Advising on Pension Transfers – feedback on CP17/16 and final rules and guidance

Policy Statement
PS18/6

March 2018

This relates to

In this Policy Statement we report on the main issues arising from Consultation Paper 17/16: *Advising on Pension Transfers*.

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1 Overview

Introduction

1.1 Defined Benefit (DB) pensions, and other safeguarded benefits[1] providing guaranteed pension income, give valuable benefits so most consumers will be best advised to keep them. But we recognise the pensions environment is changing, particularly since the introduction of the pension freedoms gave consumers more options to access their pension savings. As a result, there is increased demand for pension transfer advice. Given this, we wanted to ensure that those providing regulated financial advice fully consider the client's circumstances and properly consider the various options.

1.2 In June 2017 we published CP17/16 – Advising on pension transfers.[2] This proposed changes to our rules on advice given to consumers about converting or transferring safeguarded benefits. This Policy Statement (PS) sets out our response to the feedback we received to CP17/16.

1.3 Our proposals in CP17/16 aimed to provide advisers with a framework to help them give the right advice so that consumers make better informed decisions. Our main proposals covered the following:

- Introducing a rule to require all advice on the conversion or transfer of safeguarded benefits to result in a personal recommendation. A personal recommendation must be based on an individual consumer's needs and circumstances.
- Replacing Handbook guidance, which sets out that an adviser should start from the assumption that a transfer will be unsuitable, with a Handbook statement that for most people keeping safeguarded benefits is likely to be in their best interests.
- Adding additional Handbook guidance on the factors to be considered to assess suitability when giving a personal recommendation to convert or transfer safeguarded benefits.
- Introducing Handbook guidance on the role of a Pension Transfer Specialist (PTS) when they check, rather than give, advice on the pension transfers, opt-outs or conversion of safeguarded benefits. Also, amending the definition of a Pension Transfer Specialist (PTS) to support this.
- Replacing the current transfer value analysis requirement (TVA) with a requirement to undertake appropriate analysis of the client's options. This includes a prescribed comparator which indicates the value of the benefits the consumer would be giving up.

1 DWP factsheet on "Pension benefits with a guarantee and the advice requirement", January 2016: "In practice, safeguarded benefits are any benefits which include some form of guarantee or promise during the accumulation phase about the rate of secure pension income that the member (or their survivors) will receive, or will have an option to receive." For the purposes of this document, references to transferring safeguarded benefits should be taken to include converting safeguarded benefits.

2 www.fca.org.uk/publication/consultation/cp17-16.pdf

- Only applying the additional requirements for advice on pension opt-outs to those cases where the consumer could potentially lose safeguarded benefits.

1.4 We also asked a number of discussion questions to help us develop our policy. We sought views on:

- the current qualifications required for pension transfer specialists
- the relative responsibilities where two advisers are involved in advising a consumer
- the use of probability based (stochastic) software when analysing a pension transfer
- advisers' responsibilities when using software
- the assumptions firms should use when valuing safeguarded benefits with limited inflationary pension increases
- the impact of our proposals on overseas transfers
- our expectations for the provision of streamlined advice when advising on safeguarded benefits

1.5 We received 117 responses to the consultation. This provided us with a wide range of views from across the pensions industry and consumer groups. This PS summarises the feedback we received on the proposed Handbook changes and discussion questions. It also sets out, in the Appendix, the final Handbook rules that we are making following this consultation process. We also explain where we have refined our approach to take respondents' views into account.

Further consultation

1.6 Alongside this PS, we have published CP18/7[3], on improving the quality of pension transfer advice. This sets out proposals covering the discussion questions in CP17/16, as well as additional areas raised by respondents to CP17/16 and from our ongoing supervisory work.

Who does this affect?

1.7 This PS will primarily be of interest to firms advising on pension transfers, those acting as pension transfer specialists, software providers and pension providers, in particular those receiving pension transfer business. It may also be of interest to employer sponsors of DB pension schemes and employee benefit consultants.

1.8 The new rules are intended to improve the quality of advice received by retail customers who want to transfer or convert safeguarded benefits. So this PS may also be of interest to these consumers or groups representing them.

3 www.fca.org.uk/publications/consultation-papers/cp18-7-improving-quality-pension-transfer-advice

Context

1.9 The pension freedoms, introduced by the Government in April 2015, gave consumers with defined contribution (DC) pensions more freedom around how they access their pension savings from age 55. Previously, pension savings could usually only be used to provide an annuity or drawdown. Pension savings in DC pensions can now be taken more flexibly as income or cash.

1.10 Consumers with safeguarded benefits, usually in DB schemes, cannot directly access these pension freedoms. The only way they can do so is by transferring from their safeguarded benefit scheme to a DC scheme offering flexible benefits. At the same time, the economic environment has resulted in historically high levels of transfer values.

1.11 Against this backdrop, the Government recognised that consumers can make poor decisions. As a result, they made it mandatory for consumers who want to transfer safeguarded benefits worth more than £30,000 to get appropriate independent financial advice ('the advice requirement'). This included creating a new obligation requiring trustees or managers of pension schemes to check that consumers had received advice from a suitably qualified adviser.

1.12 We also recognised that consumers might make poor decisions when accessing the pension freedoms. In CP15/30[4], we asked for views on the regulatory approach to pension transfer advice. We also started a programme of specific supervisory work.

1.13 Our policy aim is to make sure that consumers receive good quality advice to enable them to make informed decisions about giving up their safeguarded benefits. We consider that the final rules and guidance published in this PS give advisers a framework to provide this advice.

1.14 In October 2017, we published findings[5] from our recent supervisory work. These found that only 47% of advice we reviewed on DB to DC transfers could be shown to be suitable based on the information in the file. We have subsequently undertaken a number of file reviews on advice given to members of the British Steel scheme in which only 51% of the advice could be shown to be suitable.[6]

1.15 As a result of these reviews a number of firms have voluntarily varied their permissions so that they can no longer provide pension transfer advice. We continue to monitor advice in this market. In December 2017, we sent a formal information request to 45 firms. We are currently analysing the responses before planning visits to specific firms. We are also planning a further phase of work, which will involve writing to all regulated firms that hold the pension transfer permission to collect and then analyse data.

Summary of feedback and our response

1.16 Overall, respondents supported our proposals in CP17/16. So we are proceeding largely on the basis on which we consulted, with some refinements in places to reflect

4 CP15/30: Pension reforms – proposed changes to our rules and guidance, October 2015, www.fca.org.uk/publication/consultation/cp15-30.pdf
5 www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers
6 www.fca.org.uk/publication/correspondence/fca-response-to-wpsc-statement-on-british-steel-pension-scheme.pdf

the feedback and recent developments. In particular, we have decided not to proceed with our proposal on the 'starting assumption' on suitability. As set out in Chapter 2, given our concerns about the significant proportion of unsuitable advice we have seen, we do not consider it is appropriate to change this assumption at the present time. We will consider the benefits of taking this proposal forward given the feedback we receive to the discussion chapter on charging structures in CP18/7, as we think that these two issues should be considered together. It is important to note that the existing guidance on the starting assumption does not prevent an adviser from recommending a transfer where this can be demonstrated to be suitable to the consumer.

1.17 Descriptions of the feedback are included in this PS and we set out the final rules we are making in the Appendix. We would like to thank all respondents for their feedback.

Equality and diversity considerations

1.18 We have considered the equality and diversity issues that may arise from the final rules and guidance in this PS. Overall, we do not consider that they adversely impact any of the groups with protected characteristics i.e. age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.

Next steps

1.19 The final rules and guidance are set out in the Appendix. Most of these will come into force on 1 April 2018. The majority of the remaining changes, which cover the transfer value comparator and the appropriate pension transfer analysis, will come into force on 1 October 2018. These changes are set out in Part 2 of Annex A and Part 2 of Annex B of the Appendix. The final changes, on the assumptions to use when revaluing benefits, are set out in Part 3 of Annex B and will come into force on 6 April 2019. Firms affected by these changes will need to ensure that they comply by these dates.

1.20 We have made some changes to simplify the rules and guidance that were not part of the consultation. We have made consequential changes to update the terminology used in the existing rules and guidance so that it is consistent with the new provisions. The remaining changes are to simplify the rules, make clarification, or to align the Handbook better with legislation. For example, we have updated SUP 12 on appointed representatives. None of these amendments change our expectations of firms. The changes to the Handbook provisions mean that we have also had to re-make the rules on the forthcoming changes to assumptions.[7]

1.21 Firms and other interested parties may also want to respond to CP18/7, which closes on 25 May 2018. We expect to introduce new rules further to that consultation.

7 www.handbook.fca.org.uk/instrument/2018/FCA_2018_2.pdf

2 Giving advice and assessing suitability

2.1 In CP17/16, we set out our proposals and expectations for the advice process for converting and transferring safeguarded benefits. In this chapter, we summarise the feedback we received and give our response.

Requiring a personal recommendation

Our proposals

2.2 In CP17/16 we proposed a requirement that all advice on the transfer and conversion of safeguarded benefits should include a personal recommendation. This requirement will apply to all advice on converting or transferring safeguarded benefits including where the safeguarded benefit is a guaranteed annuity rate (GAR).

Feedback received

2.3 The vast majority of respondents agreed with our proposal. Some respondents commented that providing a personal recommendation would not be cost effective for individuals with smaller transfer values and suggested that the £30,000 advice limit should be raised to reflect this.

2.4 Other respondents asked for further clarity on the meaning of a personal recommendation and whether advice needed to include a clear cut recommendation to transfer or not to transfer.

Our response:

We are proceeding with our proposal.

'Personal recommendation' is already defined in the Handbook glossary. Having considered the client's individual circumstances, at the conclusion of the advice process, we expect advisers to provide a personal recommendation to the individual to either transfer or remain in the current scheme.

We cannot change the £30,000 advice requirement because it is set out in legislation. We have shared a summary of the feedback on this issue with the Department for Work and Pensions. We note that, for some customers, a pension pot worth £30,000 will still be significant, but the cost of advice may be a significant proportion of the value of the pension at this level.

We are taking the opportunity to update our Glossary definitions for designated investment, specified investment and security in line with the list of specified investments in the Regulated Activities Order.[8] We have also added guidance to COBS 19.1 to remind firms of the suitability requirements when providing personal recommendations. The final Handbook text now consistently refers to retail client in the rules and guidance in COBS 19.1.

Assessing suitability

Our proposals

2.5 In CP17/16, we proposed to remove the existing guidance that an adviser should start from the assumption that a transfer will be unsuitable (the 'starting assumption'). Instead, we proposed that this should be replaced with a statement in the Handbook that advisers should have regard to the likelihood that, for most people, retaining safeguarded benefits is likely be in their best interests. We explained that an assessment of suitability should be completed on a case- by- case basis from a neutral starting position. The adviser should be able to demonstrate that the transfer is in the best interests of the client. We also proposed additional guidance to help advisers assess suitability.

Feedback received

2.6 Most respondents broadly agreed with the proposal to move to a more 'neutral' starting point. Some respondents queried whether a neutral starting point is consistent with our overarching comment that remaining in a DB scheme is still in the best interests of most people.

2.7 There was broad agreement with the proposed additional guidance on assessing suitability. Some respondents asked for more clarity on the meaning of 'wider circumstances' in COBS 19.1.10G. They suggested that we could add guidance on the need to consider whether an existing workplace pension is a suitable destination for a transfer, if this option is available.

2.8 Some respondents asked whether the availability of partial transfers would affect either suitability or the starting assumption. Some adviser firms asked for clarification on providing advice for younger clients where it can be difficult to identify outgoings and income needs in retirement.

