Financial Conduct Authority

FCA
FINANCIAL CONDUCT AUTHORITY

Pension reforms – proposed changes to our rules and guidance

October 2015

Consultation Paper

CP15/30***

Contents

Abbreviations used in this document 4

Foreword 6

1 Overview 8

2 Strategic view 15

Areas for consultation

3 Promoting competition 22

Communications concerning accessing pension savings 23

Pension freedoms communications 31

SIPP retained interest 35

4 Ensuring the market works well 37

Design and distribution of retirement income products and facilities for accessing pension savings 37

Retirement risk warnings 40

5 Protecting consumers 47

Cancellation rights 48

Restrictions on the promotion and distribution of high risk investments 50

Using pension savings to repay debt 53

Attachment orders 54

Determining maximum projection rates 55

Projections including guarantees 56

Projecting a future annuity – mortality assumptions 57

Glossary amendments 58

Areas for discussion

6	Non-advised annuity purchase	60
7	Lifestyling investment strategies	64
8	Transfer value analysis	66
9	Product disclosure	72
10	FSCS protection of pensions	75

Annexes

1	List of questions	77
2	Retirement outcomes review – update	81
3	Cost benefit analysis	83
4	Compatibility statement	106

Appendix 1 Draft Handbook text

We are asking for comments on this Consultation Paper by 4 January 2016.

You can send them to us using the form on our website at: www.fca.org.uk/your-fca/documents/consultation-papers/cp15-30-response-form.

Or in writing to:

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Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 5090
Email: cp15-30@fca.org.uk

We are asking for comments on the shape and scope of our Retirement Outcomes Review by Friday 30 October 2015. You can send them to us at: RetirementOutcomes@fca.org.uk

Or in writing to:

Retirement Outcomes Team
Competition Division
Strategy & Competition
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25 The North Colonnade
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London E14 5HS

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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 020 706 0790 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.

Abbreviations used in this document

Abbreviations used in this document

ABI	Association of British Insurers
AS TM1	Actuarial Standard Technical Memorandum 1
CBA	Cost benefit analysis
CETV	Cash Equivalent Transfer Value
COBS	Conduct of Business sourcebook
CoCos	Contingent convertible instruments
CONC	Consumer Credit sourcebook
CMI	Continuous mortality investigation
CP	Consultation paper
DB	Defined benefit
DC	Defined contribution
DP	Discussion Paper
DWP	Department for Work and Pensions
EU	European Union
FAD	Flexi-access drawdown
FAMR	Financial Advice Market Review
FCA	Financial Conduct Authority
FSA	Financial Services Authority
FSCS	Financial Services Compensation Scheme
FG	Finalised guidance

FRC	Financial Reporting Council
FSMA	Financial Services and Markets Act 2000
GAR	Guaranteed annuity rate
HNWI	High net worth investor
IGC	Independent Governance Committee
KFD	Key Features Document
KFI	Key Features Illustration
LRRA	Legislative and Regulatory Reform Act 2006
MiFID	Markets in Financial Instruments Directive
OFT	Office of Fair Trading
OMO	Open market option
PERG	Perimeter Guidance Manual
PRIIPS	Packaged Retail and Insurance-based Investment Products
PS	Policy statement
RIY	Reduction in yield
RPPD	The Responsibilities of Providers and Distributors for the Fair Treatment of Customers
SIPP	Self invested personal pension
SMPI	Statutory money purchase illustration
TPR	The Pensions Regulator
TR	Thematic Review
TVA	Transfer value analysis
UFPLS	Uncrystallised fund pension lump sum
UK	United Kingdom

Foreword

Since 2012, the pension and retirement income markets have undergone the most profound change in a generation. Automatic enrolment has fundamentally changed the way people save into their pension and the more recent 'at retirement' reforms have opened up the options consumers have when accessing their pension savings. This period of change will continue, for example with the introduction of a secondary annuity market and potential changes to the pensions tax regime on the horizon. In this changing environment, our role in supporting consumers and firms, in line with our statutory objectives, has never been more crucial.

Despite the changing nature of the market, our objectives remain the same – for consumers to have access to products and services that are well governed and deliver value for money in competitive markets that work in their interests. To ensure that our regulatory framework continues to be appropriate, we believe it is necessary and right to identify emerging trends, and set out our thoughts to prompt ideas and discussions on the issues that will shape the future, for example the challenges presented by an ageing society.

Since the pension freedoms were announced in the 2014 Budget, we have made a number of necessary changes to our Handbook to protect consumers and ensure firms are clear about our expectations. We have conducted our retirement income market study and we are now in the remedy stage of that work, considering whether we need to make changes to our rules and requirements.

We have also monitored market developments closely to see how firms have responded to the challenge of changing consumer demands and to see how the protections we have put in place are working in practice, such as signposting to Pension Wise and the retirement risk warnings.

We have used a range of approaches to address risks to our regulatory objectives, including working directly with firms individually or collectively and through supervisory and enforcement activities. Our supervisory work in the industry continues as well as work, backed by enforcement, to directly protect consumers from scams (ScamSmart).

