

**CONDUCT OF BUSINESS SOURCEBOOK (ASSESSING VALUE FOR MONEY IN
WORKPLACE PENSION SCHEMES AND INVESTMENT PATHWAYS:
REQUIREMENTS FOR IGCs AND GAAs) INSTRUMENT 2021**

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 4 October 2021.

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 notes (indicated by “*Editor’s note:*”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- G. This instrument may be cited as the Conduct of Business Sourcebook (Assessing Value for Money in Workplace Pension Schemes and Investment Pathways: Requirements for IGCs and GAAs) Instrument 2021.

By order of the Board
30 September 2021

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.

transaction costs (for the purposes of *COBS 19.5* and *COBS 19.8*) means costs incurred as a result of the buying, selling, lending or borrowing of *investments*.

[*Editor's note*: the above definition of “transaction costs” was previously defined in *COBS 19.8.1R* for the purposes of *COBS 19.5* and *COBS 19.8*. We are now adding it as a definition to the main Handbook Glossary so all consequential references to “transaction costs” in *COBS 19.5* and *COBS 19.8*, should be read as, and amended to, references to “*transaction costs*”.]

Amend the following definitions as shown.

administration charge (1) ~~(except for the purposes of *COBS 19.5* and *COBS 19.8*), any charge made which:~~

...

(2) (for the purposes of *COBS 19.5* and *COBS 19.8* only), in relation to a member of a pension scheme or (for the purposes of *COBS 19.5* only) a pathway investor, means any of the following to the extent that they may be used to meet the administrative expenses of the scheme or (for the purposes of *COBS 19.5* only) the *pathway investment*, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members or (for the purposes of *COBS 19.5* only) pathway investors:

(a) any payments made to the scheme or (for the purposes of *COBS 19.5* only) for a *pathway investment* by, or on behalf or in respect of, the member or (for the purposes of *COBS 19.5* only) pathway investor; or

(b) any income or capital gain arising from the investment of such payments; or

(c) the value of the member's rights under the scheme or (for the purposes of *COBS 19.5* only) the pathway investor's rights under the *pathway investment*;

but an administration charge does not include any charge made for costs:

- (d) incurred directly as a result of buying, selling, lending or borrowing investments; or
- (e) incurred solely in providing benefits in respect of the death of such a member or (for the purposes of COBS 19.5 only) pathway investor; or
- (f) incurred in complying with a court order, where that order has provided that the operator, trustee or manager of the scheme or (for the purposes of COBS 19.5 only) pathway investment may recover those costs; or
- (g) arising from earmarking orders or pension sharing arrangements pursuant to regulations made under section 24 or section 41 of the Welfare Reform and Pensions Act 1999.

[*Editor's note:* the above wording that is set out in paragraph (2) of the definition of “administration charge” was previously set out in the definition of “administration charges” in COBS 19.8.1R for the purposes of COBS 19.5 and COBS 19.8. We are now adding it as paragraph (2) to the main Handbook Glossary definition of “administration charge” so all consequential references to “administration charges” in COBS 19.5 and COBS 19.8, should be read as, and amended to, references to “*administration charges*”. We have also inserted references to “pathway investments” and “pathway investors” where applicable for the purposes of COBS 19.5.]

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

...

19.5 Independent governance committees (IGCs) and publication and disclosure of costs and charges

...

Definitions

19.5.1A R In this section:

(1A) “employer pension arrangements” means an arrangement where eligibility for membership of that arrangement or section is limited to the employees of a specified employer or employers;

(1A) “investment performance” means the investment performance of the:
A)

(a) pension savings of *relevant policyholders*; or

(b) the drawdown fund of pathway investors;

...

(3A) “pathway investment comparators” means other *pathway investments* (that are not provided by the *firm*) selected by an IGC under COBS 19.5.5R(2A)(e)(i) to (iii) and which:

(a) are individual *pathway investments*; or

(b) are cohorts of similar *pathway investments*;

...