Our response:

We have decided not to proceed with our proposal on the 'starting assumption'. In CP18/7 we are opening a discussion on charging structures for advising on pension transfers. We consider that these areas are linked, in that the existing starting assumption could be perceived as countering the incentive to give unsuitable advice created by a contingent charging model. We invite feedback on these in response

8 This is being achieved by including "rights or interests under a pension scheme which provides safeguarded benefits" in the Glossary definitions of designated investment, specified investment and security. The Glossary entries confirm that these rights and interests are only specified as investments for the purpose of advising on conversion or transfer of pension benefits (the article 53E activity), confirming the position in the Financial Services and Markets Act (Regulated Activities) Order 2001.

to the discussion chapter in CP18/7. Our recent supervisory work[9] has shown significant evidence of unsuitable advice being provided. This includes a review of advice given to British Steel Pension Scheme members.[10] Given our concerns about the significant proportion of unsuitable advice, we do not consider it is appropriate to change this assumption at the present time.

In the additional guidance we are making on suitability, we have removed the guidance on 'wider circumstances'. Under COBS 9.2[11], it is the firm's responsibility to obtain the necessary information about the client so that they can make a suitable recommendation. COBS 9.2 sets out some of the factors the adviser should consider. These include a client's financial situation and investment objectives, as well as their knowledge and experience in the relevant investment field.

We have noted the comment that we could add guidance on the need to consider whether an existing workplace pension is a suitable destination for a transfer. However, we consider that advisers should already be doing this routinely as part of their assessment.

Our new guidance on assessing suitability makes clear that advisers should consider alternative ways of meeting the client's objectives. This may include giving up only some safeguarded benefits so that a client can meet their income needs in retirement. We consider that our rules and guidance can be applied consistently to partial transfers, and that it is appropriate for an adviser to enquire if a scheme offers this option, as many schemes do not do so.

If an adviser cannot get the necessary information to assess suitability, for example, income needs in retirement for a younger client, advisers must not make a personal recommendation under our suitability requirements (COBS 9.2.6R).

In the final Handbook text, we have made a consequential change to COBS 9.3.6G to signpost the additional suitability guidance when advising on pension transfers, conversions and opt-outs.

Firms should be aware that not all of the requirements in COBS 19.1 apply to advice on giving up GARs. However, all of the suitability guidance (in COBS 19.1.6G) is relevant and should be considered as part of the advice process, including the starting assumption.

9 www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers
10 www.fca.org.uk/publication/correspondence/fca-response-to-wpsc-statement-on-british-steel-pension-scheme.pdf
11 www.handbook.fca.org.uk/handbook/COBS/9/2.html

Role of the Pension Transfer Specialist

Checking advice

Our proposals

2.9 Our rules require that only a Pension Transfer Specialist (PTS) can give or check advice on pension transfers. We are aware that, in some cases, the checking process was restricted to checking the numerical analysis, which is not in line with our expectations. Therefore, in CP17/16, we proposed new Handbook guidance to make clear that when checking the advice, the PTS should go beyond just checking the numerical analysis. They must also:

- assess the reasonableness of the personal recommendation reached by the adviser
- assess the compliance and reasonableness of the adviser's comparison
- inform the adviser in writing of any disagreement with the advice process

2.10 We also proposed to amend the glossary definition of a PTS to support the new guidance.

Feedback received

2.11 Respondents generally welcomed the intention of the new guidance. However, some questioned what was meant by 'reasonableness' and how we would interpret it in practice.

2.12 Some respondents also asked whether the recommendation could be presented to a client if the PTS disagreed with it. A small number of respondents considered that advice should only be given by a PTS who themselves is a qualified investment adviser. This would eliminate the need for a separate checking process.

Our response:

We are proceeding with the proposals but removing the references to 'reasonableness'. Our final Handbook text reflects that we expect a PTS to:

- check the entirety of the advice process, not just the numerical analysis, and consider whether the advice is sufficiently complete
- confirm that the personal recommendation is suitable
- inform the firm in writing that they agree with the advice, including any recommendation, before the report is given to the client

This means that any disagreements between the PTS and the adviser must be settled before the client is given the suitability report. Our rules allow for a checking process and we consider that this can be made to work. Such a process can also help with the overall supply of advice in the market as different parts of the advice process can be undertaken by a wider number of advisers and PTSs. We have also aligned the definition of a PTS with the terminology used in the

Training and Competence Handbook by using the word 'employed' rather than 'appointed', although this should not have any practical implications for firms.

Areas of discussion in CP17/16

Qualifications

Discussion

2.13 In CP17/16, we asked a discussion question on how the current qualification requirements for PTSs operate in practice. We also said we intended to update the Appropriate Examination Standards (AES) that we set for the PTS qualification in due course.

Feedback received

2.14 A significant number of respondents considered that PTSs' knowledge is often outdated or inadequate. We cover this further in CP18/7.

2.15 A number of respondents commented on the lack of specific Continuing Professional Development (CPD) requirements for PTSs to maintain competence. They were also concerned about how PTSs could demonstrate relevant experience. However, one firm considered that our Training and Competence Handbook (TC Handbook) adequately covers experience and maintaining knowledge.

2.16 Some respondents also pointed out the current difficulties of identifying a qualified PTS on the FCA register. They also raised concerns about the proposed changes to the register as part of the Senior Managers and Certification Regime (SM&CR) and the resulting difficulties in finding a suitably qualified adviser.[12] Respondents felt we need to take steps to ensure that the status of an adviser and PTS can be identified, given:

- the mandatory advice requirement for consumers
- the requirement placed on trustees to check that the appropriate advice has been obtained by checking that the adviser's confirmation meets the legislative requirements[13]

Our response:

We respond to the feedback relevant to CP18/7 in that document. In CP18/7 we are consulting on both the qualification requirements and AES for PTSs.

We agree that the TC Handbook is already clear about firms' responsibilities for assessing and maintaining competence (TC 2.1). This should ensure that firms are appointing individuals with sufficient

12 In CP17/25 and CP17/26 we proposed that, for firms subject to the SM&CR, only details of people holding Senior Management Functions would be included on the Financial Services Register. This is because Senior Management Functions will be the only roles approved by the FCA under the new regime. This would mean that, under these proposals, people performing Certification Functions would not appear on the Register following the extension of the SM&CR

13 www.thepensionsregulator.gov.uk/docs/db-dc-transfers-conversions-regulatory-guidance.pdf

knowledge and experience to undertake the role initially. It also requires firms to ensure that such individuals keep their knowledge and experience up-to-date.

We have noted the comments on the difficulties of identifying a qualified PTS on the FCA register. In February 2018, we issued a public statement[14] on changes to the Financial Services Register based on feedback received to CP17/25 and CP17/26 regarding the SM&CR. The public statement states our intention to consult on proposals to publish information on a wider range of individuals at FCA and PRA authorised firms. This is planned for summer 2018.

Responsibility for advice when outsourcing takes place

Discussion

2.17 In CP17/16, we set out our expectations on who bears the responsibility for advice in two common outsourcing models. These are where:

- An outsourced PTS checks the advice prepared by another adviser (as set out in paragraphs 2.9 to 2.10 above).
- The pension transfer advice and, consequently, the liability for that aspect of the advice is entirely outsourced. In some cases, the referring adviser will retain a role in advising on the destination of funds.

2.18 We asked two discussion questions about our expectations on the responsibilities of firms in these models. Our expectation is that the adviser remains responsible for the suitability of the advice they provide.

Feedback received

2.19 The feedback on these discussion questions is set out in CP18/7.

Our response:

We give feedback relevant to CP18/7 in that document. Based on the responses received, in CP18/7 we are consulting on Handbook guidance on how two advisers should work effectively together. CP18/7 also sets out our expectations for advising self-investors.

14 www.fca.org.uk/news/statements/fca-statement-proposals-introduce-public-register

3 Analysis to support advice

3.1 In CP17/16, we consulted on replacing the current Transfer Value Analysis (TVA). This is because we consider that this element of the advice process is not working as effectively as it should, taking into account both our supervisory findings and changes in the market place since the process was first introduced. We proposed instead that firms should undertake:

- an 'Appropriate Pension Transfer Analysis' (APTA)
- a mandatory 'Transfer Value Comparator' (TVC)

3.2 In this chapter, we summarise the feedback to our proposals and give our response.

Appropriate Pension Transfer Analysis

Our proposals

3.3 In CP17/16, we proposed requiring advisers to undertake an APTA, personalised to each customer's needs and objectives, when advising on pension transfers. The draft Handbook instrument in CP17/16 set out the minimum level of analysis we would expect for income needs and death benefits. It also emphasised the need to consider trade-offs between these.

Feedback received

3.4 Respondents generally supported the proposals for the APTA. Some were concerned that:

- the drafting of the Handbook text might result in some advisers undertaking no analysis beyond that specified
- being any more prescriptive than we proposed in the APTA could result in a new box-ticking exercise
- the proposals for the analysis broadened the current requirements and would result in increased charges for advice

3.5 The CP text set out some details of the expected workings of the APTA. Some respondents felt that our expectations of this in the CP text were more specific than the proposed Handbook text, particularly those on tax and the role of the Pension Protection Fund (PPF). A very small number of respondents said that advising on scheme funding levels and employer covenants should be mandatory, despite most respondents agreeing that advisers are not generally qualified in these matters.

3.6 Some respondents asked whether the APTA should only include a quantitative analysis, when comparing how the ceding and receiving schemes could meet the consumer's needs and objectives. They suggested it could be extended to a qualitative analysis based on behavioural economics. Some respondents wanted us to clarify if the APTA requires cashflow modelling.

3.7 Some respondents were concerned that the attitude to risk assessment is focused on attitude to investment risk, rather than the wider risks of giving up a safeguarded benefit. We consider this further in CP18/7.

3.8 Some questioned the approach to comparing death benefits from the existing and receiving schemes. They also suggested that our proposed requirement to consider the trade-off between income needs and death benefits was too narrow. They felt other trade-offs should be considered, such as the need for capital rather than income.

3.9 Respondents also listed a number of areas where they felt further clarification would produce better outcomes for consumers, such as a need to consider retirement outcomes for a period beyond average life expectancy. On overseas transfers, respondents felt there were risks of non-disclosure of commission and charges, which are often significant and not always made clear to consumers. Other respondents wanted more clarity on how to do an APTA for overseas transfers and non-advised investment solutions.

3.10 Some respondents commented on the lack of a standardised data format for getting information from the ceding scheme to use in the APTA. They were concerned that scheme administrators do not appreciate the depth of analysis required, and thus the amount of data and information required from the scheme in order to undertake an appropriate analysis.

Our response:

APTA framework

We recognise that there is a balance needed on the level of detail to include when providing an appropriate framework for the APTA. We consider that the rules we consulted on provide an appropriate level of direction but do not limit the adviser's flexibility to complete the analysis in a way which fits a client's individual circumstances. In our view, an effective APTA should help to demonstrate the suitability of the personal recommendation.

The APTA can incorporate both behavioural and non-financial analysis, as well as considering alternative ways of achieving client objectives. We consider that the APTA gives firms a greater degree of clarity about our expectations than if we simply extend the current requirements. Firms should already be providing suitable personal recommendations which are based on an analysis of the client's circumstances.

APTA content

Advisers will be best placed to assess the needs and circumstances of their individual clients. So we do not intend to provide detailed rules and guidance on the relevant elements to include for each individual. We consider that it is for firms to decide whether a critical yield approach remains valid in some circumstances. Firms should be aware of the risks of using critical yield over uncertain future lifetimes where income would not be secure, or where consumers may not understand it.

Use of modelling tools

Firms are not prevented from using cashflow modelling software or any other type of software. However, advisers should consider the part these tools play in explaining the options to individual clients. The limitations of software cannot be used to limit advisers' responsibility for providing suitable advice.

We provide our response to the feedback relevant to CP18/7 in that document. In CP18/7 we are consulting on assessing attitude to risk for a transfer.

Overseas transfers and self-invested clients

We consider the APTA can be adapted to cover the personal circumstances of clients based overseas (overseas transfers are covered in more detail in Chapter 4). We already expect advisers to disclose any commissions payable on overseas investment. It should also be possible to modify an APTA for self-invested clients. We are consulting on our expectations for advising self-investors in CP18/7.