While much work has already been done, we are conscious that the market is still adapting and developing in light of the reforms. We are examining business models that are emerging following the reforms and are collecting data, both on a one-off and regular basis, to understand the impact of the reforms. For example, we recently requested data from firms to investigate what barriers consumers are facing when accessing the pension freedoms and we are undertaking a regular quarterly data collection from a sample of firms.

Over the past six months we have taken the opportunity to review our rules and guidance against our objectives. We are now publishing this paper to:

- Set out our expectations about how our existing rules and guidance operate in the new environment, providing illustrative examples.

- Bring forward proposals for further changes to our Handbook.
- Ask for views on the range of information we intend to examine as part of the follow up to our market study.
- Invite discussion on areas where we are minded to carry out further work.

We are seeking feedback from stakeholders across the range of issues included in this paper. We will also engage stakeholders in a broad conversation about how regulation can support the development of the pension and retirement markets, and protect consumers, as we move forward. We have a programme of engagement in place to ensure that conversations take place in the coming months with all relevant audiences. We look forward to hearing your thoughts.

1. Overview

Introduction

1.1 This paper:

- Sets out our expectations regarding how our existing rules and guidance operate in the new environment, providing examples.
- Brings forward proposals for further changes to our Handbook.
- Asks for views on the range of information we intend to examine as part of the follow up to our retirement income market study.
- Invites discussion on areas where we are minded to carry out further work.

Who does this consultation affect?

1.2 This consultation will be relevant to all those with an interest in pensions and retirement issues, including:

- Providers of pensions, including operators of self invested personal pensions.
- Providers of retirement income products.
- Trustees of Defined Contribution (DC) pension schemes (and schemes with a DC element).
- Employer sponsors of Defined Benefit (DB) and DC schemes (and schemes with a DC element).
- Providers of other financial services products that play a role in consumers' retirement planning.
- Individuals and firms providing advice and information in this area.
- Distributors of financial products, in particular retirement income products.
- Firms carrying out debt collection or giving debt advice.
- Trade bodies representing financial services firms.
- Consumer representative bodies.

- Charities and other organisations with a particular interest in an ageing population and/or financial services more generally.
- Individual consumers.

Is this of interest to consumers?

1.3 The changes proposed in this paper will affect consumers who have, or will in the future have, contract-based DC pension funds, or who will look to access their pension savings from a DC fund (including by transfer into a contract-based pension). The proposals will play a key role in determining the way in which consumers interact with the pension and retirement income markets now and in future. The guidance we propose in our consumer credit sourcebook will be of interest to consumers with debt, who may choose to use pension savings to pay this debt.

Context

1.4 The proposals in this paper are designed to advance the following operational objectives:

- **Securing an appropriate degree of protection for consumers:** consumers will be given the right information, at the right time, to help them make informed decisions about their pension savings that are in their best interest.
- **Promoting effective competition in the interests of consumers:** ensuring that consumers receive the right information, at the right time, should improve their confidence to make decisions and encourage them to shop around to ensure they get the right products and services for their needs. This will help drive competition in the market, ensuring that firms offer consumers products and services that meet their needs and offer value for money.
- **Ensuring markets work well:** ensuring that pension schemes are well governed and that regulated firms act in the best interests of customers, have appropriate oversight and are held accountable.

1.5 We have already made a number of necessary changes to our Handbook to protect consumers and ensure firms are clear about our expectations in the new environment.

1.6 Over the past six months we have reviewed our rules and guidance against our objectives. We want to ensure consumers have access to products and services that are well governed and deliver value for money in competitive markets that work in their interests. Regulation plays a vital part in delivering these objectives by helping protect consumers from poor outcomes. Specifically, regulation can ensure that products and services are designed and distributed in an appropriate way and that consumers are given the right information, at the right time, in the right way to help them make informed decisions.

1.7 In this paper we set out our expectations as to how our existing rules and guidance operate in the new environment and consult on a number of changes aimed at ensuring our rules are fit for purpose. Looking ahead, we have also identified a number of areas where we are minded to carry out further work. This paper invites discussion on these areas.

1.8 We are conscious that the market is still adapting and developing in light of the reforms introduced by the Government and through the consequential changes to regulation. We will continue to monitor the market and, where necessary, consider further changes to our Handbook as a result of market developments.

Assessment of risks

1.9 Our Business Plan 2015/16 included our annual Risk Outlook, which captured our assessment of the risks in pensions market. Going forward we continue to focus on the risks to good consumer outcomes, which include risks around pensions, retirement income products and their distribution. The Risk Outlook forms the cornerstone of our planning process and the development of policy proposals such as those contained in this consultation. Building on our analysis in the Risk Outlook we have identified four priority risks for pensions and retirement income:

- **Sales and advice** – the reliance on employers for the delivery of workplace pensions, the complexity of retirement income decisions and expected growth in non-advised sales all combine to present a significant risk to Financial Conduct Authority (FCA) objectives.
- **Value for money** – despite the introduction of significant reforms in the pensions market, such as charge caps and Independent Governance Committees (IGCs), there remains a significant risk that some pension and retirement income products, particularly in legacy products, fail to deliver value for money.
- **Firms' management of legacy business** – lack of consumer engagement in pensions, and changes in the technology and products available, leave many customers of legacy business at risk of being charged excessively, or receiving reduced service and less choice.
- **Potential risk of an increase in scams and fraud** – increased opportunities to choose how to access pension savings offer many benefits to consumers, yet also present greater risks of irreversible losses from pension fraud and scams.