(5A) “scheme comparators” means other pension arrangements (that are not provided by the *firm*) selected by an IGC under COBS 19.5.5R(2)(e)(i) to (iii) and which:

(a) are individual employer pension arrangements; or

(b) are cohorts of similar employer pension arrangements;

(5A) “services” refers to the services provided by a firm to relevant
 A) policyholders or pathway investors and includes:

- (a) the communications issued to relevant policyholders or pathway investors; and
- (b) the administration of the relevant scheme or pathway investment;

...

Interpretation

19.5.1B R ~~In this section “administration charges” and “transaction costs” have the same meaning as in COBS 19.8.1R. [deleted]~~

...

Terms of reference for an IGC

19.5.5 R A firm must include, as a minimum, the following requirements in its terms of reference for an IGC:

...

(2) the IGC will assess the ongoing value for money for relevant policyholders delivered by a relevant scheme particularly, though not exclusively, through assessing the three factors in (a) to (c) below, taking into account the specific points in (d) to (g):

(a) the level of charges and costs, in particular:

(i) administration charges and any transactions costs borne by relevant policyholders; and

(ii) any other charges borne by relevant policyholders and any other costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the pension savings of relevant policyholders;

(b) investment performance; and

(c) the quality of services including whether:

(i) the communications are fit for purpose and properly take into account the characteristics, needs and objectives of the relevant policyholders; and

- (ii) core financial transactions are processed promptly and accurately, such as processing contributions, transfers or death benefits;
- (d) as part of the ongoing value for money assessment in (2), the IGC will need to consider whether to assess the *relevant scheme* by reference to employer pension arrangements on an individual basis or on an aggregated basis using cohorts of sufficiently similar employer pension arrangements, or a combination of both, to enable the IGC to produce a value for money assessment that is the most useful for the members of the *relevant scheme*, but which is also appropriate and proportionate in the circumstances;
- (e) as part of the ongoing value for money assessment in (2)(a)(i), (b) and (c), the IGC will need to:
 - (i) consider whether individual employer pension arrangements or cohorts of employer pension arrangements, or a combination of both, would be most appropriate to be part of its scheme comparators taking into account the proportionality and usefulness of each;
 - (ii) (where it selects cohorts of employer pension arrangements as part of its scheme comparators) select sufficiently similar employer pension arrangements that enable the IGC to produce an assessment that is the most useful for the members of the *relevant scheme*;
 - (iii) select a small number of reasonably comparable scheme comparators (including those which could potentially offer better value for money in respect of factors (2)(a)(i), (b) and (c));
 - (iv) use reasonable endeavours to obtain and compare the relevant data that it needs to carry out useful assessments in respect of the factors set out in (2)(a)(i), (b) and (c), in a manner which is proportionate to the likely member benefits that will result from the IGC assessing the data;
 - (v) assess the *relevant scheme* by reference to the scheme comparators based on factors (2)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the scheme comparators in respect of those factors); and
 - (vi) consider whether any of the scheme comparators offer better value for money for *relevant policyholders*

based on factors (2)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the scheme comparators in respect of those factors):

- (a) as part of the assessment of quality of services in 2(c), the
 - (f) IGC will need to assess whether default investment strategies within those schemes:
 - (i) are designed and executed in the interests of *relevant policyholders*; and
 - (ii) have clear statements of aims and objectives;
 - (b) as part of the assessment of quality of services in 2(c), the
 - (g) IGC will need to assess whether the characteristics and net performance of investment strategies are regularly reviewed by the *firm* to ensure alignment with the interests of *relevant policyholders* and that the *firm* takes action to make any necessary changes;
 - (e) ~~whether core scheme financial transactions are processed promptly and accurately;~~
 - (d) ~~the levels of charges borne by *relevant policyholders*;~~
 - (e) ~~the direct and indirect costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the pension savings of *relevant policyholders*, including transaction costs; and~~
 - (f) ~~whether the communications to *relevant policyholders* are fit for purpose and properly take into account the *relevant policyholders*' characteristics, needs and objectives;~~
- (2A) the IGC will assess the ongoing value for money for pathway investors delivered by a *pathway investment* particularly, though not exclusively, through assessing the three factors in (a) to (c) below, taking into account the specific points in (d) to (g):
- (a) the level of charges and costs in particular:
 - (i) *administration charges and any transactions costs borne by pathway investors*; and
 - (ii) *any other charges borne by pathway investors and any other costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the drawdown fund of pathway investors*;

