

**CONDUCT OF BUSINESS SOURCEBOOK (RETIREMENT OUTCOMES REVIEW)  
(No 2) INSTRUMENT 2019**

**Powers exercised**

- A. The Financial Conduct Authority (“the FCA”) 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 137T (General supplementary powers); and
  - (3) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 November 2019, immediately after the changes in Part 1 of the Conduct of Business Sourcebook (Retirement Outcomes Review) Instrument 2019 (FCA 2019/4).

**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 Conduct of Business Sourcebook (Retirement Outcomes Review) (No 2) Instrument 2019.

By order of the Board  
24 October 2019

**Annex A**

**Amendments to the Glossary of definitions**

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

*serious ill-health lump sum* has the meaning in Part 1 of Schedule 29 to the Finance Act 2004.  
[Note: <https://www.legislation.gov.uk/ukpga/2004/12/schedule/29/part/1>]

## Annex B

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

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

**19 Pensions supplementary provisions**

...

**19.4 Open market options**

...

Open market options statement

When?

- 19.4.5A R (1) A *firm* must give a *retail client* an open market options statement:
- (a) within two *months* after the *client* reaches 50 years of age; and
  - (b) ~~between four to ten weeks before the *client* reaches 55 years of age;~~  
between four to ten weeks before the *client* reaches each birthday that is at five year intervals after the *client*'s 50<sup>th</sup> birthday.
  - (c) ~~at five year intervals after the open market options statement in (b) is sent until the *client*'s pension fund is fully crystallised;~~  
[deleted]
- unless
- (1A) The requirement in (1) does not apply if:
- (a) the *firm* has given the *client* such a statement in the last 12 months; or
  - (b) the *client*'s pension fund is fully crystallised; or
  - (c) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.
- (2) A *firm* must also give a *retail client* an open market options statement:

...

- (d) if the *retail client* requests to access their pension savings for the first time, except where the *retail client* requests that their pension fund is paid to them by way of a *serious ill-health lump sum*;

unless

(2A) The requirement in (2) does not apply if:

- (a) the *firm* has given the *client* such a statement in the last 12 months; or
- (b) the *firm* has received a request from the *client* for their pension fund to be paid by way of a *serious ill-health lump sum* and that request has not been rejected.

...

- (4) Where a *firm*'s obligation to send an open market options statement is only dis-applied because of a *client*'s request that their pension fund is paid to them by way of a *serious ill-health lump sum* (see COBS 19.4.5AR(1A)(c) or COBS 19.4.5AR(2A)(b)), but that request is subsequently rejected, a *firm* must send to the *client* an open market options statement within two *months* of the decision to reject.

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## 19.9 Pension annuity comparison information

### Definitions

19.9.1 R In this section:

...

- (3) a “market-leading *pension annuity* quote” is a quote for a *pension annuity* that:
- (a) is generated by a *firm* by searching for, obtaining and comparing, *pension annuities* that are available to the *retail client* from across all of the *pension annuity* market using:
- (i) the same information as the *firm* has used to generate a guaranteed quote; or
- (ii) answers obtained from the *retail client* which allow the *firm* to determine whether the *client* may be eligible for an enhanced annuity, where the *firm* itself cannot generate an enhanced annuity quote using those answers; and

(b) ...

...

...

#### Eligibility for enhanced annuities

19.9.6A R (1) When a *firm* generates a market-leading *pension annuity* quote it must ~~ask~~ take reasonable steps to obtain from the retail client answers to the questions that are required to determine whether the *client* is eligible for an enhanced annuity.

...

(4) If the retail client refuses to answer a firm's questions that are required to determine whether the retail client is eligible for an enhanced annuity, a firm must:

(a) generate a market-leading pension annuity quote using the same information that it used to generate its guaranteed quote; and

(b) compare the market-leading pension annuity quote referred to in (a) with its guaranteed quote.

...

19.9.6C G (1) The guidance in this section relates to a firm's obligations to provide a market-leading pension annuity quote in COBS 19.9.6AR(4).

(2) A firm may consider it appropriate to include in the quote provided to the retail client a statement that the client may have health or lifestyle factors that could mean that they are eligible for a higher income. For example, the wording in the "Did you know?" box in the template in Part 3 of COBS 19 Annex 3R could be adapted to reflect the fact that a client has refused to answer questions about their health or lifestyle.

...

19.9.15 R (1) This rule applies to a *firm* ~~where the firm:~~

(a) ~~asks the retail client questions to determine whether the client is eligible for an enhanced annuity, and the retail client refuses to answer the firm's questions; or~~

(b) requires the *retail client's* consent to the *firm* generating, on behalf of the *retail client*, a market-leading *pension annuity* quote and that consent is not obtained.

(2) A *firm* must take reasonable steps to obtain ~~from a retail client's the answers and/or~~ consent referred to in paragraph (1).

(3) Where a firm, having complied with (2), has been unable to obtain the client's consent, this rule applies with the effect that:

(a) COBS 19.9.4R(7), and COBS 19.9.7R and COBS 19.9.6AR(4) do not apply;

...

...

**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>2.8FA</u>	<u>COBS 19.9.6AR(4)</u>	<u>R</u>	<p>(1) <u>The rule in column (2) does not apply to a firm until 1 January 2020 and is replaced by TP 2.8FAR(2), the guidance in TP 2.8FB and the guidance in TP 2.8FC below.</u></p> <p>(2) <u>Where a retail client refuses to answer questions that would allow a firm to determine whether a pension annuity on an enhanced basis could be available, a firm must:</u></p> <p>(a) <u>include information warning the retail client that:</u></p> <p>(i) <u>a higher annual income might be obtained;</u> <u>or</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>

			<p>(ii) <u>at least the requested annual income might be obtained for a lower purchase price;</u></p> <p><u>by searching the open market for a pension annuity; and</u></p> <p>(b) <u>as applicable, use the template in Part 3 or Part 6 of COBS 19 Annex 3R,</u></p> <p><u>unless the firm obtains a market leading pension annuity in line with the guidance below in TP 2.8FC.</u></p>		
<u>2.8F B</u>	<u>COBS 19.9.6AR(4)</u>	<u>G</u>	<p><u>A firm in TP 2.8FAR(2) may consider it appropriate to include in the quote provided to the retail client a statement that the client may have health or lifestyle factors that could mean that they are eligible for a higher income.</u></p> <p><u>For example, the wording in the “Did you know?” box in the template in Part 3 or Part 6 of COBS 19 Annex 3R could be adapted to reflect the fact that a client has refused to answer questions about their health or lifestyle.</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>
<u>2.8F C</u>	<u>COBS 19.9.6AR(4)</u>	<u>G</u>	<p><u>Where a retail client refuses to answer a firm’s questions to allow the firm to determine whether the retail client is eligible for an enhanced annuity, the firm is encouraged to generate a market leading pension annuity quote using the same information that it used to</u></p>	<u>1 November 2019 to 31 December 2019</u>	<u>1 November 2019</u>

		<u>generate its guaranteed quote and compare the two.</u>		
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