

**CONDUCT OF BUSINESS (PENSIONS SUPPLEMENTARY RULES)  
INSTRUMENT 2016**

**Powers exercised**

- A. The Financial Conduct 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 137A (General rule-making power);
  - (2) section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance);
  - (3) section 137R (Financial promotion rules);
  - (4) section 137T (General supplementary powers); and
  - (5) section 139A (Power of the FCA to give guidance).
- 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. This instrument comes into force as follows:

Annex	Date comes into force
Part 2 of Annex A	10 October 2016
Part 2 of Annex B	10 October 2016
Part 3 of Annex B	6 April 2017
The remainder of this instrument	25 April 2016

**Amendments to the Handbook**

- D. The modules of the Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COBS)	Annex B
Consumer Credit sourcebook (CONC)	Annex C

**Citation**

- E. This instrument may be cited as the Conduct of Business (Pensions Supplementary Rules) Instrument 2016.

By order of the Board  
21 April 2016

## Annex A

### Amendments to the Glossary of definitions

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

#### Part 1: Comes into force on 25 April 2016

Amend the following definition as shown.

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

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

*small lump sum payment*                      an authorised member payment under section 164 of the Finance Act 2004 that meets the conditions in regulation 11A of the Registered Pension Schemes (Authorised Payments) Regulations 2009 (SI 2009/1171).

#### Part 2: Comes into force on 10 October 2016

Amend the following definitions as shown.

*certified high net worth investor*                      a *person* who meets the requirements ~~set out in article 21 of the Promotion of Collective Investment Schemes Order, in article 48 of the Financial Promotions Order or in COBS 4.12.6R.~~

*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:

(i)        drawdown pension fund (as defined in paragraph 8 of that Schedule) in respect of an arrangement; or

(ii)       flexi-access drawdown pension fund (as defined in paragraph 8A of that Schedule) in respect of an arrangement; or

...

*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) the member becomes entitled to it before 6 April 2015 and:

...

(e) it is either a level annuity, an increasing annuity or a relevant linked annuity; or

(B) the member becomes entitled to it on or after 6 April 2015; and

(a) it is purchased by the application of sums or assets representing the whole or any part of the member's:

(i) drawdown pension fund (as defined in paragraph 8 of that Schedule) for an arrangement; or

(ii) flexi-access drawdown pension fund (as defined in paragraph 8A of that Schedule) for an arrangement; and

(b) it is payable by an insurance company; and

(c) it is payable for a term which does not exceed five years.

## Annex B

### Amendments to the Conduct of Business sourcebook (COBS)

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

#### Part 1: Comes into force on 25 April 2016

#### 9.3 Guidance on assessing suitability

...

Income ~~withdrawals and~~ withdrawals, short-term annuities and uncrystallised funds pension lump sum payments

- 9.3.3 G When a *firm* is making a *personal recommendation* to a *retail client* about *income withdrawals*, *uncrystallised funds pension lump sum payments* or purchase of *short-term annuities*, it should consider all the relevant circumstances including:

...

- (3) the *client's* attitude to risk, ensuring that any discrepancy is clearly explained between his or her attitude to an *income withdrawal*, *uncrystallised funds pension lump sum payment* or purchase of a *short-term annuity* and other *investments*.

...

#### 9.4 Suitability reports

Providing a suitability report

- 9.4.1 R A *firm* must provide a *suitability report* to a *retail client* if the *firm* makes a *personal recommendation* to the *client* and the *client*:

...

- (3) elects to make income withdrawals, an *uncrystallised funds pension lump sum payment* or purchase a *short-term annuity*; or

...

...

- 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*, or making *uncrystallised funds pension lump sum payments*, explanation of possible disadvantages in the *suitability report* should include the risk factors

involved in entering into an *income withdrawal* or a purchase of a *short-term annuity* or making uncrystallised funds pension lump sum payments. ...

...

Insert the following new text after COBS 19.2.3R. The text is not underlined.

## 19.2 Personal pensions, FSAVCs and AVCs

...