1.10 We have also identified additional medium to long term risks. These are:

- Lack of consumer engagement in pension savings, in particular the level of contributions needed to provide an adequate income in retirement.
- Lack of consumer confidence in pensions more generally, given the long-term nature of the products and the need to persuade consumers to save for their retirement.
- The need to develop appropriate consumer protection in a secondary market for annuities given the risks posed to the individual's retirement income.

1.11 We have a range of regulatory tools which we may use in response to the risks identified, from gathering evidence to inform our approach through to our supervisory activity and enforcement action. These areas of risk have underpinned our assessment of the changes necessary to our Handbook in light of the recent reforms to the pensions environment.

1.12 This Consultation Paper (CP) focuses on our policy interventions to address the risks identified and consults on proposed changes to our Handbook, as well as inviting discussion on issues where we are minded to carry out further work.

Summary of our proposals

1.13 The proposals in this paper are interlinked and mutually supportive; together they will help to deliver our desired outcomes. Our key proposals in this consultation paper are:

Promoting competition

- Communications concerning accessing pension savings: to add guidance to ensure that, in the new pensions environment, firms understand what the FCA requires them to do when communicating with their customers about accessing their pension savings. Also, to add rules and guidance requiring timely, relevant and adequate information to:
  - Encourage consumers to explore the full range of options for accessing their pension savings, including on the open market.
  - Enable informed decision-making about consumers' options for accessing pension savings at their intended retirement date and beyond.
- Pension freedoms communications: to make new rules on the methodology for providing illustrations to members wishing to access their pensions flexibly, including adding guidance to set out the type of ongoing information consumers are provided with once they start accessing their pension savings but still remain invested. Also, to extend the rules and guidance in our Conduct of Business sourcebook (COBS) 9 to uncrystallised fund pension lump sums (UFPLS).
- SIPP retained interest: to clarify that self-invested personal pension (SIPP) retained interest charges should be included in projections and charges information.

Ensuring the market works well

- Design and distribution of retirement income products and facilities for accessing pension savings: to remind firms of their obligations regarding the operation, distribution and communication of existing products, as well as when developing new products. To set out some example scenarios to help firms in this area.
- Retirement risk warnings: to retain our rules on the retirement risk warnings. Also, to remove the requirement for a firm to go through the question and answer process of the rules when a consumer has a pension pot of £10,000 or less and where there are no safeguarded benefits. In this situation, firms will still be required to give appropriate risk warnings.

Protecting consumers

- Cancellation rights: the way in which our rules apply in the new environment has not changed and, in many cases, cancellation rights will apply because an existing contract is being varied or a new contract put in place. We explain that we believe the risk that a consumer enters into an arrangement whose features, risks and consequences they do not fully understand should be mitigated by other measures, for example the availability of guidance from Pension Wise and the retirement risk warning rules. We will monitor the market and, where necessary, use the appropriate regulatory tool to take action. We welcome views from stakeholders as to whether our cancellation rules expose some consumers to risks that are not appropriately mitigated and how we might reduce those risks and improve consumer outcomes.

- Restrictions on the promotion and distribution of high risk investments: to amend the FCA's 'certified high net worth investor' and 'restricted investor' certification criteria so that it is clear:
  - lump sum pension withdrawals, that are not intended to serve as income in retirement, are expressly excluded from the HNWI income criteria;
  - net investable assets for the purposes of HNWI and RI certification excludes money released as cash from pensions (in addition to current exclusion of money held in pensions), where it is not intended to serve as income in retirement.
- Using pension savings to repay debt: to add Handbook guidance to make explicit the application of existing rules in our Consumer Credit sourcebook (CONC), in the context of pension reforms, particularly in relation to debt collection and debt advice. Also, to remind debt collection and advice firms that advising on the conversion or transfer of pension benefits is a regulated activity.
- Attachment orders: to add Handbook guidance for providers and advisers on pension attachment orders following divorce or dissolution of a civil partnership.
- Determining maximum projection rates: to standardise the methodology for determining maximum projection rates.
- Projections including guarantees: to require firms to show contractually obliged future values in projections, including Guaranteed Annuity Rates (GARs).
- Projecting a future annuity – mortality assumptions: to update references in our rules to the 2008 mortality tables and propose that, in future years, firms use the improvement factors published the previous year.
- Glossary amendments: to amend the Glossary definitions of 'income withdrawals', 'short-term annuity' (and by consequence 'drawdown pension') to ensure that our rules align with legislation.