Death benefits

We consider that the Handbook text on assessing death benefits on a fair and consistent basis remains appropriate. This is because clients may find it challenging to compare lump sum death benefits with income-based death benefits. As the relative value of the death benefits will change over time, we have retained the requirement to assess those changes at future points in time.

Dealing with schemes

We are aware of the frustrations advisers face in getting relevant data from the client's current scheme. We know that, depending on a client's circumstances and objectives, the amount of data required can be significant. An industry working group, including representatives from the Pensions Regulator, is now looking at this issue, and we have been working with the Pensions Regulator to set out our expectations.

Handbook changes

As a result of responses, we have made the following changes to the Handbook text we consulted on:

- a new rule requiring advisers to consider the impact of tax and access to state benefits, particularly where there would be a financial impact from crossing a tax threshold/band
- a new rule to clarify that the APTA must consider a reasonable period beyond average life expectancy, particularly where a longer period would better demonstrate the risk of the funds running out
- a revised rule requiring advisers to consider trade-offs more broadly
- new guidance on considering the safety nets – the PPF and Financial Services Compensation Scheme (FSCS) in the UK – that cover both the current and receiving schemes in a balanced and objective way

- new guidance that if information is provided on scheme funding or employer covenants, it should be balanced and objective

We have also simplified and aligned the terminology used in the Handbook rules and guidance for the existing transfer value analysis comparison (which remains valid until 30 September) with the terminology used elsewhere in COBS 19.1 and in our January 2017 alert.[15]

Transfer Value Comparator

Our proposals

3.11 We proposed that a mandatory Transfer Value Comparator (TVC) should be included within the APTA. This would replace the existing Transfer Value Analysis (TVA) approach, which focuses on the 'critical yield' needed to match a guaranteed income. The TVC would show, in graphical form the:

- cash equivalent transfer value (CETV) offered by the DB scheme
- estimated value needed to replace the client's DB income in a defined contribution environment, assuming investment returns that are consistent with each client's attitude to investment risk and that they purchase an annuity

Feedback received

Purpose of comparator

3.12 The majority of respondents supported the principle of a comparator as a starting point for demonstrating the value of the DB scheme to consumers. They also felt it would be easier for consumers to understand than the current critical yield approach.

3.13 Some respondents thought we could have made the policy intention of the comparator clearer. In particular, there was concern that the TVC was partly generic and partly personalised. Some respondents felt that replacing the personalised rate of return with a generic approach would achieve greater clarity. It was also suggested that a standardised approach would reduce the likelihood of the comparator being 'gamed' by advisers using overly optimistic investment returns.

3.14 Some respondents said that showing the cost of replicating benefits in a DC scenario without taking account of the customer's actual circumstances might mean that consumers do not focus on the comparator. They considered the TVC should allow for factors such as tax-free cash, ill-health annuities and actual marital status. They also wanted more clarity on including charges for an option not being considered by the consumer, for example, fund charges to normal retirement age when the consumer planned to retire early. Other respondents also queried the 4% annuity charging assumption.

3.15 A small number of respondents considered that the TVC could, like the current TVA, become a focus of the advice rather than one part of it. They also had concerns that professional indemnity (PI) insurers may focus on it inappropriately and set premiums based on the financial outcomes shown in the TVC.

15 www.fca.org.uk/news/news-stories/advising-pension-transfers-our-expectations

3.16 There were some calls for the TVC to be consumer tested before being implemented. Some suggested minor changes to the prescribed wording.

Workings of the comparator

3.17 Not all respondents were in favour of the proposed approach. Some raised concerns about the TVC being dependent on an annuity in the same way as the current TVA approach assumes. In particular, they noted that most consumers do not want to transfer to purchase an annuity and so may perceive the TVC as irrelevant.

3.18 A small number of respondents commented on the lack of a glossary definition for 'normal retirement age'. They said that the lack of a definition would make it difficult to consistently apply the proposed rules on valuing a pension income at normal retirement age. This is because some tranches of the DB pension income start at different ages, with different late or early retirement factors applied to reflect the different ages. These respondents suggested that they should use the retirement date which would give the client the most favourable outcome if they decided to stay in the scheme. They also requested clarification on whether the TVC should be based on current marital status.

3.19 Respondents also asked for further clarification on whether and how they could amend the charts in the TVC. For example it was suggested that additional colours could be used to highlight the difference in value between the CETV and the estimated cost of purchasing the same benefits in a DC scheme.

Our response:

Purpose of TVC

We intend to proceed with requiring a mandatory TVC. The purpose of the TVC is to provide consumers with some context for the level of their transfer value to help them make an informed decision. That context is the cost of providing the same benefits as the DB scheme but in a DC scheme.

The TVC shows a comparison of the CETV and the estimated cost of acquiring the same promised income in a DC scheme. A CETV is generally based on the full value of the expected pension income. There is usually no allowance for individual circumstances, such as marital status or a desire to take tax-free cash. This means a consistent comparison can only be provided if the estimated value also ignores individual circumstances. So we do not consider that the TVC should be personalised. We expect firms to take account of personal circumstances when preparing the APTA. We agree that it would be inappropriate for the TVC to be the focus of the advice or a single rating factor in insurance premiums.

As part of our work on the secondary annuity market, we previously proposed a very similar representation to the TVC, which showed the benefit the individual is giving up and the cost of replacing it. Although the government did not proceed with legislation to create that market, we consider that the results from testing that approach remain valid.

Workings of the TVC
Based on the feedback received, we have amended some of the assumptions for the TVC to make it more of a generic document. For a fairer comparison with the intended risk-free nature of the DB scheme, the investment growth rate in the TVC will be based on a risk-free return using gilt yields. Firms should assume product charges during accumulation of 0.75%. There is no explicit allowance for adviser charges during accumulation and this is referenced in the notes. The 4% annuity charge is intended to cover both the product and advice costs of buying an annuity. Firms have previously told us that 4% is an appropriate figure.[16] For consistency, the annuity factors should allow for spouse/partner beneficiaries on the same basis as in the current scheme.

Based on feedback, we are replacing the reference to the 'open market' in the TVC mandated text as customers may not understand it. We are replacing it with wording on obtaining a comparable level of income from an insurer.

We have amended the Handbook text to confirm that the TVC can allow for DB pension benefits payable from different ages.

Firms can use different colours in the bar charts as long as the general format remains unchanged. The scale of the charts may be changed but the y-axis should start at £0.

Assumptions

Our proposals

3.20 When undertaking an ATPA or preparing a TVC, firms need to make financial and demographic assumptions to project potential future benefits from the current and receiving schemes. Our Handbook already provides some assumptions that firms may use in some circumstances. We proposed:

- Changing the rolling annuity interest rate which is averaged over 12 months. The rolling annuity interest rate can lag behind the rates used to calculate CETVs. We proposed an annuity interest rate based on a single recent monthly yield.
- Providing guidance on appropriate published population statistics which allow for future mortality improvements, such as those from the Office for National Statistics.[17] Firms could adopt separate assumptions for women and men.
- That any projections of future benefits for the APTA (including the TVC) should be based on a rate of growth. This should include an allowance for any lifestyling which is appropriate for the client's personal circumstances, including their attitude to risk.

16 www.fca.org.uk/publication/consultation/cp15-30.pdf
17 www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies/bulletins/pastandprojecteddatafromtheperiodandcohortlifetables/2016baseduk1981to2066

- Providing guidance that these rates should be no higher than the intermediate rate of growth shown on a corresponding Key Features Illustration (KFI) for the receiving scheme.

- Adding explicit requirements on the charges to be included in an APTA (including the TVC). These will include relevant product, platform and adviser charges. There should also be an assumed allowance of 4% for future annuity charges, as used for KFI projections.

Feedback received

Annuity interest rate

3.21 The majority of respondents agreed with the Annuity Interest Rate (AIR) proposal. Some asked for more clarity on the date on which the rate should be based for the TVC. That is, whether it should be the date at which the transfer value was calculated or based on a date closer to when the analysis is prepared. Respondents said that using the transfer value date will give a greater degree of consistency between the two values shown in the TVC. However, the calculation date will more likely reflect the adviser's expectations of returns in the investment period after any transfer was made.

3.22 Most respondents considered both methods were practical for software systems. Alternatively, it was suggested that averaging gilt yields over a three month rolling period, instead of the current 12 months, would tie in with the transfer period window. Some respondents were concerned that the yield data are only available on a subscription service and are no longer publicly available. One respondent suggested that it would be better for the AIR to allow for the shape of the yield curve into the future.

Mortality

3.23 The majority of respondents agreed with the suggested ONS mortality assumption[18] for projecting and valuing flexible benefits. However, a small number of respondents, particularly actuaries, had concerns either with the proposed mortality basis or the way it could be used.

3.24 One respondent thought it would be better to have consistency and use the existing annuity mortality basis throughout, despite it being more cautious than the ONS basis. Others suggested that the ONS population projections do not reflect actual death rates of DB scheme members or that population statistics may not reflect life expectancy for those members seeking advice.

3.25 Some respondents said that underestimating life expectancy seems to be common. They also identified that underestimating – rather than overestimating – life expectancy is a key risk when moving away from safeguarded benefits. A number of respondents stated that some software which shows potential drawdown income is overly simplistic. In particular, it does not illustrate the impact on the drawdown fund of living longer very well.

3.26 Respondents welcomed clarification that it would be acceptable to use separate assumptions for woman and men when illustrating flexible benefits.

18 https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/lifeexpectancies/bulletins/pastandprojecteddatafromtheperiodandcohortlifetables/2016baseduk1981to2066

Growth rate

3.27 Most respondents agreed with or did not comment on the assumptions for the growth rate. However, some suggested that we should set a growth rate for the TVC to prevent advisers 'gaming' the rate to make transferring out look better. Some respondents took this further, suggesting that the TVC may work better using a risk free growth rate. This would make it a better comparison with the risk-free benefits being given up. Some respondents objected to limiting the growth rate to the rate in KFIs. They felt that the KFI may not appropriately reflect the expected performance of the investments against the level of risk the client is prepared to bear, given that the intermediate rate is based on a pre-determined portfolio of investments.

Charges

3.28 The majority of respondents did not comment on the inclusion of charges. One respondent felt charges should not be included in the TVC to ensure a like-for-like comparison with the benefits being given up. Another suggested TVCs should be completed with and without charges. Some respondents did not understand how the 4% expense assumption for annuity pricing was arrived at (as used in KFI projections), while others disagreed with using 4% as the assumption.

3.29 One respondent did not think adviser charges should be included if the client would have to pay them irrespective of the advice to transfer or if the charges were not deducted from the product. Another respondent said it would be inappropriate to include initial advice charges where these are paid by a sponsoring employer.

Our response:

We consider there is merit in basing the AIR on the yields over three months and have changed the rules to reflect this. The AIR will be calculated on the 6th of each month. It will be based on the average of the most recent three monthly yield calculations as determined on the 15th of the month.[19] The monthly yield calculation is itself an average of two gilt yields adjusted by 0.5%.[20]

We are retaining the ONS mortality basis in the final guidance as we consider this to be the most appropriate, and readily available, indicator of future longevity for such a diverse group of consumers. The guidance does not prevent firms from using other appropriate mortality bases. We have commented in the APTA section of this chapter on the need to illustrate retirement outcomes for a period beyond average life expectancy.

We have changed the rules so that the growth rate for the TVC will now be based on a risk-free rate, determined from published gilt yields and dependent on the term until benefits become payable. As a result, there is no need for the explicit requirement for growth to be limited to that shown in a KFI. However, we have added guidance that where financial planning tools and models use growth rates that are greater than those shown in documentation for a receiving product, the adviser should explain the differences to the client. We also remind firms of the

19 In the same way as COBS 13 Annex 2 Rule 3

20 As described in COBS 13 Annex 2: www.handbook.fca.org.uk/handbook/COBS/13/Annex2.html

requirements in COBS 4.6.7R to base indications of future performance on reasonable assumptions supported by objective data.