Attachment (or earmarking) orders

- 19.2.4 G A *firm* should take into account the existence of any attachment (or earmarking) orders in respect of a *client's personal pension scheme* or *stakeholder pension scheme*.
- 19.2.5 G (1) An *operator* should ensure that it is aware of, and acts fully in accordance with, any attachment or earmarking orders made in respect of any members of that scheme by a court.
- (2) In particular, an *operator* should be mindful of its obligations under an attachment order to give notices to other parties, including transferee *operators* and relevant former spouses, where relevant events occur, such as transfers and significant reductions in benefits.
- (3) A *firm*, when advising a *client* in relation to a *personal pension scheme* or *stakeholder pension scheme*, or in relation to a *pension transfer* or *pension conversion*, should enquire as to whether an attachment order exists and take it into account accordingly.

Amend the following as shown.

## 19.7 Retirement risk warnings

Definitions

- 19.7.1 R (1) ~~"payment out of uncrystallised funds" is an uncrystallised funds pension lump sum within the meaning of paragraph 4A of Schedule 29 of the Finance Act 2004; [deleted]~~
- (2) "pension decumulation product" is a product used to access pension savings and includes: ~~a facility to enable a retail client to make a payment out of uncrystallised funds an option to take a small lump sum payment a drawdown pension; or a pension annuity;~~

- (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*;

...

...

19.7.4 G ...

- (2) If the *retail client* has not yet decided what to do, the *firm* should consider whether it is required to signpost the *pensions guidance* under ~~COBS~~ COBS 19.4.5R (signposting pensions guidance) and whether it may be appropriate to provide information about the risks associated with the *client's* options to access their pension savings generally.

...

Trigger: when does a firm have to follow the steps?

19.7.7 R A *firm* must follow the steps specified in this section at the point when the *retail client* has decided (in principle) to take one of the following actions (and before the action is concluded):

...

- (2) vary their *personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract* or *pension buy-out contract* to enable the *client* to:

...

- (b) elect to make one-off, regular or ad-hoc ~~payments out of uncrystallised funds~~ *uncrystallised funds pension lump sum* payments; or
- (3) receive a one-off, regular or ad-hoc ~~payment out of uncrystallised funds~~ *uncrystallised funds pension lump sum* payment; or
- (4) access their pension savings using a *drawdown pension*; or
- (5) withdraw the funds in full from their pension savings, reducing the value of their rights to zero.

...

Step 2: identify risk factors

- 19.7.9 R Based on how the *retail client* wants to access their pension savings, at step 2 the *firm* must ask the *client* questions to identify whether any risk factors are present, except where COBS 19.7.9AR applies.
- 19.7.9A R If the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, the *firm*:
- (1) is not required to ask questions to identify whether any risk factors are present; and
- (2) must prepare appropriate retirement risk warnings based on the risk factors relevant to each pension decumulation product it offers to enable *retail clients* to access their pension savings.
- 19.7.9B R A firm may ask the *client* the questions required by COBS 19.7.9R before the *client* has decided (in principle) to take one of the actions specified in COBS 19.7.7R to access their pension savings.
- 19.7.9C R If, to complete step 2, a *firm* relies on information gathered prior to the *client's* decision to access their pension savings, the *firm* must be satisfied that this information is relevant, accurate and up-to-date before giving the risk warnings at step 3.
- ...
- 19.7.13 R At step 3,:
- (1) if the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, based on how the *retail client* wants to access their pension savings, a *firm* must give the *client* the appropriate retirement risk warnings prepared under COBS 19.7.9AR(2); and
- (2) in all other cases, a *firm* must give the *retail client* appropriate retirement risk warnings in response to the *client's* answers to the *firm's* questions.
- ...

## TP 2 Other Transitional Provisions

Amend the following as shown.