1.14 In this paper we also welcome comments on areas where we are minded to carry out further work. These are:

- Remuneration for arranging the sale of non-advised annuity purchases.
- Reminding firms of their responsibilities to ensure lifestyling investment strategies remain appropriate in the new environment and to provide customers with sufficient information for them to make an informed decision about the suitability of their current and future investment strategies.
- Updating our rules on transfer value analysis.
- Possible future changes to our product disclosure regime (key features illustrations and existing business projections or other information prepared).
- The degree of Financial Services Compensation Scheme (FSCS) protection afforded to consumers who choose to invest their pension savings in non-insurance based products, as compared to the protection provided to those who invest via a life insurance contract.

Commencement of our proposals

1.15 Following the conclusion of our consultation process, we intend that our final rules and guidance will come into effect within the following timeframes after the instrument is made by our Board:

Communications concerning accessing pension savings	Six months
Pension freedoms communications (except advice on pension freedoms)	Six months
Advice on pension freedoms (page 35)	Immediately
SIPP retained interest	Six months
Retirement risk warnings – minimum pot size	Immediately
High net worth investors	Six months
Using pension savings to repay debt	Immediately
Attachment orders	Immediately
Determining maximum projection rates	Six months
Projections including guarantees	Six months
Projecting a future annuity – mortality assumption	One year
Glossary amendments	Six months

Equality and diversity considerations

1.16 Under the Equality Act 2000, we are required to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions.

1.17 As part of this, we have assessed the likely equality and diversity impacts of the proposals and do not think they give rise to any concerns. Comments are still welcome.

Next steps

What do you need to do next?

1.18 We want to know what you think of our proposals. Please send us your comments on:

- Annex 2: retirement outcomes review by 30 October 2015 by using the email address or address on page 3.
- The consultation questions listed Annex 1 by 4 January 2016 by using the online response form on our website or by the address on page 3.

What will we do?

1.19 We will consider your feedback and publish our rules in a Policy Statement (PS) at the beginning of Q2 2016. For those areas where we are seeking views with the intention of developing regulatory policy, we will outline our next steps in the PS.

1.20 On our Retirement Outcomes review, we will consider your feedback in advance of publishing our terms of reference and launching the Retirement Outcomes review in early 2016.

2. Strategic view

The challenge

2.1 Pensions are of fundamental economic and social importance in ensuring that people have an adequate income in retirement. At an individual level, deciding what to do with pension savings is one of the most important financial decisions people have to make.

2.2 The UK has one of the fastest ageing populations in Europe, with the number of people over 85 predicted to double in the next 20 years and nearly treble in the next 30[1]. This brings challenges when combined with the fact that many people are not saving enough for their retirement and today's older population is increasingly asset rich but cash poor.

2.3 In recognition of this challenge, in 2012 the Government introduced automatic enrolment of employees into workplace pension schemes. By the time it is fully rolled out, it is estimated that automatic enrolment will lead to nine million more people saving, or saving more, in a workplace pension scheme. Many of these people will be accessing the benefits of saving into pensions for the first time but will also be exposed to new risks. While many of the risks are common across all financial products, the very inertia which automatic enrolment relies upon also increases the risk of poor outcomes for consumers saving in workplace pensions. Many people will not have made an active choice about how their pension savings are invested, what their contribution levels should be, or considered the charges levied on their pension.

2.4 For many, the first time they will be faced with pension decisions will be when they decide to start accessing their fund. In the Budget 2014, the Government announced reforms giving people more freedom around how they access their pension savings from age 55, further increasing the attractiveness of pension saving. Where previously people were persuaded to save and then defaulted to an annuity purchase, now many are automatically enrolled into pension saving but given the freedom to decide how and when to access their savings from age 55.

2.5 Increased choice means people will have to make more decisions about how to use their pension savings. This poses significant new risks for many consumers, including investment risks, exposure to charges and the sustainability of income during retirement. Sustainability of income is an important theme throughout this CP, as we have particular concerns in this area, especially given the tendency of many people to underestimate their life expectancy.

1 See: *Later Life in the United Kingdom,* Age UK, September 2015: http://www.ageuk.org.uk/Documents/EN-GB/Factsheets/Later_Life_UK_factsheet.pdf?dtrk=true.

The wider context

2.6 The pension reforms cannot be viewed in isolation. The pensions and retirement income markets continue to be influenced by wider legislative changes from both the UK and EU.

2.7 In the UK, future expected reforms include:

- the disclosure of transaction costs
- the introduction of a secondary market for annuities
- potential changes to the tax treatment of pensions
- possible introduction of collective DC or Defined Ambition schemes
- solutions to the issue of small pension pots

2.8 All of these will further impact the pension and retirement market. In the advice area, changes may also result from the Financial Advice Market Review (FAMR). The review will consider the current regulatory and legal framework governing the provision of financial advice to consumers and its effectiveness in ensuring that all consumers have access to the information, advice and guidance necessary to empower them to make effective decisions about their finances. The Government has also announced that it intends to consult later in 2015 on how the current statutory arrangements for the provision of free and impartial financial guidance (including the Money Advice Service and Pension Wise) can be made more effective.

