, together with a written summary of the retail client's open market option, which is sufficient for the client to be able to make an informed decision about whether to exercise, or to decline to exercise,~~

~~an open market option; or~~

- (b) ~~a written statement that gives materially the same information.~~

Contents of open market options statement

19.4.1A R An open market options statement must include:

- (1) the fact sheet "Your pension: it's time to choose" available on www.moneyadvice.service.org.uk or a statement that gives materially the same information;
- (2) a summary of the *retail client's* open market options, which is sufficient for the *client* to be able to make an informed decision about whether to exercise, or to decline to exercise, open market options;
- (3) information about the *retail client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract or pension buy-out contract* provided by the *firm*, including:
 - (a) the sum of money that will be available to exercise open market options;
 - (b) whether any guarantees apply and, if so, information about how the guarantees work;
 - (c) any other relevant special features, restrictions, or conditions that apply, such as (for *with-profits funds*) any market value reduction conditions in place; and
 - (d) any other information relevant to the exercise of the *retail client's* open market options; and
- (4) a clear and prominent statement about the availability of the *pensions guidance* including:
 - (a) how to access the *pensions guidance* and its contact details;
 - (b) that the *pensions guidance* can be accessed on the internet, telephone, or face to face;
 - (c) that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and
 - (d) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

When to send open market options statement and six-week reminder

19.4.2 R (1) If a *retail client* asks a *firm* for a retirement quotation more than four

months before the *client's* intended retirement date, the *firm* must give the *client* an open market ~~option options~~ statement with or as part of its reply, unless the *firm* has given the *client* such a statement in the last 12 *months*.

- (2) If a *firm* does not receive such a request, it must provide a *retail client* with an open market ~~option options~~ statement between four and six *months* before the *client's* intended retirement date.

19.4.3 R The *firm* must:

- (1) remind the *retail client* about the open market ~~option options~~ statement; ~~and~~
- (2) tell the *client* what sum of money will be available to ~~purchase an annuity on the open market~~ exercise open market options;
- (3) remind the *client* about the availability of the *pensions guidance*; and
- (4) make a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement;

at least six weeks before the *client's* intended retirement date.

19.4.4 R If a *retail client* with ~~an~~ open market ~~option options~~ tells a *firm* that he is considering, or has decided:

- (1) to discontinue an *income withdrawal* arrangement; or
- (2) to take a further sum of money from his pension to ~~buy an annuity as part of a phased retirement~~ to exercise open market options;

the *firm* must give the *client* an open market ~~option options~~ statement, unless the *firm* has given the *client* such a statement in the last 12 *months*.

Signposting pensions guidance

19.4.5 R (1) Where 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 ~~provide the *client* with a clear and prominent statement about the availability of the *pensions guidance* including:~~

- (a) ~~how to access the *pensions guidance* and its contact details~~ refer to the availability of the *pensions guidance*;
- (b) ~~that the *pensions guidance* can be accessed on the internet, telephone, or face to face~~ offer to provide the *client* with information about how to access the *pensions guidance*; and
- (c) ~~that the *pensions guidance* is a free impartial service to help~~

~~consumers to understand their options at retirement; and~~
~~[deleted]~~

- (d) 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 ~~option~~ options; 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* 19.4.2R, *COBS* 19.4.3R or *COBS* 19.4.4R.

19.4.6 G An example of behaviour 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

19.4.7 R If a *firm* receives an application from a *retail client* to access some or all of the proceeds of a *personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity contract* or *pension buy-out contract*, the *firm* must provide the *client* with a description of the tax implications before the *client* accesses those proceeds.

19.4.8 R A *firm* is not required to provide the information specified in *COBS* 19.4.7R where it is provided in accordance with *COBS* 14.2.1R.

...

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
...					
2.8F	<u>COBS 19.4.3R</u>	R	<p>(1) Where a <i>firm</i> has provided the <i>retail client</i> with an open market option statement in accordance with <u>COBS 19.4.2R</u> but has not provided a six-week reminder before <u>6 April 2015</u>, the rules in <u>COBS 19.4.3R</u> do not apply.</p> <p>(2) Where (1) applies, the <i>firm</i> must:</p> <p>(a) tell the <i>client</i> what sum of money will be available to exercise open market options; and</p> <p>(b) provide the <i>client</i> with the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a statement in a <i>durable medium</i> that gives materially the same information;</p> <p>(c) provide the <i>client</i> with a clear and prominent statement about the availability of the <i>pensions guidance</i> including:</p> <p>(i) how to access the <i>pensions guidance</i> and its contact details;</p> <p>(ii) that the <i>pensions guidance</i> can be provided on the internet, telephone, or face to</p>	From <u>6 April 2015</u> to <u>5 August 2016</u>	<u>6 April 2015</u>

		<p><u>face;</u></p> <p><u>(iii) that the <i>pensions guidance</i> is a free impartial service to help <i>consumers</i> to understand their options at retirement; and</u></p> <p><u>(iv) a recommendation that the <i>client</i> seeks appropriate guidance or advice to understand their options at retirement;</u></p> <p><u>at least six weeks before the <i>client's</i> intended retirement date.</u></p> <p><u>(3) If a <i>firm</i> has provided the <i>retail client</i> with a version of the fact sheet “Your pension: it’s time to choose” available on www.moneyadviceservice.org dated June 2014 or later, or a statement in a <i>durable medium</i> that gives materially the same information, the requirement in (2)(b) does not apply.</u></p>		
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