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the		Transitional provision	Transitional provision:	Handbook provisions:

	transitional provision applies			dates in force	coming into force
...					
<u>2.24</u>	<u>COBS 13 Annex 2</u>		<u>A firm will comply with the provisions listed in column (2) if it chooses to comply with the following amendments made to those provisions by the Conduct of Business (Pension Supplementary Rules) Instrument 2016 as if those amendments were already in force: COBS 13 Annex 2 2.4R(3); COBS 13 Annex 2 3.3R; COBS 13 Annex 2 3.4G; COBS 13 Annex 2 5.1R(2)(g)</u>	<u>25 April 2016 to 5 April 2017</u>	<u>6 April 2017</u>

**Part 2: Comes into force on 10 October 2016**

**4.7 Direct offer financial promotions**

- 4.7.10 R A certified restricted investor is an individual who has signed, within the period of twelve months ending with the day on which the communication is made, a statement in the following terms:

“ ...	
Net assets for these purposes do not include:	
(a)	the property which is my primary residence or any money raised through a loan secured on that property;
(b)	any rights of mine under a qualifying contract of insurance;
(c)	any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be entitled; <u>or</u>
(d)	<u>any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).</u>



...
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...

## 4.12 Restrictions on the promotion of non-mainstream pooled investments

...

4.12.6 R *A certified high net worth investor* is an individual who has signed, within the period of twelve months ending the day on which the communication is made, a statement in the following terms:

“... ”

- I had, throughout the financial year immediately preceding the date below, an annual income to the value of £100,000 or ~~more~~; more. Annual income for these purposes does not include money withdrawn from my pension savings (except where the withdrawals are used directly for income in retirement).

- I held, throughout the financial year immediately preceding the date below, net assets to the value of £250,000 or more. Net assets for these purposes do not include:

- ...
- any rights of mine under a qualifying contract of insurance; ~~or~~
- any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be, entitled; or
- any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).

“... ”

...

## 13.3 Contents of a key features document

...

13.3.1A G When preparing a key features document for pension annuity and drawdown pension options firms should consider the information requirements for firms communicating with clients about their pension decumulation product options in COBS 19.4.12R and COBS 19.4.14R.

...

COBS 19.4 is deleted in its entirety and replaced with the following text. The deleted text is not shown and the new text is not underlined.

## 19.4 Open market options

### Definitions

19.4.1 R In this section:

- (1) 'fact sheet' means the *Money Advice Service* fact sheet "Your pension: it's time to choose" available on [www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk) or a statement provided by a *firm* that gives materially the same information;
- (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 19.4.6R, 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
- (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.

#### 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 at their intended retirement date and beyond; and
  - (4) remind a *retail client* about their open market options.

#### 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 at their intended retirement date and beyond; and
  - (2) to encourage them to shop around.

#### Open market options statement

#### When?

- 19.4.5 R (1) A *firm* must 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;
  - (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 he or she is considering, or has decided:

- (i) to discontinue an *income withdrawal* arrangement; or
- (ii) to take a further sum of money from his or her pension to exercise open market options;

unless the *firm* has given the *client* such a statement in the last 12 months.

- (2) If after taking reasonable steps to comply with the requirement in COBS 19.4.5R(1)(b) 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*.

## Contents

- 19.4.6 R An open market options statement must include:
- (1) the *Money Advice Service* fact sheet "Your pension: it's time to choose" available on [www.moneyadvice.service.org.uk](http://www.moneyadvice.service.org.uk) or a statement provided by a *firm* 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 *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.
- 19.4.7 G For the purpose of *COBS* 19.4.6R(1) where a *firm* provides its own statement as the fact sheet, it should include materially the same information in the *Money Advice Service* 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 an application form for a pension decumulation product.
- Reminder
- 19.4.9 R 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) remind the *client* about the availability of the *pensions guidance*; and
- (4) recommend that the *client* seeks appropriate guidance or advice to understand their options at retirement.

19.4.10 R The reminder must not include an application form 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;
- (4) 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

19.4.15 G 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 *Money Advice Service* 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 *Money Advice Service* fact sheet;
- (3) ensure that the content, presentation or layout of any pension decumulation product information does not emphasise any potential benefits of the *firm's* own products and services in a way that disguises, diminishes or obscures important information or messages contained in the fact sheet;
- (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 R (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 19.4.5R* 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.