2.9 In the EU the European Commission's aim is to build a Capital Markets Union. In this context, the review of the Institutions for Occupational Retirement Provision Directive continues and, the European Insurance and Occupational Pensions Authority is currently consulting on the creation of a pan-European personal pension product. More broadly, the Commission is mandated, in 2018, to review whether pension products should be brought into scope of the Packaged Retail and Insurance-based Investment Products (PRIIPs) Regulation. Our approach to the Markets in Financial Instruments Directive (MiFID) may impact on the pension and retirement market.

2.10 This is clearly a very busy and crowded policy context. One of the objectives of this paper is to bring together, in one place the many strands that the FCA has responsibility for, or a role in.

Our role

2.11 We regulate firms operating personal pension schemes, including stakeholder pensions and SIPPS and, alongside The Pensions Regulator (TPR), the conduct of those operating workplace pension schemes. We also regulate insurers, financial advisers, brokers and others who play an important role in the pensions market, including in the decumulation phase. We set and monitor the standards for Pension Wise. The Government, through HM Treasury and the Department for Work and Pensions, sets the overall framework for pensions (because pensions are inextricably linked to social policy and taxation).

2.12 As outlined in paragraph 1.9 above, we have identified four priority areas of risk for pensions and retirement income: sales and advice, value for money, firms' management of legacy business and an increase in scams and fraud. These risks underpin the policy development set out in this paper, as well as our current and future work programme.

FCA activities on pensions

2.13 We have already undertaken a significant amount of work and, across the whole of the organisation, we will continue to have an extensive work programme for pensions, covering changes required by UK and EU legislation, responses to market developments, analysis of changing risks, and developing trends in consumer need and behaviours.

2.14 To ensure consumers are enrolled in pension schemes that provide them with value for money, we introduced rules to implement the Government's 0.75% charge cap on default funds of workplace pensions. We have also banned active member discounts and consultancy charging.

2.15 As pensions are complex long-term products, we require regulated firms operating workplace personal pension schemes to establish IGCs that ensure minimum governance standards for these schemes. These Committees act in the interests of scheme members by assessing the value for money of workplace pension schemes and providing independent challenge to firms. We are also working with the Department for Work and Pensions (DWP) to identify the best and most meaningful way for transaction costs to be disclosed to IGCs to enable them to carry out their analysis of value for money.

2.16 We will continue to assess the issues from our 2014 review[2] of firms' annuities sales practices, which found that sales and customer retention practices are contributing to consumers not shopping around and switching, and at times to consumers not buying an enhanced annuity when they may be eligible.

2.17 To support the implementation of the pension freedoms, including Pension Wise, and to ensure appropriate consumer protection, we published rules for firms including the requirement for firms to signpost customers to Pension Wise. Alongside these rules we published the standards for the Pension Wise designated guidance providers.

2.18 To help consumers understand the implications of the decisions they are making when accessing their pension savings, we published rules requiring firms to give consumers appropriate retirement risk warnings at the point they have decided what action they are going to take.

2.19 As a result of the pension freedoms, we expect that more DB scheme members will seek to transfer their benefits to DC schemes for early and more flexible access to their pension savings. While the core requirement to take advice comes from primary legislation, to ensure consumers are appropriately protected we introduced new rules to require that all advice on DB to DC pension transfers be provided or checked by a Pension Transfer Specialist. In addition, we amended our rules to incorporate the new specified activity of advising on conversions or transfers of safeguarded benefits to flexible benefits.

2.20 In March this year we published a Retirement Income Market Study.[3] This study gave a snapshot of the areas where the market was not working well and concluded with a number of recommendations aimed at improving consumer engagement with retirement decisions. This work is ongoing and specifically we are currently behaviourally testing wake-up packs and an annuity comparator tool.

2.21 Since the introduction of the reforms, our supervisory teams have been monitoring market developments closely to see how firms have responded to the challenges presented by the

2 See *Annuities Sales Practices*, December 2014: http://www.fca.org.uk/static/documents/thematic-reviews/tr14-20.pdf and also *Thematic Review of Annuities*, February 2014: http://www.fca.org.uk/static/documents/thematic-reviews/tr14-02.pdf.

3 Retirement Income Market Study, FCA March 2015, https://www.fca.org.uk/static/documents/market-studies/ms14-03-3.pdf.

reforms, how they have met changing consumer demands and to assess how the protections put in place, such as signposting to Pension Wise and the retirement risk warnings, are working in practice. We have modified our regular data gathering requirements to fit the new world and we have used, and will continue to use, ad hoc data collections to understand particular issues.

2.22 We have also been active in our new role of monitoring the compliance of Pension Wise, through the designated guidance providers, in meeting the standards we set. We will continue our monitoring programme in the coming months. We also published our Pension Wise recommendations policy, which sets out our approach to making recommendations to the designated guidance providers, and the Treasury, where we believe a provider has breached the standards we set. Now that Pension Wise is up and running, in due course we will need to revisit the standards to consider what, if any, changes are needed.