We are proceeding with our proposal to require firms to incorporate charges in APTAs, whether or not the client pays them through the receiving scheme. Where an adviser charge is payable by an employer or regardless of whether a transfer takes place (a non-contingent charge), advisers will not have to include the charges in the APTA.

In 2017, we consulted on changes to the assumptions currently used in KFIs and TVA. In January 2018, we published an instrument[21] which confirmed changes to some of the assumptions in COBS 19.1 from April 2019. However, the changes in this PS mean that those assumptions will no longer exist in COBS 19.1 as the assumptions for the APTA and TVC will be contained in an Annex. The final rules and guidance in the Appendix include confirmation that the rules that were made in that instrument will be applied consistently to the assumptions in the new Annex.

Areas for discussion in CP17/16

Stochastic modelling

Discussion

3.30 In CP17/16, we asked for views on stochastic modelling and the role it might play in preparing an APTA. Stochastic modelling attaches probabilities to economic and demographic variables to demonstrate a range of possible financial outcomes. We asked for feedback on how well consumers understand the results from stochastic modelling. We were particularly interested in how stochastic modelling results could be more closely aligned with those on other documents. This includes mandated KFIs, which use deterministic methodology to demonstrate outcomes. Deterministic models are based on fixed assumptions; a different set of fixed assumptions will show a different outcome.

Feedback received

3.31 Respondents indicated that stochastic models are used mostly to demonstrate future cashflows, so could work well within the concept of an APTA. Respondents considered that stochastic modelling is good at demonstrating the risk of different returns and the order in which those returns occur, relative to expenditure needs. They also felt stochastic models are better than deterministic models at demonstrating the downside risk and the financial implications of living beyond median life expectancy.

3.32 Some respondents expressed concern that providers of financial planning tools are not regulated. A number thought that providers of tools should give more information to help advisers identify the shortcomings of the tools. Some respondents were concerned that some of the existing tools only demonstrate outcomes up until average life expectancy.

21 www.handbook.fca.org.uk/instrument/2018/FCA_2018_2.pdf

3.33 However, most respondents said that consumers find it hard to understand the outputs of stochastic modelling, due to the use of probabilities. These respondents felt that providers of stochastic models should do more to present the results to consumers in a less complex way to prevent them being overloaded with information. Respondents felt that deterministic models can result in good outcomes for consumers by using different sets of fixed assumptions to indicate how results can vary. One respondent gave us a table to demonstrate that sequencing risk can be demonstrated in simpler ways than using a stochastic model.

3.34 One respondent said that providers of stochastic models describe them as 'sales tools' and questioned if stochastic tools ever dissuade consumers from transferring their pension.

3.35 Advocates of stochastic modelling said we should not hold back the use of better projection methodologies. A number of respondents said that the use of stochastic modelling should not be mandated.

Our response:

We are grateful to those who took time to express their views. We have added Handbook guidance that a stochastic model can be used as part of an APTA as long as the outcomes at the 50th percentile are at least as cautious as the outcomes from using the assumptions in COBS 19 Annex 4C.

Firms should also be aware of the following:

- Any financial planning tools which contain an indication of future performance must comply with COBS 4.6.7R. This includes the requirement to base them on reasonable assumptions supported by objective data.
- When preparing an APTA, firms can use assumptions that are more cautious than those in COBS 19 Annex 4C.
- Firms may present information to consumers that has been prepared in different ways, for example, a KFI using mandated assumptions and a cashflow analysis based on the approach referenced in COBS 4.6.7R as above. In these cases, we would expect them to explain the any differences in the outcomes illustrated (in line with Principle 7: Communications with clients).

Software

Discussion

3.36 In CP17/16, we explained that advisers are responsible for the recommendations they provide and the analysis that supports their recommendations. This is the case, regardless of any checking of the advice or any shortcomings in the software. Even where software is obtained from a third party, firms cannot outsource their responsibility for ensuring that the software they use is fit for purpose. We also reminded firms of their responsibilities on providing or accepting inducements when giving or using free software. We sought views from advisers on these points.

Feedback received

3.37 Respondents generally agreed with our explanation on the advisers' responsibilities for the analysis and recommendation. One respondent said it was difficult for advisers to undertake due diligence on software. This is due to a lack of disclosure by the software providers on the assumptions they have made and how they have carried out their calculations.

3.38 On inducements, a number of respondents felt that the provision of free TVA software is a conflict of interest, as they felt firms provide this software intending to get new business. Therefore, they considered the provision of this software to be in breach of our inducement rules. This is because a TVA (currently, or an APTA in future) is a required part of the process for providing a personal recommendation. One respondent said that some providers are quite explicit about expecting the business to be placed with them as a direct result of providing free TVAs.

3.39 A provider who currently offers free software did not believe there was a conflict of interest where an adviser has already selected their pension scheme as an appropriate scheme to use. They also said that an adviser with access to a wider range of free software, and without having a commitment to any one provider, might be able to avoid a conflict.

3.40 Some respondents also raised concerns about the provider's commitment to the quality of free TVA software. They mentioned specific errors in software, and the risk of advisers not noticing these mistakes. On the other hand, it was also suggested that if software was provided by a provider, it was more likely that the analysis of that provider's charges would be correct.

3.41 Respondents generally did not think there was evidence that providing free software resulted in cheaper advice. Some respondents supported the concept of providers supporting the market and helping consumers by reducing costs for advisers. Some also raised concerns that if the use of free provider software was banned it could result in a shortage of TVA software providers which would have implications for completing advice within the three-month transfer window.

Our response:

We made clear in CP 17/16 that where platforms or providers make free software available to advisers, firms should be aware of our rules on accepting benefits from providers. Since we published CP17/16, we have modified the rules and guidance[22] on inducements for non-MiFID business to mirror more closely the new MiFID II inducement rules. This means that non-monetary benefits which were previously not included in the inducement rules are now included. We consider it is unlikely that providing or accepting free TVA or APTA software would fall within the narrower definition and so should not be used. As

22 July 2017, PS17/14: Markets in Financial Instruments Directive II Implementation –Policy Statement II (www.fca.org.uk/publication/policy/ps17-14.pdf)

a result non-monetary benefits which were previously not included in the inducement rules are now included.

Revaluation and indexation assumptions

Discussion

3.42 In CP17/16, we asked for views on inflation and revaluation assumptions about:

- The relative level of the Retail Price Index (RPI) and Consumer Prices Index (CPI) assumptions used to project future benefits, between the date the member left the scheme and normal retirement age.
- The level of the current assumption for certain limited pension increases offered by the current scheme. The TVC uses this assumption to determine the cost of replicating the current scheme benefits in a DC scheme. These are pension increases that increase in line with an inflation index, such as the Retail Price Index (RPI) or Consumer Prices Index (CPI), but also have both upper and lower limits (caps and collars). Stakeholders had told us that where there is a high cap, then our existing assumption for these types of increases may overvalue pension increases.

Feedback received

3.43 Most respondents who commented on the difference between RPI and CPI wanted us to review both assumptions as part of our regular projection rate review. We give the feedback on caps and collars in CP18/7.

Our response:

We consulted on RPI and CPI assumptions in CP17/32 where we reviewed our projection rate economic assumptions.[23] In January 2018, we published the final rules and provided feedback in Handbook Notice 51 [24].

We are grateful to everyone who made suggestions on limited inflationary pension increases. We give our response to the feedback on limited pension increases and our consultation on new assumptions for caps and collars in CP18/7.

23 www.fca.org.uk/publication/consultation/cp17-32.pdf
24 www.fca.org.uk/publication/handbook/handbook-notice-51.pdf

4 Other issues

4.1 In this chapter, we give feedback on the issues raised in Chapter 5 of CP17/16. This covered insistent clients, opt-outs, overseas transfers and streamlined advice in the context of giving up safeguarded benefits only. We have covered insistent clients and streamlined advice in more detail in our publications covering the Financial Advice Market Review (FAMR).

Insistent clients

4.2 In CP17/16 we set out our plan to consult separately on introducing Handbook guidance on dealing with insistent clients. This is because insistent clients also feature in areas of advice other than pension transfer advice.

4.3 In December 2017, we published PS17/25[25] which confirmed the addition of Handbook guidance (in COBS 9.5A) setting out how firms may comply with FCA obligations when dealing with insistent clients. The guidance came into effect on 3 January 2018.

Opt-outs

Our proposals

4.4 In CP17/16, we proposed that the following provisions of COBS 19.1 would apply to advising on pension opt-outs:

- the requirement for advice to be given or checked by a pension transfer specialist, and
- record keeping requirements

4.5 We specifically proposed not to extend the provisions on the APTA and TVC to opt-outs of safeguarded benefits. We also proposed that opt-outs that do not involve safeguarded benefits should be excluded from these provisions.

Feedback received

4.6 Most respondents agreed with our proposals for advising on opt-outs.

4.7 One respondent highlighted that the pension transfer definition includes some non-safeguarded benefits, which seems inconsistent with the general requirements in COBS 19.1.

4.8 They also pointed out that consumers can opt out from Additional Voluntary Contribution schemes that have the option to purchase safeguarded benefits through

25 PS17/25: Policy Statement on Financial Advice Market Review Implementation Part II and Consultation on Retiring FG12/15 and FG14/1 (www.fca.org.uk/publication/policy/ps17-25.pdf)

a non-advised route. Other respondents said that a decision to opt-out is often the prelude to a full transfer out of past service benefits.

Our response:

We are proceeding with our proposals. Our approach does not prevent firms from using a similar approach to an APTA and/or TVC as part of their suitability assessment for an opt-out.

We give our response to the feedback relevant to CP18/7 in that document. We are consulting in CP18/7 on changes to the pension transfer definition.

Where a consumer takes advice on both an opt-out and a transfer of past service benefits, firms should be aware of the different requirements in our Handbook.

Areas of discussion in CP17/16

Overseas transfers
Discussion

4.9 We recognised the challenges for advisers advising a client who lives overseas and is therefore considering transferring safeguarded benefits abroad. This situation creates a number of additional complexities and risks, such as understanding the tax and regulatory regimes in the destination country. This may require the individual to consult an adviser in both the UK and the destination country. We therefore asked a question about the impact of our proposals on overseas transfers.

Feedback received

4.10 Most respondents told us that overseas transfers are very complex. Issues raised included the problems of double-taxation agreements, loss of FSCS protection, different regulatory regimes and risks from currency fluctuations. A number of other responses flagged the high risk of scams or the possibility of high charges often associated with overseas transfers.

4.11 The majority of respondents felt the APTA could be adapted for overseas transfers and that the calculations and rationale were essentially the same as for a UK transfer. Others believed that our proposed approach would inevitably mean that overseas transfers would be more expensive to advise on, but that the additional cost was a useful protection for consumers.

4.12 Many respondents said it would be very likely that two sets of advisers will be required. For more common overseas destinations, it may be easier to carry out due diligence and more of the work could be done in-house. Respondents also highlighted the need to work closely with overseas advisers, for instance, to understand the investment vehicle, as a key issue.

Our response:

We consider that our approach can accommodate overseas transfers. It is clear that overseas transfers are often complex, that advice needs to be detailed and that it will often involve working with an overseas adviser. A model involving two advisers is already common for DB transfers and we consider that this approach can be adapted for overseas transfers, while recognising that there are additional complexities.

We expect firms to pay particular attention to the characteristics of the transfer and destination that make it different to a UK pension transfer. These would include: the levels of returns and local inflation rates, relative to fluctuations in exchange rates, levels of charges on overseas arrangements, different tax considerations (including the possible charge on a Qualifying Recognised Overseas Pension Scheme), different legislative frameworks and local levels of protection (for example, the FSCS equivalent). The relevant issues should be included in the APTA.

It may not always be possible for the adviser to get a sufficient understanding of local markets (including legislation and protections). In this case, the adviser should point out the limitations in the advice to the client, and consider whether they are able to provide advice.