- (b) investment performance; and
- (c) the quality of services including whether:
 - (i) the communications are fit for purpose and properly take into account the characteristics, needs and objectives of the pathway investors; and
 - (ii) core financial transactions are processed promptly and accurately, such as processing contributions, transfers or death benefits;
- (d) as part of the ongoing value for money assessment in (2A), the IGC will need to consider whether to assess the *pathway investment* on an individual basis or on an aggregated basis using cohorts of sufficiently similar *pathway investments*, or a combination of both, to enable the IGC to produce a value for money assessment that is the most useful for the pathway investors, but which is also appropriate and proportionate in the circumstances;
- (e) as part of the ongoing value for money assessment in (2A)(a)(i), (b) and (c), the IGC will need to:
 - (i) consider whether individual *pathway investments* or cohorts of *pathway investments*, or a combination of both, would be most appropriate to be part of pathway investment comparators taking into account the proportionality and usefulness of each;
 - (ii) (where it selects cohorts of *pathway investments* as part of its pathway investment comparators) select sufficiently similar *pathway investments* that enable the IGC to produce an assessment that is the most useful for the pathway investors;
 - (iii) select a small number of reasonably comparable pathway investment comparators (including those which could potentially offer better value for money in respect of factors (2A)(a)(i), (b) and (c));
 - (iv) use reasonable endeavours to obtain and compare the relevant data that it needs to carry out useful assessments in respect of the factors set out in (2A)(a)(i), (b) and (c), in a manner which is proportionate to the likely pathway investor benefits that will result from the IGC assessing the data;
 - (v) assess the *pathway investment* by reference to the pathway investment comparators based on factors (2A)(a)(i), (b) and (c) (to the extent that there is

publicly, or readily, available information about the pathway investment comparators in respect of those factors); and

(vi) consider whether any of the pathway investment comparators offer better value for money for pathway investors based on factors (2A)(a)(i), (b) and (c) (to the extent that there is publicly, or readily, available information about the pathway investment comparators in respect of those factors);

(f) as part of the assessment of quality of services in (2A)(c), the IGC will need to assess whether the pathway investment offered by the firm:

(i) is designed and managed in the interests of pathway investors; and

(ii) has a clear statement of aims and objectives;

(g) as part of the assessment of quality of services in (2A)(c), the IGC will need to assess whether the characteristics and net performance of the pathway investment are regularly reviewed by the firm to ensure alignment with the interests of pathway investors and that the firm takes action to make any necessary changes;

~~(e) whether core financial transactions are processed promptly and accurately;~~

~~(d) the levels of charges borne by pathway investors;~~

~~(e) the direct and indirect costs incurred as a result of managing and investing, and activities in connection with the managing and investing of, the drawdown fund of pathway investors, including transaction costs; and~~

~~(f) whether the communications to pathway investors are fit for purpose and properly take into account the pathway investors' characteristics, needs and objectives;~~

...

(6) the Chair of the IGC will be responsible for the production of an annual report setting out: the following, in sufficient detail, taking into account the information needs of consumers:

(a) the IGC's opinion on:

(i) the value for money delivered by a *relevant scheme* or a *pathway investment*, particularly against the matters listed under (2) or (2A); and a statement setting out

their overall assessment of whether the *relevant scheme* or *pathway investment* provides value for money; and