2.23 Recognising that the pension freedoms gave rise to an increased risk of potential frauds, we have also focused resource on this. In March we re-ran our ScamSmart campaign, which was launched in October 2014. We have had 125,000 visits to our Scamsmart website, with 20% of visitors checking an investment through the warning list. This has helped consumers to spot the warning signs and avoid investment scams, including those related to pensions. We have published a number of consumer alerts to improve consumer awareness of scams, such as the consumer alert on accepting a 'free pension review' and investing pension monies into unregulated investments.

2.24 We recently published a report following a data gathering exercise to investigate what barriers consumers were facing when accessing the pension freedoms. The evidence points to the overall majority of consumers having been able to take advantage of the new freedoms. Further, the data collection identified that 3,416,000 (84%) of consumers eligible to access their pension savings are not charged on exit, despite administration costs faced by firms in facilitating a cash payment or transfer. Of the remainder, 358,000 (around 9%) of consumers aged 55 or over potentially face a charge of 0 to 2%, 165,000 (4%) would face a charge of 2% to 5% and 147,000 (around 3-4%) would face a charge greater than 5%. This analysis represents a snapshot of the current potential exit charge position across all personal pension policies in the included firms as of 30 June 2015. HM Treasury are currently consulting on ways to help consumers take advantage of the flexibilities available, with a particular focus on transfer times and exit charges. This consultation is due to end in October 2015. We will consider any appropriate next steps while ensuring a proportionate regulatory approach to the issues identified in light of all relevant data and the outcome of HM Treasury's consultation.

2.25 The pension freedoms not only bring increased choice for consumers but they also bring new terms such as UFPLS. The issue of jargon and technical terms is not new in the pension and retirement environment. We know that all too often consumer communications are technical, making it difficult for consumers to understand the information. It is essential that information empowers consumers to make informed decisions about products and services. We launched a debate looking at how we can all work together to deliver information to consumers in smarter and more effective ways[4] and we have challenged the industry to look at the language and terms it uses, reducing the jargon to make consumer communications easier to understand. We are working with the industry and the Association of British Insurers (ABI) on this.

2.26 For the part of the ageing population that is asset rich but cash poor one option to address might be to unlock the value of property assets to provide income in retirement. We believe there is a debate to be had about what products and markets could exist and whether more

4 See: DP 15/5 – Smarter Consumer Communications: http://www.fca.org.uk/static/channel-page/dp-smarter-comms/dp-smarter-comms.html.

entrants and innovation might benefit consumers with greater choice and improved products. As announced at our mortgage market conference on 7 September we are keen to engage with the industry and consumer bodies about what options could exist in the future.

2.27 Finally, we are working alongside the Government on developing policy for the proposed secondary market in annuities. Our focus for this work is twofold: ensuring appropriate consumer protection in this market, and that the market which develops is competitive and works well for consumers.

Looking ahead

2.28 We are conscious that the scale and pace of change means the retirement income market is still adapting and developing as is consumer behaviour in the market. Given the expected changes in this market, particularly the growth in drawdown[5] products, it is possible that more players will enter making it more competitive, especially for higher risk products. Customers may increasingly opt for higher risk products. We will continue to monitor firms to ensure that the market operates effectively and works in consumers' interests. We are also alert to the potential regulatory issues that may arise if more occupational pension schemes were to offer decumulation products. Where we see issues arising or have concerns, we will use the regulatory tools available to us to take action.

2.29 In the coming years we are likely to see further developments in the retirement income market, which will bring new issues and risks for the FCA to consider, for example, potential changes to the tax treatment of pensions. There are also other issues that may or may not have an impact on the wider market such as the Government's planned review of National Employment Savings Trust. We continue to expect to see the EU taking an interest in pension saving, requiring the FCA to actively engage, given the importance of the UK pensions market.

2.30 As set out above in paragraph 2.20, in March 2015 we published the findings of our Retirement Income Market Study. This study examined competition issues relating to retirement income products purchased by UK consumers with their pension pots – specifically, annuities and income drawdown. In that study, we found that competition in this market was not working well for consumers, in particular:

- Many consumers were missing out on a higher income by not shopping around for an annuity and switching providers, and some do not purchase the best annuity for their circumstances. Consumers are deterred from engaging with their options by the length and complexity of wake-up packs, or because they do not believe the sums involved make shopping around worthwhile.
- Consumers' tendency to buy products from their existing provider weakens competitive discipline. Incumbent firms feel less pressure to offer competitive vesting rates and challenger firms find it harder to attract a critical mass of customers.
- Pension savers display well-known biases, such as a tendency to underestimate longevity, inflation and investment risk.

5 Except where stated otherwise, for the purposes of this consultation paper, 'drawdown' means income withdrawals or short term annuities paid from designated drawdown funds, including flexi-access drawdown funds.