Streamlined advice

Discussion

4.13 In CP17/16, we referred to GC17/4[26] where we consulted on guidance designed to help firms provide streamlined advice following on from the FAMR recommendations. We set out our expectations on how the proposed guidance applies to advising on safeguarded benefits and asked for comments on these.

Feedback received

4.14 The vast majority of respondents believed it was not possible to provide advice on DB transfers using a streamlined approach. Some felt it might be theoretically possible, but in practice it could not be reconciled with the need to consider the client's wider circumstances.

4.15 Some respondents considered that for Enhanced Transfer Value exercises, or other cases of employer sponsored advice on a single scheme, economies of scale would be possible in gathering data and analysing the scheme. This may help to keep advice costs down, but respondents noted this was not strictly streamlined advice, as it was essential to carry out a full analysis of the transfer and to provide a personal recommendation for each member. Other respondents commented on the fact that a streamlined approach could be achievable for smaller pension pots.

26 April 2017: GC17/4: Financial Advice Market Review (FAMR): Implementation part 1 (www.fca.org.uk/publication/guidance-consultation/gc17-04.pdf)

Our response:

In September 2017, we published FG17/8,[27] which sets out our expectations of firms providing streamlined advice. This stated that firms will need to consider the type of clients at whom a streamlined advice service is directed. It also noted that some financial products or transactions are unlikely to be appropriate for a streamlined advice process because of the amount of information the firm needs to make a suitable personal recommendation. We agree with respondents that streamlined advice is unlikely to be achievable for pension transfers.

27 FG17/8: Streamlined advice and related consolidated guidance (www.fca.org.uk/publication/finalised-guidance/fg-17-08.pdf)

5 Feedback on cost benefit analysis and compatibility statement

Cost benefit analysis

Our proposals

5.1 In the Cost Benefit Analysis (CBA) we quantified the potential impact on firm and consumer costs from our proposals and asked for comments. We estimated a one-off cost to firms of £500,000-£600,000 to implement the proposed changes. Thereafter, we assumed additional ongoing costs to firms of £6.5m-£8.125m per annum. We concluded that benefits to firms would match these ongoing costs.

5.2 We also estimated that consumers would benefit by £16m-£30m per annum. This outweighs the £6.5m-£8.125m additional costs to consumers we estimated they might incur (which reflected the additional costs to firms being passed on to consumers).

Feedback received

5.3 Approximately one third of respondents commented on the CBA. Other respondents did not have particularly strong views on the analysis or did not feel qualified to comment on the details. A number of those who commented accepted our view that additional costs would be incurred but generally considered that changes were needed. However, some suggested that, contrary to our view summarised in paragraph 5.1, these costs could be considerable, for example, software and training. While many respondents expected these would inevitably be passed on to consumers, they recognised that the outcome would be better quality advice and that consumers would benefit from the changes.

5.4 Some respondents queried our data on the number of pieces of advice on pension transfers given each year which they did not believe was consistent with their experience of volumes seen in the wider market. Others commented that our estimates of the costs of advice were on the low side.

5.5 There were a number of comments that the TVC/APTA will initially incur extra training costs, as well as additional ongoing costs due to the added complexity. We also received some comments about not factoring in PI insurance costs and FSCS levies into our analysis.

Our response:

Taking into account the feedback, we consider our underlying estimates of costs and benefits are appropriate for our CBA. We consider that our CBA gives a fair assessment of the impact of the proposed changes, and that our conclusion that the wider consumer benefits outweigh the costs is a reasonable one.

Compatibility statement

5.6 We consider that the compatibility statement set out in the CP still applies. We did not receive any feedback that requires us to revise the compatibility statement. Also, we consider the amendments being introduced in this PS do not require the compatibility statement to be revised.

Annex 1
List of non-confidential respondents

ABI

Able Financial Limited

Aegon

AES Financial Services

AES International

Age Partnership

Age UK

Andrew Heptinstall

Andy Ballard

Aon Hewitt

Argyle Consulting

Association of Consulting Actuaries

Association of Pension Lawyers

Association of Professional Compliance Consultants

Barnett Waddingham

BDH Sterling

Beaufort Trust

Bluecoat Wealth Management

Cairn Independent

Castlefield Advisory

Cazenove Capital Management

Chapters Financial

Cockburn Lucas

Compliance & Training Solutions

Compliance news

Corinthian Pensions

County Capital Wealth

Creative Benefit Wealth Management

CTC

DAC Beachcroft

DGS Financial Services

Evalue

Financial Services Consumer Panel

Fowler Drew

Graham Worrall

HAD Chartered Financial Planners

Hymans Robertson

Institute & Faculty of Actuaries

Institute of Chartered Accountants

Intelligent Pensions

Intrinsic

Investment & Life Assurance Group

Jacobs & Harris

JBMD

Jewell & Petersen

JLT Group

JLT Wealth Management

JUST

Kent Insurance Services

Lincoln Pension

Low Income Tax Reform Group

LV=

Mark Lunney

Mercer

Michael Hufton

Money Honey

Montfort International

MPA Financial Management

MRIB

O&M Pension Solutions

Old Mutual Wealth

On-Line Partnership

Openwork

Origen Financial Services

Parker Sage IFA

Pension Drawdown Company

Pensions Management Institute

PFS

PIMFA

Philip Milton & co

PLSA

Prismatic Wealth

Professional Pensions & Investments

Prudential

PWC

Rathbone

Richard Jacobs Pension & Trustee Services

Simply Biz Group

Singular Financial Planning

SJP Wealth Management

Smith & Williamson

Society of Pension Professionals

Speck Consulting

St James' Place

Standard Life

Stephen Drake

Steve Iball

Strategic Solutions FS

Sunil Modaley

Tenet

The 100 Group

Threesixty

UK Workplace Solutions

Vanguard

Wardour Partners

Wealth Management & Growth

Wingate Group

Xafinity

Annex 2
Abbreviations used in this paper

APTA	Appropriate pension transfer analysis
CBA	Cost benefit analysis
CETV	Cash Equivalent Transfer Value
COBS	Conduct of Business Sourcebook
CP	Consultation paper
CPD	Continuing Professional Development
CPI	Consumer Prices Index
DB	Defined benefit
DC	Defined contribution
ETV	Enhanced transfer value
FCA	Financial Conduct Authority
FOS	Financial Ombudsman Service
FSCS	Financial Services Compensation Scheme
KFI	Key Features Illustration
MiFID	Markets in Financial Instruments Directive
NRA	Normal retirement age
ONS	Office for National Statistics
PI	Professional indemnity
PPF	Pension Protection Fund
PTS	Pension Transfer Specialist
QROPS	Qualifying Recognised Overseas Pension Scheme
RPI	Retail Price Index

SM&CR	Senior Managers & Certification Regime
TC	Training and Competence
TVA	Transfer value analysis
TVC	Transfer value comparator

We have developed the policy in this Policy Statement in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

Appendix 1
Made rules (legal instrument)

CONDUCT OF BUSINESS SOURCEBOOK (PENSION TRANSFERS) INSTRUMENT 2018

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 137T (General supplementary powers);
(3) section 138C (Evidential provisions); and
(4) 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. Part 1 of Annex A, Part 1 of Annex B and Annex C come into force on 1 April 2018.

D. Part 2 of Annex A and Part 2 of Annex B come into force on 1 October 2018.

E. Part 3 of Annex B comes into force on 6 April 2019.

Amendments to the Handbook

F. The modules of the FCA Handbook listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Conduct of Business sourcebook (COBS)	Annex B
Supervision manual (SUP)	Annex C

G. The changes made by the Conduct of Business Sourcebook (Projections) (Amendment No 2) Instrument 2018 to COBS 19.1.4R cease to have effect as a result of the deletion of COBS 19.1.4R in this instrument. These changes have been consolidated into Part 3 of Annex B of this instrument.

Citation

H. This instrument may be cited as the Conduct of Business Sourcebook (Pension Transfers) Instrument 2018.

By order of the Board
22 March 2018

Annex A

Amendments to the Glossary of definitions

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

Part 1: Comes into force 1 April 2018

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

advising on pension transfers, pension conversions and pension opt-outs	any of the following *regulated activities*: (a) *advising on investments (except P2P agreements)* in respect of *pension transfers* and *pension opt-outs* (article 53(1) of the *Regulated Activities Order*); (b) *advising on conversion or transfer of pension benefits* (article 53E of the *Regulated Activities Order*).

Amend the following definitions as shown.

designated investment	(1)	a *security* or a *contractually-based investment* (other than a *funeral plan contract* and a right to or interest in a *funeral plan contract*), that is any of the following investments specified in Part III of the *Regulated Activities Order* (Specified Investments): … (ha) … (hab) pension scheme which provides *safeguarded benefits* (article 82(3)) (but only in relation *to advising on conversion or transfer of pension benefits*); …
security	(1)	(except in *LR* and *CONC*) (in accordance with article 3(1) of the *Regulated Activities Order* (Interpretation)) any of the following *investments* specified in that Order: … (gab) pension scheme which provides *safeguarded benefits* (article 82(3)) (but only in relation *to advising on conversion or transfer of pension benefits*);

…

specified investment	any of the following *investments* specified in Part III of the *Regulated Activities Order* (Specified Investments):
	…
	(iab) pension scheme which provides *safeguarded benefits* (article 82(3)) (but only in relation *to advising on conversion or transfer of pension benefits*));
	…
pension transfer specialist	~~an individual appointed by a *firm* to check the suitability of a *pension transfer*, *pension conversion* or *pension opt-out* who has passed the required examinations as specified in *TC*.~~
	an individual who:
	(1) has passed the required examinations as specified in *TC*; and
	(2) is employed by a *firm* to give *advice on pension transfers, pension conversions and pension opt-outs* or to check such advice in accordance with the provisions of *COBS* 19.1.

Part 2: Comes into force 1 October 2018

limited price indexation	in relation to ~~transfer value~~ appropriate pension transfer analysis, benefits which increase in line with a recognised index but subject to a minimum and/or maximum rate.

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 1 April 2018

9 Suitability (including basic advice) (non-MiFID provisions)

…

9.3 Guidance on assessing suitability

…

Pension transfers, conversions and opt-outs

9.3.6	G	*Guidance* on assessing suitability when a *firm* is making a *personal recommendation* for a *retail client* who is, or is eligible to be, a member of a *pension scheme* with *safeguarded benefits* and who is considering whether to transfer, convert or opt-out is contained in *COBS* 19.1.6G.

…

19 Pensions supplementary provisions

19.1 Pension transfers, conversions, and opt-outs

Application

19.1.-1 R ~~(1)~~ ~~This section applies to a *firm* that gives advice or a *personal recommendation* about a *pension transfer*, a *pension conversion* or a *pension opt-out*.~~

~~(2)~~ ~~This section does not apply to a *firm* that gives advice or a *personal recommendation* in relation to:~~

~~(a)~~ ~~a *pension transfer*, *pension conversion* or *pension opt-out* in relation to which the only *safeguarded benefit* is a *guaranteed annuity rate*;~~

~~(b)~~ ~~a *pension transfer* in which the *retail client* proposes to transfer out of a *defined contribution occupational pension scheme* where that client has no *safeguarded benefits* under that scheme.~~ [deleted]

19.1.-1A R This section applies to a *firm* which gives *advice on pension transfers, pension conversions and pension opt-outs* to a *retail client* in relation to:

(1) a *pension transfer* from a scheme with *safeguarded benefits*;

(2) a *pension conversion*; or

(3) a *pension opt-out* from a scheme with *safeguarded benefits* or potential *safeguarded benefits*.

19.1.-1B G A *firm* should comply with this section in order to give appropriate independent advice for the purposes of section 48 of the Pension Schemes Act 2015.