...

Amend the following as shown.

## 19.7 Retirement risk warnings

...

- 19.7.4 G ...
- (2) If the *retail client* has not yet decided what to do, the *firm* should consider whether it is required to signpost the *pensions guidance* under ~~*COBS* 19.4.5R~~ *COBS* 19.4.16R (signposting pensions guidance) and whether it may be appropriate to provide retirement risk warnings.

Insert the following new Annex after *COBS* 19 Annex 1 Retirement risk warnings – steps to take. The text is all new and is not underlined.

## 19 Annex 2G Communications about options to access pension savings

This annex belongs to *COBS* 19.4

The definitions in *COBS* 19.4.1R are applied to these tables.

Table 1: Communications required to be made by the firm at specified times

Handbook	Matters to be	Contents of	When
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reference	communicated	communication	
19.4.5R	Open market option statement	A statement satisfying the requirements of <i>COBS</i> 19.4.6R, <i>COBS</i> 19.4.8R and <i>COBS</i> 19.4.10R	Trigger events specified at <i>COBS</i> 19.4.5R
19.4.9R	Reminder	A statement satisfying the requirements of <i>COBS</i> 19.4.6R, <i>COBS</i> 19.4.8R and <i>COBS</i> 19.4.10R	At least six weeks before the <i>client's</i> intended retirement date

Table 2: Requirements for other communications

Handbook reference	Subject of communication	Contents of communication	Trigger
19.4.12R	<i>Pension annuity</i> options	Information about how the <i>client's</i> circumstances can affect <i>pension annuity</i> retirement income calculations and payments.  <i>Firms</i> may also be required to provide a <i>key features illustration</i> ( <i>COBS</i> 14.2.1R) or signpost <i>pensions guidance</i> ( <i>COBS</i> 19.4.16R).	Any communication with a <i>client</i> about their <i>pension annuity</i> options
19.4.14R	<i>Drawdown pension</i>	Relevant information about <i>drawdown pension</i> option.  <i>A firm</i> may also be	Any communication with a <i>client</i> about their <i>drawdown pension</i> options

		required to provide a <i>key features illustration</i> (COBS 14.2.1R) or signpost <i>pensions guidance</i> (COBS 19.4.16R).	
19.4.14R	<i>Uncrystallised funds pension lump sum</i>	<p>Relevant information about <i>uncrystallised funds pension lump sum</i> option.</p> <p><i>Firms</i> may also be required to provide a <i>key features illustration</i> (COBS 14.2.1R) or signpost <i>pensions guidance</i> (COBS 19.4.16R).</p>	Any communication with a <i>client</i> about their <i>uncrystallised funds pension lump sum</i> options
19.4.15G	Communications about options to access pension savings	<p>A <i>firm</i> should refer to the guidance in COBS 19.4.15G when communicating with a <i>client</i> about their options to access pension savings.</p> <p><i>Firms</i> may also be required to signpost <i>pensions guidance</i> (COBS 19.4.16R).</p>	Any communication with a <i>client</i> about their options to access their pension savings
19.4.18R	<i>Client</i> applies to access pension savings	<p>A <i>firm</i> must provide a description of the tax implications unless it is provided in accordance with COBS 14.2.1R.</p> <p><i>Firms</i> may be required to provide retirement risk warnings (COBS 19.7.7R).</p> <p><i>Firms</i> may also be required to signpost <i>pensions guidance</i></p>	<i>Firm</i> receives an application from a <i>client</i> to access pension savings

		(COBS 19.4.16R).	
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...

## 22.2 Requirements on the retail distribution of mutual society shares

...

### 22.2.3 R ...

- (2) The *firm* must give the *retail client* the following statement on paper or another *durable medium* and obtain confirmation in writing from the *retail client* that he or she has signed it, in good time before the *retail client* has committed to *buy* the *mutual society share*:

“... Net assets for these purposes mean my financial assets after deduction of any debts I have, and do not include:

...