- Consumers are highly sensitive to how options are presented to them. With the new pension freedoms, savers reaching retirement will face a landscape that is more complex and will need support in making the right choices.

- In response to the new freedoms, we expect to see more products emerging. With this increased flexibility there is a risk that greater choice and more complex products may reduce consumer confidence and appetite to shop around – thereby weakening competitive pressure.

2.31 In light of these findings we proposed a number of remedies, on which we provide a progress update below.

Update on Retirement Income Market Study remedies

2.32 Our proposed remedies are designed to support consumer choice in this market, particularly in light of the pension reforms. We are currently taking forward the following remedy work with a view to updating our rules and requirements as necessary:

- Annuity comparison remedy: enabling consumers who have decided to purchase an annuity to easily identify if they could get a better deal by shopping around and switching provider. We are conducting a number of behavioural tests on options for presenting this comparison information in the most effective way. We expect to report on these findings and any proposed rule changes in 2016.

- Replacing wake-up packs and the ABI Code: We are working with firms on redesigning and behaviourally trialling the information that consumers receive from their providers, such as wake-up packs, in the run-up to retirement. We expect to report on these findings and any proposed rule changes in 2016. In addition, as set out in paragraph 3.18 below, we are consulting on an approach to replace and update the ABI Code with FCA regulation in a manner that is fit for purpose in the new environment.

2.33 In addition to our remedy work, we recommended that firms and Pension Wise consider the role of **framing effects** to ensure that they are framing options to consumers in a way that helps them make good decisions. As part of this, we have already worked with HM Treasury and Pension Wise to ensure messages are framed in a way that promotes good decision-making. Through our supervisory activity, we continue to monitor firms to ensure that the market operates effectively and works in consumers' interests.

2.34 As noted above, we have also been **monitoring the market** and tracking consumer outcomes. We have modified our regular data-gathering requirements and we have undertaken ad hoc data collections, and will continue to do so, to understand particular issues. We will also continue to track consumer behaviour by repeating the quantitative research undertaken as part of the Retirement Income Market Study. The scope of this research will be updated to take account of the market reforms.

The Retirement Outcomes review

2.35 As we set out in our 2015/16 Business Plan, given the significant changes in the pensions and retirement income market, including the way in which products are distributed, this market is one of the FCA's four forward-looking areas of focus.

2.36 We will therefore review the retirement income market again in early 2016 as a follow-up to the Retirement Income Market Study that we published in March this year. In that market study we identified a number of future risks as the market adapts and develops in light of the reforms. These risks are a subset of our broader concerns set out in paragraph 1.9 above, in

particular sales and advice, value for money and firms' management of legacy business. The risks identified in the market study were:

- Consumers do not make good decisions when choosing a product or strategy to generate income from pension savings given consumer behaviour (such as, a tendency to underestimate longevity, inflation and investment risk) and the increased complexity of the choices available to them.
- Increased flexibility and phased retirement may make it harder to prompt consumers to shop around and switch providers.
- More complex products are developed which are harder to compare, making shopping around and switching more difficult.
- Complex and/or opaque charging structures make comparisons harder and weaken competitive pressure on value. This is particularly true for products with a drawdown element, where we expect to see growth in the number of products coming to market.
- Firms do not develop appropriate mass market distribution and guidance arrangements for higher risk products, such as income drawdown.

2.37 We are keen to understand whether these risks have become more or less acute in the new landscape and we intend to examine them through the Retirement Outcomes review.

2.38 In addition to the risks we identified earlier this year, there are other issues that this review intends to consider. For example, given the expected changes in the market, particularly the growth in higher risk drawdown products, it is possible that more players will enter the market and customers may increasingly opt for these products. We intend to analyse these developments closely, including but not limited to, the types of products being developed and the charges faced by consumers opting for these products. To inform this aspect of the Retirement Outcomes review, we will be requesting further information from firms on decumulation charges as a whole later this year.

2.39 Further information on the Retirement Outcomes review and details of how we are seeking input into its scope and shape are provided in Annex 2 of this paper.

3.
Promoting competition

3.1 The pension freedoms mean that consumers have more choice when accessing their pension savings. With this increase in choice, consumers need to make more decisions, which are often more complex than before the new freedoms were introduced, about how to access their pension savings in a way that is best for their circumstances. Transparency and good, informed decision-making, supported by timely, relevant and adequate communications, are important in helping competitive markets deliver value for money for consumers.

3.2 Informed decisions and well-functioning markets require:

- A clear and proportionate regulatory framework that firms understand.
- Clear information to consumers at the right time to give them the confidence to make decisions and shop around. This helps drive competition in the market, ensuring that firms offer products and services that provide consumers value for money.

3.3 Due to the importance of having informed consumers, timely, relevant and adequate communication that engages consumers is critical. In this chapter we set out proposals to ensure consumers understand the range of options they have for accessing their pension savings and to ensure more transparency of charges in SIPPs so that consumers can compare products on a more consistent basis.