~~Preparing and providing a transfer analysis~~

19.1.1 R ~~If an individual who is not a *pension transfer specialist* gives advice or a *personal recommendation* about a *pension transfer*, a *pension conversion* or *pension opt-out* on a *firm's* behalf, the *firm* must ensure that the recommendation or advice is checked by a *pension transfer specialist*.~~ [deleted]

Requirement for pension transfer specialist

19.1.1A R (1) A *firm* must ensure that *advice on pension transfers, pension conversions and pension opt-outs* is given or checked by a *pension transfer specialist*.

(2) The requirement in (1) does not apply where the only *safeguarded benefit* involved is a *guaranteed annuity rate*.

Role of the pension transfer specialist when checking

19.1.1B G When a *firm* uses a *pension transfer specialist* to check its proposed *advice on pension transfers, pension conversions and pension opt-outs*, it should ensure that the *pension transfer specialist* takes the following steps:

(1) checks the entirety and completeness of the advice;

(2) confirms that any *personal recommendation* is suitable for the *retail client* in accordance with the obligations in *COBS* 9.2.1R to 9.2.3R and including those matters set out at *COBS* 19.1.6G; and

(3) confirms in writing that they agree with the proposed advice before it is provided to the *retail client*, including any *personal recommendation*.

Personal recommendation for pension transfers and conversions

19.1.1C R (1) A *firm* must make a *personal recommendation* when it provides *advice on conversion or transfer of pension benefits*.

(2) Before making the *personal recommendation* the *firm* must:

(a) determine the proposed arrangement with *flexible benefits* to which the *retail client* would move; and

(b) carry out the comparison in *COBS* 19.1.2R.

(3) The requirement in (2)(b) does not apply if either:

(a) the only *safeguarded benefit* involved is a *guaranteed annuity rate*; or

(b) the *retail client* is at normal retirement age under the rules of the ceding arrangement and wishes to crystallise benefits immediately after the *pension transfer* or *pension conversion*.

19.1.1D G *COBS* 9 contains suitability requirements which apply if a *firm* makes a *personal recommendation* in relation to *advice on conversion or transfer of pension benefits*.

The comparison

19.1.2 R ~~A~~ To prepare a comparison, a *firm* must:

(1) compare the benefits likely (on reasonable assumptions) to be paid under ~~a *defined benefits pension scheme* or other pension scheme with *safeguarded benefits*~~ the ceding arrangement with the benefits afforded by ~~a *personal pension scheme*, *stakeholder pension scheme* or other pension scheme with *flexible benefits*~~ the proposed arrangement~~, before it advises a *retail client* to transfer out of a *defined benefits pension scheme* or other pension scheme with *safeguarded benefits*~~;

(2) ensure that the comparison includes enough information for the *retail client* to be able to make an informed decision;

(3) give the *retail client* a copy of the comparison, drawing the *retail client's* attention to the factors that do and do not support the *firm's* ~~advice~~ *personal recommendation*, in good time, and in any case no later than when the *key features document* is provided; and

(4) take reasonable steps to ensure that the *retail client* understands the *firm's* comparison and how it contributes towards the ~~its advice~~ *personal recommendation*.

19.1.2A ~~R~~ ~~A *firm* need not carry out the comparison described in *COBS* 19.1.2R if:~~

~~(1)~~ ~~*the retail client* wishes to crystallise benefits immediately after the *pension transfer* or *pension conversion*; and~~

~~(2)~~ ~~the *retail client* is at normal retirement age under the rules of the ceding scheme.~~ [deleted]

19.1.3 G In particular, the comparison should:

(1) …

(2) have regard to the benefits and options available under the ceding ~~scheme~~ arrangement and the effect of replacing them with the benefits and options under the proposed ~~scheme~~ arrangement;

(3) …

…

(5) where an immediate crystallisation of benefits is sought by the *retail client* prior to the ceding ~~scheme's~~ arrangement's normal retirement age, compare the benefits available from crystallisation at normal retirement age under that ~~scheme~~ arrangement.

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*~~ carries out the comparison ~~(*COBS* 19.1.2R(1)),~~ it must:

(1)	…		
	(c)	the average earnings index and the rate for section ~~21~~ 148 orders is:	4.0%
	…		
	(j)	…	
	or use more cautious assumptions;		
	[**Note:** section 148 orders are orders made by the Secretary of State under section 148 of the Social Security Administration Act 1992. Section 148(7) of this Act provides that orders made previously under section 21 of the Social Security Pensions Act 1975 will be treated as orders made under section 148.]		
(2)	…		

…

19.1.5 R ~~If a *firm* arranges a *pension transfer* or *pension opt-out* for a *retail client* as an *execution-only transaction*, the *firm* must make, and retain indefinitely, a clear record of the fact that no *personal recommendation* was given to that *client*.~~ [deleted]

~~Suitability~~ Guidance on assessing suitability

19.1.6 G (1) The *guidance* in this section relates to the obligations to assess suitability in *COBS* 9.2.1R to 9.2.3R.

(2) When a *firm* is making a *personal recommendation* for ~~advising~~ a *retail client* who is, or is eligible to be, a member of a ~~*defined benefits occupational pension scheme* or other scheme~~ *pension scheme* with *safeguarded benefits* and who is considering whether to transfer, convert or opt-out, a *firm* should start by assuming that a transfer, conversion or opt-out will not be suitable.

(3) A *firm* should only ~~then~~ consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the *retail client's* best interests.

(4) To demonstrate (3), the factors a *firm* should take into account include:

(a) the *retail client's* intentions for accessing pension benefits;

(b) the *retail client's* attitude to, and understanding of the risk of giving up s*afeguarded benefits* (or potential *safeguarded benefits*) for *flexible benefits*;

(c) the *retail client's* attitude to, and understanding of investment risk;

(d) the *retail client's* realistic retirement income needs including:

(i) how they can be achieved;

(ii) the role played by *safeguarded benefits* (or potential *safeguarded benefits*) in achieving them; and

(iii) the consequent impact on those needs of a transfer, conversion or opt-out, including any trade-offs; and

(e) alternative ways to achieve the *retail client's* objectives instead of the transfer, conversion or opt-out.

19.1.7 G ~~When a *firm* advises a *retail client* on a *pension transfer*, *pension conversion* or *pension opt-out*, it should consider the *client's* attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up.~~ [deleted]

19.1.7A G ~~When giving a *personal recommendation* about a *pension transfer* or *pension conversion*, a *firm* should clearly inform the *retail client* about the loss of the *safeguarded benefits* and the consequent transfer of risk from the *defined benefits pension scheme* or other scheme with *safeguarded benefits* to the *retail client*, including:~~

~~(1)~~ ~~the extent to which benefits may fall short of replicating those in the *defined benefits pension scheme* or other scheme with *safeguarded benefits;*~~

~~(2)~~ ~~the uncertainty of the level of benefit that can be obtained from the purchase of a future annuity and the prior investment risk to which the *retail client* is exposed until an annuity is purchased with the proceeds of the proposed *personal pension scheme* or *stakeholder pension scheme*; and~~

~~(3)~~ ~~the potential lack of availability of annuity types (for instance, annuity increases linked to different indices) to replicate the benefits being given up in the *defined benefits pension scheme*.~~ [deleted]

19.1.7B G ~~In considering whether to make a *personal recommendation*, a *firm* should not regard~~ If a *firm* has carried out the comparison in *COBS* 19.1.2R and it has indicated a rate of return which may replicate the benefits being given up from the ~~*defined benefits pension scheme* or other scheme with safeguarded benefits~~ arrangement with *safeguarded benefits*, the *firm* should not regard this as sufficient in itself to ensure a *personal recommendation* is suitable.

Record keeping and suitability reports

19.1.7C R If a *firm* arranges a *pension transfer* or *pension opt-out* for a *retail client* without making a *personal recommendation* it must:

(1) make a clear record of the fact that no *personal recommendation* was given to that *client*; and

(2) retain this record indefinitely.

19.1.8 G ~~When a *firm* prepares a *suitability report*~~ If a *firm* provides a *suitability report* to a *retail client* in accordance with *COBS* 9.4.1R it should include:

…

…

The statutory advice requirement

19.1.10 G Where a *firm* has advised a *retail client* in relation to a *pension transfer*~~,~~ or *pension conversion* ~~or *pension opt-out*~~, and the *firm* is asked to confirm this for the purposes of section 48 of the Pension Schemes Act 2015, then the *firm* should provide such confirmation as soon as reasonably practicable.

…

TP 2 Other Transitional Provisions

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provisions: coming into force
…					
2.29	*COBS* 19.1.2R to *COBS* 19.1.4BR		A *firm* will comply with the provisions in column (2) if it chooses to comply with the following amendments made by Part 2 of the Conduct of Business Sourcebook (Pension Transfers) Instrument 2018 as if those amendments were already in force: *COBS* 19.1.1-A; *COBS* 19.1.2BR; *COBS* 19.1.2CR; *COBS* 19.1.2DG; *COBS* 19.1.2EG; *COBS* 19.1.3AR; *COBS* 19.1.3BG; *COBS* 19 Annex 4A; *COBS* 19 Annex 4B; *COBS* 19 Annex 4C; *COBS* 19 Annex 5. If a *firm* does so, the reference to "comparison" in *COBS* 19.1.7BG must be read as a reference to "appropriate pension transfer analysis".	1 April 2018 to 30 September 2018	1 October 2018

Sch 1 Record keeping requirements

…

Sch 1.3 G

Handbook reference	Subject of record	Contents of record	When record must be made	Retention period
…				
COBS ~~19.1.5R~~ 19.1.7CR	Execution only pension transfer or opt out	That no *personal recommendation* was given to the *client*	Date of transaction	~~5 years~~ Indefinitely

Part 2: Comes into force 1 October 2018

19.1 Pension transfers, conversions, and opt-outs

…

Definitions

19.1.1-A R In this section and in *COBS* 19 Annex 4A, 4B and 4C:

(a) "appropriate pension transfer analysis" refers to the analysis prepared in accordance with *COBS* 19.1.2BR;

(b) "ceding arrangement" refers to the *retail client's* existing pension arrangement with *safeguarded benefits*;

(c) "future income benefits" refers to the full value of the pension income that would have been paid by the ceding arrangement (that is, before any commutation for a lump sum);

(d) "proposed arrangement" refers to the arrangement with *flexible benefits* to which the *retail client* would move and takes into account the subsequent intended pattern of decumulation;

(e) "transfer value comparator" refers to a comparison prepared in accordance with *COBS* 19.1.3AR.

…

19.1.1C R (1) …

(2) Before making the *personal recommendation* the *firm* must:

…

(b) carry out the ~~comparison in *COBS* 19.1.2R~~ appropriate pension transfer analysis and produce the transfer value comparator.

(3) The requirement in (2)(b) does not apply if ~~either:~~

~~(a)~~ the only *safeguarded benefit* involved is a *guaranteed annuity rate*~~; or~~.

~~(b) the *retail client* is at normal retirement age under the rules of the ceding scheme and wishes to crystallise benefits immediately after the *pension transfer* or *pension conversion*.~~

(4) The *firm* must take reasonable steps to ensure that the *retail client* understands how the key outcomes from the appropriate pension transfer analysis and the transfer value comparator contribute towards the *personal recommendation*.

~~The comparison~~ Appropriate pension transfer analysis

19.1.2 R ~~To prepare a comparison, a *firm* must:~~

~~(1) compare the benefits likely (on reasonable assumptions) to be paid under the ceding arrangement with the benefits afforded by the proposed arrangement;~~

~~(2) ensure that that comparison includes enough information for the *retail client* to be able to make an informed decision;~~

~~(3) give the *retail client* a copy of the comparison, drawing the *retail client's* attention to the factors that do and do not support the *firm's* advice, in good time, and in any case no later than when the *key features document* is provided; and~~

~~(4) take reasonable steps to ensure that the *retail client* understands the *firm's* comparison and how it contributes towards the *personal recommendation*.~~ [deleted]

…

19.1.2B R To prepare an appropriate transfer analysis a *firm* must:

(1) assess the benefits likely to be paid and options available under the ceding arrangement;

(2) compare (1) with those benefits and options available under the proposed arrangement; and

(3) undertake the analysis in (1) and (2) in accordance with *COBS* 19 Annex 4A and *COBS* 19 Annex 4C.