- (b) any rights of mine under a qualifying contract of insurance (for example, a life assurance or critical illness policy); ~~or~~
- (c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are) or may be entitled; or
- (d) any withdrawals from my pension savings (except where the withdrawals are used directly for income in retirement).

...”

...

...

## Part 3: Comes into force on 6 April 2017

Amend the following as shown.

### 13.4 Contents of a key features illustration

...

- 13.4.4 R There is no requirement under COBS 13.4.1R to include a *projection* in a *key features illustration*:

- (1) for a single *premium life policy* bought as a pure investment product, a product with benefits that do not depend on future investment returns or any other product if it is reasonable to believe that a *retail client* will not need one to be able to make an informed decision about whether to invest; or
- (2) if the product is a *life policy* that will be held in a *CTF* or sold with *basic advice* (unless the *policy* is a *stakeholder pension scheme*); or
- (3) if a *retail client* proposes to withdraw the funds in full from their *personal pension scheme*, *stakeholder pension scheme* or *drawdown pension* reducing the value of their rights to zero.

13.4.4A R Where *COBS 13.4.4R(3)* applies, if a *retail client* subsequently does not withdraw the funds in full from their *personal pension scheme*, *stakeholder pension scheme* or *drawdown pension* reducing their rights to zero, the *firm* must provide the *client* with a *standardised deterministic projection*.

...

### 13.5 Preparing product information: other projections

Projections for in-force products

...

13.5.1A R The requirement in *COBS 13.5.1R* does not apply where a *retail client* proposes to withdraw the funds in full from their *personal pension scheme*, *stakeholder pension scheme* or *drawdown pension* reducing the value of their rights to zero.

Projections: other situations

...

13.5.2A R The requirement in *COBS 13.5.2R* does not apply where a *retail client* elects to withdraw the funds in full from their *personal pension scheme* or *stakeholder pension scheme* or *drawdown pension* reducing the value of their rights to zero.

...

## 13 Projections

### Annex 2

...

R
Assumptions: rates of return

2.3	<del>A standardised deterministic projection must be calculated using rates that accurately reflect the investment potential of the product and do not exceed the following maximum rates of return with the lower and higher rates each maintaining a differential of 3% relative to the intermediate rate:</del>	
	<u>A standardised deterministic projection must be calculated as follows:</u>	
	(i)	<u>the intermediate rate of return must accurately reflect the investment potential of each of the product's underlying investment options;</u>
	(ii)	<u>the lower and higher rates of return must maintain a differential of 3% relative to the intermediate rate of return; and</u>
	(iii)	<u>the rates of return for each underlying investment option must not exceed the following maximum rates:</u>
...		

R		
2.4	<del>Exception</del> <u>Exceptions</u>	
	<u>A standardised deterministic projection:</u>	
	...	
	(2)	may be calculated using a lower rate of return if a <i>retail client</i> requests it; <u>and</u>
	(3)	<u>where there is a contractual obligation to provide a minimum rate of return that exceeds any one or more of the lower, intermediate or higher rates of return, the standardised deterministic projection must be calculated by substituting the obligated rate of return for the lower, intermediate or higher rate of return, as appropriate.</u>

...

R		
	Assumptions: charges	
2.6	<u>The charges allowed for in a standardised deterministic projection:</u>	
	...	
	(2)	must not include the <i>firm's</i> dealing costs incurred on the underlying portfolio; <u>and</u>
	(3)	<u>must include the retained interest charges specified in COBS 13 Annex 3</u>

		<u>1.1R(4) or COBS 13 Annex 4 1.1R(4), where relevant.</u>
--	--	--

...

G		
2.7	...	
	(8)	<u>The methodology for a projection including retained interest charges should:</u>
	(a)	<u>take account of any required minimum cash balances;</u>
	(b)	<u>be based on reasonable assumptions such that the overall charges in relation to the product and the investments are unlikely to be understated; and</u>
	(c)	<u>have regard to the overall level of retained interest charges across all relevant business.</u>

...