- (ii) ...
- (aa) ...
- (ab) an explanation of how the *IGC* carried out their assessment of ongoing value for money. This must include demonstrating how the factors set out in (2)(a) to (c) or (2A)(a) to (c) have been fully and properly considered;
- (ac) the reasons:
 - (i) for the *IGC*'s overall assessment of whether the *relevant scheme* or *pathway investment* provides value for money as required under (6)(a)(i);
 - (ii) (in relation to a *relevant scheme* only), where the *IGC* assessed the *relevant scheme* using cohorts of employer pension arrangements for the purposes of its general assessment in (2)(d) or used cohorts as part of the scheme comparators in (2)(e), why the *IGC* considers it is appropriate and proportionate to use cohorts and the *IGC*'s reasons for using the characteristics that it used to select the cohorts;
 - (iii) (in relation to a *relevant scheme* only), why the *IGC* considers that the scheme comparators it selected for the purposes of its assessment under (2)(e) provided a reasonable comparison against the *relevant scheme*;
 - (iv) (in relation to a *pathway investment* only), where the *IGC* assessed the *pathway investment* using cohorts of *pathway investments* for the purposes of its general assessment in (2A)(d) or used cohorts as part of the pathway investment comparators in (2A)(e), why the *IGC* considers it is appropriate and proportionate to use cohorts of *pathway investments* and the *IGC*'s reasons for using the characteristics that it used to select the cohorts; and
 - (v) (in relation to a *pathway investment* only) why the *IGC* considers that the pathway investment comparators it selected for the purposes of its assessment under (2A)(e) provided a reasonable comparison against the *pathway investment*;
- (b) ...

- ...
- (7) the Chair of the *IGC* will ensure the annual report is produced by ~~31 July~~ 30 September each year, in respect of the previous calendar year;
- ...
- (10) ...
- (a) ...
- (b) persons within the application of the *relevant scheme* and qualifying or prospectively qualifying for benefits under the *relevant scheme*; ~~and~~
- (11) the *IGC* will ensure that information is communicated under this *rule* in a manner that pays due regard to the purposes for which *relevant policyholders* might reasonably use the information; ~~and~~
- (12) the *IGC* will retain copies of any evidence used in their assessment of ongoing value for money for a minimum of six years.

Value for money assessment

- 19.5.5A G (1) In the context of the *IGC*'s assessment of ongoing value for money for *relevant policyholders* or pathway investors under *COBS 19.5.5R(2)* or *COBS 19.5.5R(2A)*:
- (a) the *administration charges* and *transaction costs* borne by *relevant policyholders* or pathway investors are likely to represent value for money when the combination of the charges and costs, and the investment performance and services are appropriate:
- (i) for the *relevant policyholders* or pathway investors, and
- (ii) when compared to other reasonably comparable options on the market.
- (b) As part of the *IGC*'s assessment under (1)(a)(i) regarding what is appropriate for *relevant policyholders*, the *IGC* should consider the size of the employer and the size and demographic of the membership of the *relevant scheme*.
- (c) The *IGC* should not use a *firm*'s compliance with the limits on *administration charges* (*COBS 19.6.6R*), of itself, as evidence of value for money.
- (d) Where the limits on *administration charges* in *COBS 19.6.6R* do not apply, the *IGC* should not use the fact that a *firm* keeps

its administration charges at or below 1%, of itself, as evidence of value for money.

(2) The IGC should take into account the considerations in (3), as part of the IGC's:

- (a) decision referred to in COBS 19.5.5R(2)(d) about whether to carry out its ongoing value for money assessment of the relevant scheme by assessing the employer pension arrangements on an individual or cohort basis; or
- (b) selection of scheme comparators under COBS 19.5.5R(2)(e)(i) to (iii).

(3) The considerations referred to in (2) are:

- (a) the size and demographic of the membership of the individual employer pension arrangements and/or any proposed cohorts;
- (b) (where cohorts are proposed), any other characteristics that it would be appropriate and proportionate for the IGC to use, in the particular circumstances of the relevant scheme, as part of its cohort selection criteria; and
- (c) (if the IGC has used cohorts of employer pension arrangements in any part of its ongoing value for money assessment under COBS 19.5.5R(2)) whether it would be appropriate and proportionate also to assess any particular employer pension arrangements within the cohorts on an individual basis in order to be able to carry out the most useful assessment under COBS 19.5.5R(2).

(4) The IGC should take into account the considerations in (5), as part of the IGC's:

- (a) decision referred to in COBS 19.5.5R(2A)(d) about whether to carry out its ongoing value for money assessment of the pathway investment by assessing the pathway investment on an individual or cohort basis; or
- (b) selection of pathway investment comparators under COBS 19.5.5R(2A)(e)(i) to (iii).