19.1.2C R *COBS* 19.1.1-AR and *COBS* 19.1.2BR do not preclude a *firm* from preparing other forms of the analysis (for example, stochastic cashflow modelling) which are relevant to making a *personal recommendation* to the *retail client*, as long as projected outcomes at the 50th percentile are no less conservative than if the analysis had been prepared in accordance with *COBS* 19 Annex 4A and *COBS* 19 Annex 4C.

19.1.2D G (1) This *guidance* applies if a *firm* presents information in the appropriate pension transfer analysis which considers the impact of:

(a) the Pension Protection Fund and the *FSCS*; or

(b) scheme funding or employer covenants.

(2) If a *firm* presents the information in (1) it should, in accordance with *Principle* 7 and the *fair, clear and not misleading rule*, do so in a way that is balanced and objective.

(3) If a *firm* does not have specialist knowledge in assessing the impact of (1)(a) or 1(b), it should consider not including the information.

19.1.2E G (1) This *guidance* applies if a *firm* presents information in the appropriate pension transfer analysis:

(a) that contains an indication of future performance; and

(b) is produced by a financial planning tool or cash flow model that uses different assumptions to those shown in the *key features illustration* for the proposed arrangement.

(2) A *firm* presenting the information in (1) should explain to *the retail client* why different assumptions produce different illustrative financial outcomes.

19.1.3 G ~~In particular, the comparison should:~~

~~(1) take into account all of the *retail client's* relevant circumstances;~~

~~(2) have regard to the benefits and options available under the ceding arrangement and the effect of replacing them with the benefits and options under the proposed arrangement;~~

~~(3) explain the assumptions on which it is based and the rates of return that would have to be achieved to replicate the benefits being given up;~~

~~(4) be illustrated on rates of return which take into account the likely expected returns of the assets in which the *retail client's* funds will be invested; and~~

~~(5) where an immediate crystallisation of benefits is sought by the *retail client* before the ceding arrangement's normal retirement age, compare the benefits available from crystallisation at normal retirement age under that arrangement.~~ [deleted]

Transfer value comparator

19.1.3A R (1) To prepare a transfer value comparator, a *firm* must compare the transfer value offered by the ceding arrangement with the estimated value needed today to purchase the future income benefits available under the ceding arrangement using a *pension annuity* (calculated in accordance with *COBS* 19 Annex 4B and *COBS* 19 Annex 4C).

(2) The *firm* must provide the transfer value comparator to the *retail client* in a *durable medium* using the format and wording in *COBS* 19 Annex 5 and:

(a) where the *retail client* has 12 *months* or more before reaching normal retirement age, use the notes set out at *COBS* 19 Annex 5 1.2R; or

(b) where the *retail client* has less than 12 *months* before reaching normal retirement age, use the notes set out at *COBS* 19 Annex 5 1.3R.

19.1.4 R ~~When a *firm* carries out the comparison it must:~~

~~(1)~~	~~assume that:~~		
	~~(a)~~	~~the annuity interest rate is the intermediate rate of return appropriate for a level or fixed rate of increase annuity in *COBS* 13 Annex 2 3.1R(6) unless *COBS* 19.1.4BR applies or the rate for annuities in payment (if less);~~	
	~~(b)~~	~~the *RPI* is:~~	~~2.5%~~
	~~(c)~~	~~the average earnings index and the rate for section 148 orders is:~~	~~4.0%~~
	~~(d)~~	~~for benefits linked to the *RPI*, the pre-retirement limited price indexation revaluation is:~~	~~2.5%~~
	~~(e)~~	~~the annuity interest rate for post-retirement *limited price indexation* based on the *RPI* with maximum pension increases less than or equal to 3.5% or with minimum pension increases more than or equal to 3.5% is the rate in (a) above allowing for increases at the maximum rate of pension increase; otherwise it is the rate in (f) below;~~	
	~~(f)~~	~~the index linked annuity interest rate for pension benefits linked to the *RPI* is the intermediate rate of return in *COBS* 13 Annex 2 3.1 R(6) for~~	

		~~annuities linked to the *RPI* unless *COBS* 19.1.4BR applies;~~	
	~~(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 PMA08 and PFA08 and including mortality improvements derived from each of the male and female annual mortality projections models, in equal parts;~~	
	~~(h)~~	~~for benefits linked to the *CPI*, the pre-retirement *limited price indexation* revaluation is:~~	~~2.0%~~
	~~(i)~~	~~the index linked annuity interest rate for pension benefits linked to the *CPI* is the intermediate rate of return in *COBS* 13 Annex 2 3.1R(6) for annuities linked to the *RPI* plus 0.5% unless *COBS* 19.1.4BR applies in which case it is the annuity rate in *COBS* 19.1.4BR plus 0.5%;~~	
	~~(j)~~	~~the annuity interest rate for post-retirement *limited price indexation* based on the *CPI* with maximum pension increases less than or equal to 3.0% or with minimum pension increases more than or equal to 3.5% is the rate in (a) above allowing for increases at the maximum rate of pension increase; where minimum pension increases are more than or equal to 3% but less than 3.5% the annuity rate is the rate in (a) above allowing for increases at the minimum rate of pension increase otherwise it is the rate in (i) above;~~	
	~~or use more cautious assumptions;~~		
	~~[Note: section 148 orders are orders made by the Secretary of State under section 148 of the Social Security Administration Act 1992. Section 148(7) of this Act provides that orders made previously under section 21 of the Social Security Pensions Act 1975 will be treated as orders made under section 148.]~~		
~~(2)~~	~~calculate the interest rate in deferment; and~~		
~~(3)~~	~~have regard to benefits which commence at different times.~~ [deleted]		

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-2_M_[1.25%]~~

~~and CMI(20YY-2_F_[1.25%], where YY-2 is the year of the Model used, will tend to show compliance with *COBS* 19.1.4R(1)(g).~~ [deleted]

19.1.4B	R	~~*Firms* must apply the annual provisions at *COBS* 13 Annex 2 3.1R(6) on a monthly basis in any month where the yields on the15th of the relevant month would give a rolling 12 month average annuity rate that varies by at least 0.2% from the previous rate.~~ [deleted]

…

19.1.7B	G	~~If a *firm* has carried out the comparison in *COBS* 19.1.2R and it has indicated a rate of return which may replicate the benefits being given up from the arrangement with *safeguarded benefits*, the *firm* should not regard this as sufficient in itself to ensure a *personal recommendation* is suitable.~~ [deleted]
19.1.8	G	If a *firm* provides a *suitability report* to a *retail client* in accordance with *COBS* 9.4.1R it should include:

…

(2) an analysis of the financial implications (if the recommendation is to opt-out); ~~and~~

(2A) a summary of the key outcomes from the appropriate pension transfer analysis (if the recommendation is to transfer or convert); and

…

…

After COBS 19 Annex 3 (Format for annuity information), insert new COBS 19 Annex 4A. The text is not underlined.

19 Annex 4A Appropriate pension transfer analysis

This annex belongs to *COBS* 19.1.2BR.

Appropriate pension transfer analysis		
R		
1	In preparing an appropriate pension transfer analysis, a *firm* must:	
	(1)	use rates of return which reflect the investment potential of the assets in which

		the *retail client's* funds would be invested under the proposed arrangement;	
	(2)	where the proposed arrangement includes a UK lifetime *pension annuity* that is being purchased on normal terms, use the assumptions in *COBS* 19 Annex 4C 1R(2) to assess the benefits likely to be paid under the proposed arrangement;	
	(3)	use the assumptions in *COBS* 19 Annex 4C 1R(4) to project the level of income likely to be paid under the ceding arrangement at the point of retirement;	
	(4)	take into account:	
		(a)	the impact of the proposed transfer on the tax position of the *retail client*, particularly where there would be a financial impact from crossing a tax threshold or entering a new tax band;
		(b)	the impact (if any) on the *retail client's* access to state benefits;
	(5)	have regard to the likely pattern of benefits that might be taken from both the ceding arrangement and the proposed arrangement;	
	(6)	undertake any comparisons of benefits and options consistently;	
	(7)	plan for a reasonable period beyond average life expectancy particularly where a longer period would better demonstrate the risk of funds not lasting throughout retirement;	
	(8)	consider how each of the arrangements would play a role in:	
		(a)	meeting the *retail client's* income needs throughout retirement (relative to other means available to meet those needs);
		(b)	the provision of death benefits, where relevant (including by providing comparisons on a fair and consistent basis between the ceding and proposed arrangements both at present and at various future points in time);
	(9)	consider the trade-offs that may occur by prioritising differing *client* objectives (e.g. prioritising income needs throughout retirement over the provision of death benefits and vice-versa); and	
	(10)	use more cautious assumptions where appropriate.	
G			
2	(1)	When making assumptions about the rate of return under *COBS* 19 Annex 4A 1R(1), a *firm* should consider consistency with other assumptions (such as inflation and exchange rates).	
	(2)	*COBS* 19 Annex 4A 1R(1), 1R(2) and 1R(3) do not prevent a *firm* from preparing the appropriate pension transfer analysis on additional assumptions	

		(such as to demonstrate variability of returns) as long as such analyses are not given more prominence than an analysis prepared in accordance with this Annex.
	(3)	When providing an indication of life expectancy or mortality which is not linked to an annuity, *firms* should use appropriate published population statistics which allow for future cohort mortality improvements, such as those published by the Office for National Statistics.
	(4)	When the proposed arrangement includes a *pension annuity*, the assumptions in *COBS* 19 Annex 4C 1R(2) may not always be relevant (for example, if the *retail client* is considering a transfer to access an impaired life annuity or an overseas annuity). In such circumstances the *firm* should assess the benefits likely to be paid under the proposed arrangement in an alternative way (for example by obtaining quotations).
Charges used for the appropriate pension transfer analysis		
R		
3	An appropriate pension transfer analysis must take account of all charges that may be incurred by the *retail client* as a result of a *pension transfer* or *pension conversion* and subsequent access to funds following such a transaction, other than:	
	(1)	*adviser charges* paid by a third party (e.g. an employer); and
	(2)	*adviser charges* that would be payable whether the *pension transfer* or *pension conversion* happened or not.
G		
4	The charges in *COBS* 19 Annex 4A 3R include, but are not limited to, any of the following:	
	(1)	product charges, including those on any investments within the product;
	(2)	*platform charges*;
	(3)	*adviser charges* in relation to the *personal recommendation* and subsequently during the pre-retirement period as well as at benefit crystallisation and beyond, where likely to be relevant; and
	(4)	any other charges that may be incurred if amounts are subsequently withdrawn.

After COBS 19 Annex 4A (Appropriate pension transfer analysis), insert new COBS 19 Annex 4B. The text is not shown underlined.

19 Transfer value comparator

Annex 4B

This annex belongs to *COBS* 19.1.3AR.

Transfer value comparator		
R		
1	Where the *retail client* has 12 *months* or more before reaching normal retirement age under the rules of the ceding arrangement the *firm* must:	
	(1)	revalue the future income benefits in *COBS* 19.1.3AR(1) by projecting them to the date they would normally be paid in accordance with the assumptions in *COBS* 19 Annex 4C 1R(4);
	(2)	determine the estimated future cost of the *pension annuity* in accordance with the assumptions in *COBS* 19 Annex 4C 1R(2); and
	(3)	apply the rate of return and charges in *COBS* 19 Annex 4C 2R to the amount determined in (2) to determine the estimated value needed at the calculation date.
R		
2	Where the *retail client* has less than 12 *months* before reaching normal retirement age under the rules of the ceding arrangement, the estimated value needed today to purchase the future income benefits using a *pension annuity* must be determined as the amount in *COBS* 19 Annex 4B 1R(2) multiplied by the ratio of (1) and (2) where:	
	(1)	is the open market cost of purchasing a *pension annuity* which offers increases in payment which are the nearest match to those in the ceding arrangement; and
	(2)	is the value of the *pension annuity* in (1) where the cost is determined in accordance with the assumptions in *COBS* 19 Annex 4C 1R(2).
G		
3	(1)	*COBS* 19 Annex 4B 2R requires *firms* to adjust the estimated cost of purchasing the future income benefits using a *pension annuity* to a market related rate by allowing for the ratio of current market pricing to the theoretical value of the annuity which is the nearest match.
	(2)	The *pension annuity* which is the nearest match for the scheme benefits should usually be taken as an index-linked *pension annuity* unless it can be shown that the majority of the benefits are not index-linked in some way.