R		
<u>Additional requirements: drawdown pensions and regular <i>uncrystallised funds pension lump sum</i> payments</u>		
2.9	(1)	<u>A standardised deterministic projection for a drawdown pension or regular <i>uncrystallised funds pension lump sum</i> payments 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.</u>
	(2)	<u>A standardised deterministic projection for a drawdown pension or regular <i>uncrystallised funds pension lump sum</i> payments must <del>be based on an assumption that the current gilt index yield will continue to apply throughout the relevant term and</del> include:</u>
		...
	(d)	(under 'What the benefits might be' or similar heading), <u>either:</u>
	(i)	the amount of income and the projected value of the fund at five yearly intervals to age 99 for the <i>lower, intermediate</i> and <i>higher rate of return</i> for as long as the fund is projected to exist (at the <i>higher rate of return</i> ); <u>or</u>
	(ii)	<u>a description of the income and a projection of the age at which the fund will cease to exist for the <i>lower, intermediate</i> and <i>higher rate of return</i>; and</u>

		(e)	<del>the projected open market values and the amounts of annuity that might be purchased after 10 years; and [deleted]</del>
		(f)	...
	(3)	<u>A standardised deterministic projection for a drawdown pension or regular uncrystallised funds pension lump sum payments may also include the projected open market values and the amounts of annuity that might be purchased at some point in the future.</u>	
	(4)	<u>A standardised deterministic projection for a drawdown pension entered into before 6 April 2015 must, where relevant, be based on an assumption that the current gilt index yield will continue to apply throughout the relevant term.</u>	

R			
Drawdown Pension: Exception			
2.10	A <u>standardised deterministic projection</u> <del>for a drawdown pension</del> can be prepared in nominal terms, rather than real terms <u>for a</u> :		
	(1)	<u>drawdown pension; or</u>	
	(2)	<u>personal pension scheme or stakeholder pension scheme from which there has been an election to take regular, ad-hoc or one-off uncrystallised funds pension lump sum payments.</u>	

...

R			
3	How to calculate a projection for a future annuity		
3.1	A <u>projection</u> for a future annuity must:		
	...		
	(2)	use a mortality rate based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables <del>PCMA00 PMA08</del> and <del>PCFA00 PFA08</del> and including mortality improvements derived from each of the male and female annual mortality projection models, in equal parts;	
	...		

...

E			
---	--	--	--



3.1A			For any year commencing 6 April, the use of the male and female annual CMI Mortality Projections Models in the series $CMI(20YY-1)_{M-1.25\%}$ , $CMI(20YY-2)_{M-1.25\%}$ and $CMI(20YY-1)_{F-1.25\%}$ , $CMI(20YY-2)_{F-1.25\%}$ , where $YY-1-2$ is the year of the Model used, will tend to show compliance with COBS 13 Annex 2 3.1R(2).
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<u>R</u>			
3.3	<u>A projection for an annuity with a <i>guaranteed annuity rate</i> must:</u>		
(1)	<u>show an additional projection of the income that could be provided where that <i>guaranteed annuity rate</i> provides higher rates of return than those otherwise shown; and</u>		
(2)	<u>calculate the income that could be provided on the basis of the rates in the <i>guaranteed annuity rate</i>, using a projection of the fund calculated using the <i>intermediate rate of return</i>.</u>		

<u>G</u>			
3.4	<u>When providing an additional projection for an annuity with a <i>guaranteed annuity rate</i>, a <i>firm</i> should:</u>		
(1)	<u>show the projection at the earliest age at which it can be taken;</u>		
(2)	<u>take account of multiple <i>guaranteed annuity rates</i> on the fund or non-guaranteed elements of the fund on a proportionate basis; and</u>		
(3)	<u>provide an explanation of the key restrictions which may apply when the <i>guaranteed annuity rate</i> is taken up, particularly where these differ from the other projections shown.</u>		

...

<u>R</u>			
5	Projections: accompanying statements and presentation		
5.1	<u>A <i>standardised deterministic projection</i> must be accompanied by:</u>		
...			
(2)	a statement:		
...			