(5) The considerations referred to in (4) are:

- (a) (where cohorts are proposed), any characteristics that it would be appropriate and proportionate for the *IGC* to use, in the particular circumstances of the *pathway investment*, as part of its cohort selection criteria; and
 - (b) (if the *IGC* has used cohorts of *pathway investments* in any part of its ongoing value for money assessment under *COBS* 19.5.5R(2A)) whether it would be appropriate and proportionate to also assess any particular *pathway investments* within the cohorts on an individual basis in order to be able to carry out the most useful assessment under *COBS* 19.5.5R(2A).
- (6) As part of the *IGC*'s selection of scheme comparators or investment pathway comparators under *COBS* 19.5.5R(2)(e)(i) to (iii) or *COBS* 19.5.5R(2A) (e)(i) to (iii), the *IGC* will need to include scheme comparators or pathway investment comparators that potentially offer better value for money in respect of the factors set out in *COBS* 19.5.5R(2)(a)(i), (b) and (c) or *COBS* 19.5.5R(2A)(a)(i), (b) and (c) (based on whatever information is publicly, or readily, available and is relevant to those factors).
- (7) There is no expectation by the *FCA* that the *IGC* would carry out a comparison of all the comparable employer pension arrangements or all of the comparable *pathway investments* for the purposes of *COBS* 19.5.5R(2)(e) or *COBS* 19.5.5R(2A)(e).

Interests of relevant policyholders or pathway investors and consideration of adequacy and quality of a policy

19.5.6 G ...

- (5A) In addition to the ability of the *IGC* to escalate a concern about value for money under (5), if the *IGC* finds that:
- (a) any of the scheme comparators offer better value for money for *relevant policyholders* than the *relevant scheme* based on the factors set out in *COBS* 19.5.5R(2)(a)(i), (b) and (c); or
 - (b) any of the investment pathway comparators offer value for money for pathway investors than the *pathway investment* based on the factors set out in *COBS* 19.5.5R(2A) (a)(i), (b) and (c),
- the *IGC* should bring this matter, together with an explanation and relevant evidence, to the attention of the *firm's governing body*.
- (5A) If the *IGC* is not satisfied with the response of the *firm's governing body* to the concerns it has raised under (5A) and the *IGC* considers that informing the relevant employer or employers could be of material utility to the employers or the members regarding the *IGC*'s concern about value for money under (5), the *IGC* should inform the relevant employer or employers directly.

(5A AA) In (5AA), an example of circumstances where an IGC may consider that informing the employer would be unlikely to be of material utility is where there are solely deferred members in any affected employer pension arrangement and the employer does not have the ability to effect a transfer of the deferred benefits from the employer pension arrangement to a new arrangement.

...

Publication and disclosure of costs and charges by IGCs

19.5.13 R ...

- (1) be published by ~~31 July~~ 30 September each year, in respect of the previous calendar year;

...

19.8 Disclosure of transaction costs and administration charges in connection with workplace pension schemes

Interpretation

19.8.1 R In this section:

- (1) ~~‘administration charges’, in relation to a member of a pension scheme, means any of the following to the extent that they may be used to meet the administrative expenses of the scheme, to pay commission or in any other way that does not result in the provision of pension benefits for or in respect of members:~~
- ~~(a) any payments made to the scheme by, or on behalf or in respect of, the member; or~~
 - ~~(b) any income or capital gain arising from the investment of such payments; or~~
 - ~~(c) the value of the member’s rights under the scheme;~~
- ~~but an administration charge does not include any charge made for costs:~~
- ~~(d) incurred directly as a result of buying, selling, lending or borrowing investments; or~~
 - ~~(e) incurred solely in providing benefits in respect of the death of such a member; or~~
 - ~~(f) incurred in complying with a court order, where that order has provided that the operator, trustee or manager of the scheme may recover those costs; or~~

~~(g) arising from earmarking orders or pension sharing arrangements pursuant to regulations made under section 24 or section 41 of the Welfare Reform and Pensions Act 1999.~~

~~[deleted]~~

...

~~(4) 'transaction costs' are costs incurred as a result of the buying, selling, lending or borrowing of investments.~~

~~[deleted]~~