After COBS 19 Annex 4B (Transfer value comparator), insert new COBS 19 Annex 4C. The text is not shown underlined.

19 Annex 4C **Assumptions**

This annex belongs to *COBS* 19.1.2BR and *COBS* 19.1.3AR.

Assumptions			
R			
1	(1)	A *firm* must use the assumptions in (2) when:	
		(a)	the proposed arrangement includes a *pension annuity* and *COBS* 19 Annex 4A 1R(2) applies; or
		(b)	it determines the estimated cost of future income benefits as a *pension annuity* under *COBS* 19 Annex 4B 1R(2) or *COBS* 19 Annex 4B 2R(2).
	(2)	The assumptions are:	
		(a)	the index-linked annuity interest rate for pension benefits linked to the *RPI* is the average of the previous 3 *months*' intermediate rate of return in *COBS* 13 Annex 2 3.1R(6) for annuities linked to the *RPI* (using the 6th day of any *month* as the starting point for calculation purposes), but determined as if the annual provision applies on the 15th of each *month*;
		(b)	the index-linked annuity interest rate for pension benefits linked to the *CPI* is the annuity rate in (a) plus 0.5%;
		(c)	the annuity interest rate is the average of the previous 3 *months' intermediate rate of return* in *COBS* 13 Annex 2 3.1R(6) for annuities with a level or fixed rate of increase (using the 6th day of any *month* as the starting point for calculation purposes), but determined as if the annual provision applies on the 15th of each *month*;
		(d)	the annuity interest rate for post-retirement *limited price indexation* based on the *RPI* with maximum pension increases less than or equal to 3.5%, or with minimum pension increases more than or equal to 3.5%, is the rate in (c) allowing for increases at the maximum rate of pension increase; otherwise it is the rate in (a);
		(e)	the annuity interest rate for post-retirement *limited price indexation* based on the *CPI* with maximum pension increases less than or equal to 3.0%, or with minimum pension increases more than or equal to 3.5%, is the rate in (c) above allowing for increases at the maximum rate of pension increase; where minimum pension increases are more than or

			equal to 3% but less than 3.5% the annuity rate is the rate in (c) above allowing for increases at the minimum rate of pension increase; otherwise it is the rate in (b) above;	
		(f)	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 PMA08 and PFA08 and including mortality improvements derived from each of the male and female annual mortality projections models, in equal parts;	
		(g)	the annuity expense allowance is:	4.0%
	(3)	A *firm* must use the assumptions in (4) when it:		
		(a)	projects the level of income likely to be paid under the ceding arrangement at the point of retirement under *COBS* 19 Annex 4A 1R(3); or	
		(b)	revalues the future income benefits in *COBS* 19.1.3AR(1) by projecting them to the date they would normally be paid under *COBS* 19 Annex 4B 1R(1).	
	(4)	The assumptions are:		
		(a)	the *RPI* is:	2.5%
		(b)	the average earnings index and the rate for section 148 orders is:	4.0%
		(c)	for benefits linked to the *RPI*, the pre-retirement *limited price indexation* revaluation is:	2.5%
		(d)	for benefits linked to the *CPI*, the pre-retirement *limited price indexation* revaluation is:	2.0%
		[**Note:** section 148 orders are orders made by the Secretary of State under section 148 of the Social Security Administration Act 1992. Section 148(7) of this Act provides that orders made previously under section 21 of the Social Security Pensions Act 1975 will be treated as orders made under section 148.]		
Rate of return and charges				
R				
2	(1)	This *rule* applies for the purposes of *COBS* 19 Annex 4B 1R(3).		
	(2)	The rates of return for valuing future income benefits between the date of calculation and the date when the future income benefits would normally come into payment must be based on the fixed coupon yield on the UK FTSE Actuaries Indices for the appropriate term.		

	(3)	The product charges prior to future income benefits coming into payment must be assumed to be:	0.75%
Mortality rate			
E			
3	(1)	This *rule* applies for the purposes of COBS 19 Annex 4C 1R(2)(f).	
	(2)	For any year commencing 6 April, the male and female annual CMI Mortality Projections Models in the series CMI (20YY-2)_M_[1.25%] and CMI (20YY-2)_F_[1.25%], where YY-2 is the year of the Model, should be used.	
	(3)	Contravention of (2) may be relied on as tending to establish contravention of the *rule* referred to in (1).	

After COBS 19 Annex 4C (Assumptions), insert the new COBS 19 Annex 5. The text is not shown underlined.

19 Annex 5R **Format for provision of transfer value comparator**

This annex belongs to *COBS* 19.1.3AR.

1

1.1 The first page of the transfer value comparator must follow the format and wording shown in Table 1, except that alternative colours may be used in the chart and the scale of the charts may be changed (as long as the y-axis starts at £0). Note that the figures in Table 1 are used for illustration only.

1.2 Where *COBS* 19 Annex 4B 1R applies (where the *retail client* has 12 *months* or more before reaching normal retirement age), the second page of the transfer value comparator must contain the notes set out at Table 2.

1.3 Where *COBS* 19 Annex 4B 2R applies (where the *retail client* has less than 12 *months* before reaching normal retirement age), the second page of the transfer value comparator must contain the notes set out at Table 3.

Table 1

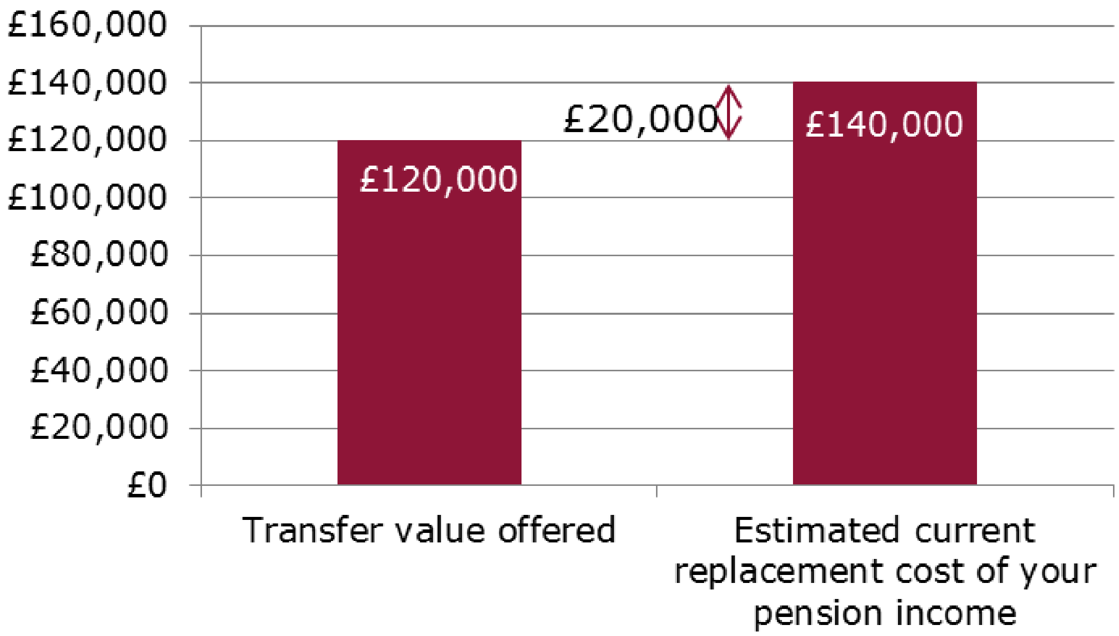
This table belongs to *COBS* 19 Annex 5 1.1R.

You have been offered a cash equivalent transfer value of £120,000 in exchange for you giving up any future claims to a pension from the scheme.

Will I be better or worse off by transferring?

- We are required by the Financial Conduct Authority to provide an indication of what it might cost to replace your scheme benefits.
- We have done this by looking at the amount you might need to buy the same benefits from an insurer.

It could cost you £140,000 to obtain a comparable level of income from an insurer. This means the same retirement income could cost you £20,000 more by transferring.



See 'Notes' on the next page for a detailed explanation of this information.

Table 2

This table belongs to *COBS* 19 Annex 5 1.2R.

Notes

1. *The estimated replacement cost of your pension income is based on assumptions about the level of your scheme income at normal retirement age and the cost of replacing that income (including spouse's benefits) for an average healthy person using today's costs.*

2. *The estimated replacement value takes into account investment returns after any product charges that you might be expected to pay.*

3. *No allowance has been made for taxation or adviser charges prior to benefits commencing.*

Table 3

This table belongs to *COBS* 19 Annex 5 1.3R.

Notes

1. *The estimated replacement cost of your pension income is based on the current level of your scheme income and the approximate cost of replacing that income (including spouse's benefits) for an average healthy person from an insurer operating in the UK annuity market. The approximation recognises that it may not be possible to find an exact match for your benefits in the form of an annuity income.*

2. *It may be possible to get a better deal for your particular circumstances by shopping around.*

3. *The estimated replacement value takes into account any charges you might be expected to pay.*

4. *No allowance has been made for taxation.*

Part 3: Comes into force 6 April 2019

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

19 Annex 4C **Assumptions**

This annex belongs to *COBS* 19.1.

Assumptions				
R				
1	…			
	(2)	The assumptions are:		
		(a)	…	
		(b)	the index linked annuity interest rate for pension benefits linked to the *CPI* is the annuity rate in (a) plus ~~0.5%~~ <ins>1.0%</ins>;	
		…		
		(e)	the annuity interest rate for post-retirement *limited price indexation* based on the *CPI* with maximum pension increases less than or equal to ~~3.0%~~ <ins>2.5%</ins> or with minimum pension increases more than or equal to 3.5% is the rate in (c) above allowing for increases at the maximum rate of pension increase; where minimum pension increases are more than or equal to ~~3.0%~~ <ins>2.5%</ins> but less than 3.5% the annuity rate is the rate in (c) above allowing for increases at the minimum rate of pension increase, otherwise it is the rate in (b) above;	
		…		
	(4)	The assumptions are:		
		(a)	the *RPI* is:	~~2.5%~~ <ins>3.0%</ins>
		(b)	the average earnings index and the rate for section 148 orders is:	~~4.0%~~ <ins>3.5%</ins>
		(c)	for benefits linked to the *RPI*, the pre-retirement *limited price indexation* revaluation is:	~~2.5%~~ <ins>3.0%</ins>
		…		

Annex C

Amendments to the Supervision manual (SUP)

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

12 Appointed representatives

…

12.2 Introduction

…

Business for which an appointed representative is exempt

12.2.7 G (1) The *Appointed Representatives Regulations* are made by the Treasury under sections 39(1), (1C) and (1E) of the *Act*. These regulations describe, among other things, the business for which an *appointed representative* may be exempt or to which sections 20(1) and (1A) and 23(1A) of the *Act* may not apply, which is business which comprises any of:

…

(jab) *advising on conversion or transfer of pension benefits* (article 53E of the *Regulated Activities Order*);

…

…

12.5 Contracts: required terms

…

12.5.2 G …

(2) Under the *Appointed Representative Regulations*, an *appointed representative* is treated as representing other counterparties if, broadly, it:

…

(na) gives advice (within article 53E of the *Regulated Activities Order* (Advising on conversion or transfer of pension benefits)) on behalf of other counterparties;

…

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