		(e)	of the sum of any actual <i>premiums</i> charged for any rider benefits or increased underwriting risks (where these have been charged); <del>and</del>
		(f)	(for <i>personal pension schemes</i> and <i>stakeholder pension schemes</i> ) of the assumptions used to calculate the regular income and that the <i>client</i> may choose when to take this income (if that is the case); <u>and</u>
		(g)	<u>that the projection takes account of the existence of contractual obligations to provide a minimum rate (if that is the case).</u>
	...		

...

### 13 Annex 3 Charges information for a packaged product

...

R			
Charges			
1	Appropriate charges information		
1.1	<i>Appropriate charges information</i> comprises:		
	(1)	(a)	a description of the nature and amount of the <i>charges</i> ( <u>including, where applicable, any retained interest charges under (4), below</u> ) a <i>client</i> will or may be expected to bear in relation to the product and, if applicable, any investments within the product; <u>and</u>
		...	
	...		
	(4)		in relation to a <i>personal pension scheme</i> , the amounts (or if the amounts cannot be given, the formula by which the amounts can be calculated) <u>of the charges</u> , if any, which a <i>personal pension scheme operator</i> or <i>pension scheme trustee</i> will receive as retained interest in relation to money held within the <i>personal pension scheme</i> .
...			
Exceptions			
1.3	An effect of charges table and reduction in yield information are not required for:		
	...		
	(4)	a <i>stakeholder product</i> or a product that will be held in a <i>CTF</i> where the	

	<p>relevant product and the <i>CTF</i> levy their <i>charges</i> annually, if the following is included instead:</p> <p>"There is an annual charge of <math>y\%</math> of the value of the funds you accumulate. If your fund is valued at £250 throughout the year, this means we charge [<math>£250 \times y/100</math>] that year. If your fund is valued at £500 throughout the year, this means we charge [<math>£500 \times y/100</math>] that year. [After ten years these deductions reduce to [<math>£250 \times r/100</math>] and [<math>£500 \times r/100</math>] respectively.]"</p> <p>where 'y' is the annual charge and 'r' is the reduced annual charge (if any); <u>or</u></p>
	<p>(5) <u>a personal pension scheme, stakeholder pension scheme or drawdown pension where the client elects to withdraw their funds in full, reducing the value of their rights to zero.</u></p>
1.3A	<p><u>Where 1.3(5) applies, if a client subsequently does not withdraw the funds in full from their personal pension scheme, stakeholder pension scheme or drawdown pension reducing their rights to zero, the firm must provide the client with an 'effect of charges' table and 'reduction in yield' information.</u></p>

...

### 13 Annex 4 Charges information for a personal pension scheme and a stakeholder pension scheme

...

R		
Charges		
1	Appropriate charges information	
1.1	<i>Appropriate charges information</i> comprises:	
	(1) (a)	a description of the nature and amount of the <i>charges</i> ( <u>including, where applicable, any retained interest charges under (4), below</u> ) a <i>client</i> will or may be expected to bear in relation to the product and, if applicable, any investments within the product;
	...	
	(4)	in relation to a <i>personal pension scheme</i> , the amounts (or if the amounts cannot be given, the formula by which the amounts can be calculated) of the <i>charges</i> , if any, which a personal pension scheme operator or pension scheme trustee will receive as retained interest in relation to money held within the personal pension scheme.
	<u>Exception Exceptions</u>	
...		

1.3	<u>An effect of charges table and reduction in yield information are not required for a <i>personal pension scheme, stakeholder pension scheme or drawdown pension</i> where the <i>client</i> elects to withdraw their funds in full, reducing the value of their rights to zero.</u>
1.3A	<u>Where 1.3 applies, if a <i>client</i> subsequently does not withdraw the funds in full from their <i>personal pension scheme, stakeholder pension scheme or drawdown pension</i> reducing their rights to zero, the <i>firm</i> must provide the <i>client</i> with an ‘effect of charges’ table and ‘reduction in yield’ information.</u>

...

