

**PENSION SCHEMES (RESTRICTIONS ON EARLY EXIT CHARGES)
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 (The FCA’s general rules);
 - (2) section 137FBB (FCA general rules: early exit pension charges);
 - (3) section 137T (General supplementary powers); and
 - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 31 March 2017.

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.

Notes

- F. In Annex A to this instrument, the “note” (indicated by “Note:”) is included for the convenience of readers but does not form part of the legislative text.

Citation

- G. This instrument may be cited as the Pension Schemes (Restrictions on Early Exit Charges) Instrument 2016.

By order of the Board
10 November 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.

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

- early exit charge* has the meaning given in section 137FBB(6) of the *Act*, which is, in summary:
- (a) a charge imposed on a member of a *personal pension scheme* or *stakeholder pension scheme*:
 - (i) when that member, having reached normal minimum pension age, takes the action set out in (b); but
 - (ii) which is only imposed, or only imposed to that extent, if the member takes that action before the member's expected retirement date; and
 - (b) the action is the member taking benefits, converting benefits into different benefits or transferring benefits to another pension scheme; and
 - (c) in this definition:
 - (i) a reference to "benefits" includes all or any part of the member's benefits under the scheme;
 - (ii) "charge" includes a reduction in the value of the member's benefits under the scheme;
 - (iii) "expected retirement date" means the date determined by or in accordance with the scheme as the date on which the member's benefits under the scheme are expected to be taken; and
 - (iv) "normal minimum pension age" has the meaning given in section 279(1) of the Finance Act 2004.

[Note: the meaning of "normal minimum pension age" referred to in (c)(iv) above, is, in summary, in relation to dates on and after 6 April 2010, 55 and, in relation to dates before 6 April 2010, 50].

Amend the following definitions as shown.

personal pension scheme (in accordance with article 3 of the *Regulated Activities Order*) a scheme or arrangement which is not an *occupational pension scheme* or *stakeholder pension scheme* and which is comprised in one or more instruments or agreements having or capable of having effect so as to provide benefits to or in respect of people:

- (a) on retirement; or
- (b) on having reached a particular age; or
- (c) on termination of service in an employment.

stakeholder pension scheme (in accordance with article 3 of the *Regulated Activities Order*) a scheme that meets the conditions in section 1 of the Welfare Reform and Pensions Act 1999 or article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

After COBS 19.6 (Restriction on charges in qualifying schemes) insert the following new section. The text is not underlined.

19.6A Restrictions on early exit charges in personal pension schemes and stakeholder pension schemes

Application

- 19.6A.1 R This section applies to an *operator* of a *personal pension scheme* or a *stakeholder pension scheme*.

Purpose

- 19.6A.2 G The purpose of this section is to make *rules* prohibiting the imposition of, and provision for, certain *early exit charges* on members of *personal pension schemes* and *stakeholder pension schemes*. Section 137FBB of the *Act* requires the *FCA* to make such *rules*.

Exclusion

- 19.6A.3 R This section does not apply to any charge which is excluded from the scope of section 137FBB of the *Act* by the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079).

Prohibition on early exit charges on a member joining or incrementing benefits under a scheme on or after 31 March 2017

- 19.6A.4 R (1) A *firm* must not:
- (a) impose; or
 - (b) include in the arrangements relating to a *personal pension scheme* or *stakeholder pension scheme* any provision for the imposition of:

an *early exit charge* on a member of the scheme.
- (2) This *rule* applies in relation to a member who entered into a contract or other arrangement on or after 31 March 2017 providing for:
- (a) a right to benefits resulting from contributions to the scheme; or
 - (b) an increment to benefits resulting from contributions to the scheme, but only in respect of the member's benefits under that

contract or other arrangement.

Restriction on early exit charges on a member who joined or incremented a scheme before 31 March 2017

- 19.6A.5 R (1) A *firm* must not impose an *early exit charge* on a member of a *personal pension scheme* or *stakeholder pension scheme* that exceeds the lower of:
- (a) 1% of the value of the member's benefits being taken, converted or transferred; or
 - (b) such lower amount as was provided for under the scheme arrangements as at 31 March 2017; or
 - (c) where no such provision was made, no charge.
- (2) A *firm* must not:
- (a) include provision in such a scheme for an *early exit charge*, where such provision did not exist on 31 March 2017; or
 - (b) vary provision for an *early exit charge* in such a scheme to increase or potentially increase the charge.
- (3) The value of the member's benefits in (1)(a):
- (a) is calculated at the point when the *firm* receives confirmation from the member of the instruction to take the action giving rise to the *early exit charge*;
 - (b) excludes an increment to member's benefits resulting from contributions to a scheme under a contract or other arrangement entered into by the member on or after 31 March 2017;
 - (c) excludes adjustments referred to, and satisfying the conditions in Regulation 3 of the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079); and
 - (d) does not exclude adjustments referred to in Regulation 4 of the Financial Services and Markets Act 2000 (Early Exit Pensions Charges) Regulations 2016 (SI 2016/1079).
- (4) This *rule* applies in relation to a member who entered into a contract or other arrangement (providing for a right to benefits resulting from contributions to the scheme) before 31 March 2017.

Amend the following as shown. Underlining indicates new text and striking through indicates deleted text.

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 provision: coming into force
...					
<u>2.25</u>	<u>COBS 19.6A.5R</u>	<u>R</u>	<u>COBS 19.6A.5R does not apply where the instruction for the action giving rise to the <i>early exit charge</i> was received by the <i>firm</i> before 31 March 2017.</u>	<u>From 31 March 2017 indefinitely</u>	<u>31 March 2017</u>