...						
2.2	...					
	Note 1	Note 2	Note 3	Note 4	Note 5	Note 6
	...					
	Note 1	This column must include at least the first, third and fifth year and the intended date of retirement.				
		For a <i>drawdown pension or uncrystallised funds pension lump sum payments</i> , figures must be included for each of the first ten years, or less if the value of the fund is projected at the <del>higher</del> <i>intermediate rate of return</i> to reach zero before then.				
	...					

...

## 14.2 Providing product information to clients

### 14.2.1 R A *firm* that sells:

...

(3B) the variation of a *personal pension scheme* to a *retail client*, which involves the 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: drawdown pensions and regular uncrystallised funds pension lump sum payments);

(3C) the variation of a *personal pension scheme* to a *retail client*, which involves one-off, ad-hoc or regular *uncrystallised funds pension lump sum payments*, 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: drawdown pensions and regular *uncrystallised funds pension lump sum* payments);

...

## 16.6 Communications to clients – life insurance, long term care insurance and income withdrawals

...

16.6.8 R At intervals no longer than 12 *months* from the date of an election by a *retail client* to make *income withdrawals* or one-off, ad-hoc or regular *uncrystallised funds pension lump sum* payments, the relevant *operator* of a *personal pension scheme* or *stakeholder pension scheme* must:

...

16.6.9 G The information provided to the *retail client* in COBS 16.6.8R(1) is likely to be sufficient for the *client* to review the election if it contains at least one of the following:

- (1) the information required by COBS 13 Annex 2 2.9R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments); or
- (2) the effect of any significant one-off withdrawals or payments since the previous information was provided; or
- (3) (where regular income is being taken) information about the sustainability of the *client's* income over time, which may refer to:
  - (a) the proportion of the fund remaining since outset; or
  - (b) an indication of when the fund may cease to exist; or
  - (c) the rate of withdrawals or payments relative to a sustainable rate.

...

## 19.1 Pension transfers, conversions and opt-outs

...

19.1.4 R When a *firm* compares the benefits likely to be paid under a *defined benefits pension scheme* or other pension scheme with *safeguarded benefits* with the benefits afforded by a *personal pension scheme*, *stakeholder pension scheme* or other pension scheme with *flexible benefits* (COBS 19.1.2R(1)), it must:

(1) assume that:

...

(g) the mortality rate used to determine the annuity is based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables ~~PCMA00~~ PMA08 and ~~PCFA00~~ PFA08 and including mortality improvements derived from each of the male and female annual mortality projections models, in equal parts;

...

...

19.1.4A E For any year commencing 6 April, the use of the male and female annual CMI Mortality Projections Models in the series ~~CMI(20YY-1)~~ M<sub>[1.25%]</sub> ~~CMI(20YY-1)~~ F<sub>[1.25%]</sub> and ~~CMI(20YY-1)~~ M<sub>[1.25%]</sub> ~~CMI(20YY-2)~~ M<sub>[1.25%]</sub> and ~~CMI(20YY-1)~~ F<sub>[1.25%]</sub> ~~CMI(20YY-2)~~ F<sub>[1.25%]</sub>, where YY-1 -2 is the year of the Model used will tend to show compliance with COBS 19.1.4R(1)(g).

## Annex C

## Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text.

**7.3 Treatment of customers in default or arrears (including repossessions):  
lenders, owners and debt collectors**

...

Forbearance and due consideration

...

7.3.10 R ...

7.3.10A G (1) An example of behaviour by or on behalf of a firm which is likely to contravene CONC 7.3.10R and Principle 6 is pressurising a customer to raise funds to repay a debt by arranging the receipt of a lump sum from the customer's pension scheme.

(2) Firms are also reminded of PERG 12.6G which contains guidance on the regulated activity of advising on conversion or transfer of pension benefits.

...

**8.3 Pre contract information and advice requirements**

...

8.3.2 R ...

8.3.2A G Firms are reminded of PERG 12.6G which contains guidance on the regulated activity of advising on conversion or transfer of pension benefits.