3.4 Specifically we set out:

- Proposed guidance to ensure that, in the new pensions environment, firms understand what we require them to do when communicating with customers about accessing their pension savings.
- Proposed rules and guidance requiring timely, relevant and adequate information to encourage consumers to explore the full range of options for accessing their pension savings, including on the open market. Also, to enable informed decision-making by consumers about their options for accessing pension savings at their intended retirement date and beyond.
- Our expectations regarding communicating with consumers wishing to access their pension flexibly. This includes proposed rules on the methodology for providing illustrations and proposed guidance to set out the type of ongoing information consumers are provided with once they start accessing their pension savings but still remain invested. Also, to extend the rules and guidance in our COBS 9 to UFPLS.
- A proposal to make clear that SIPP retained interest charges should be included in projections and charges information so that consumers can compare pension products on a more consistent basis and enable firms to compete more equally.

Communications concerning accessing pension savings

3.5 This section sets out our proposals for:

- Guidance to ensure that, in the new pensions environment, firms understand what we require them to do when communicating with their customers about accessing their pension savings.
- Rules requiring timely, relevant and adequate information to:
  - Encourage consumers to explore the full range of options for accessing their pension savings, including on the open market.
  - Enable informed decision-making by consumers about the options for accessing pension savings at their intended retirement date and beyond.

3.6 Our proposals seek to address the risk that firms could direct customers (whenever they seek to access their pension savings) to specific options or products by providing information that:

- Does not fairly and adequately describe the full range of options available to the consumer.
- Is not provided in a manner that is timely and relevant, for each access decision.

Introduction

3.7 How a firm communicates affects consumers' ability to navigate the market and to understand the choices that are open to them at all stages in the consumer journey and product lifecycle.

3.8 Earlier this year we launched a discussion concerning how financial services firms deliver product and service information to consumers (DP15/5 – Smarter Consumer Communications[6]) in which we reiterated our expectations that firms:

- understand and recognise the importance of communicating effectively with consumers
- use behavioural insights appropriately to create effective product and service information for consumers
- create communications as an integral part of the product or service design process

3.9 In our view, there are certain key factors of which all consumers should be made aware so that they may understand the options for accessing pension savings and be able to shop around. The degree of significance and relevance of these factors will vary from consumer to consumer and throughout the decision-making process.

3.10 Whenever a firm communicates with customers about the options for accessing some or all of their pension savings, at their intended retirement date and beyond, core information must be provided:

- The open market options statement (also known as the 'wake up pack') should provide customers with adequate information about their retirement options, including signposts to additional sources of information, guidance or advice, to help the customer to compare

6 http://www.fca.org.uk/static/channel-page/dp-smarter-comms/dp-smarter-comms.html.

their options and begin to determine which may be the most appropriate for them (current COBS 19.4.1A).

- At the point at which the customer has made a decision about the option they plan to pursue, providers must give retirement risk warnings to help ensure the customer can understand the implications of that decision (current COBS 19.7).

3.11 Between these two stages, consumers may wish to gather further information to inform their decision-making and help refine their choices. As well as seeking regulated advice or impartial guidance, this may include directly requesting information from firms about the products they offer.

3.12 The diagram above illustrates how a consumer can consult different information sources during the decision-making process: each source fulfils a different purpose in helping consumers to refine their choices according to their needs and the order and number of sources accessed may vary for each consumer. For some consumers, the journey might begin prior to the wake-up pack. Risk warnings (including those required by COBS 19.7) may not represent the end of the journey, but may prompt the consumer to revisit or consult other information sources.

Common to all journeys, however, is the fact that cumulatively these sources of information assist the consumer with understanding their options.

3.13 Our proposed rules and guidance relating to these factors should ultimately help firms to communicate more effectively at each of these stages in the information cycle. We encourage firms to consider more broadly how they might refine and improve their own particular communications and information cycle specific to their customers.

COBS 19.4

3.14 COBS 19.4 sets out the FCA's longstanding requirements on firms to provide information to customers about the options that are available at retirement, with a particular focus on encouraging 'shopping around'.

3.15 Until recently, shopping around meant exploring the option to purchase an annuity on the open market (referred to in our rules as 'open market options', or OMO). The announcement and subsequent implementation of the pension freedoms has significantly changed the 'at retirement' market. We expect consumers to use a wider range of options to access their pension savings in the future as the market develops in response to the freedoms. We made it clear in PS14/17[7] last year that the ability to shop around now applies to all retirement options available to a customer, including those introduced by the pension freedoms. Firms should encourage shopping around in its widest sense.

3.16 Though recent ABI data shows that annuities are no longer the dominant product being used to access pension savings[8], many consumers will still buy annuities. Therefore, as part of our broader proposals on communications, this section includes specific proposals requiring firms to provide their customers with information about how their choice of annuity option can affect their income in retirement.

3.17 We are still in the early stages following the introduction of the pension freedoms. We will consider consumers' information needs again in the light of market developments when we have concluded our ongoing work on the past sales of annuities and our development and behavioural testing of the remedies proposed by the Retirement Income Market Study.[9]

The ABI Code of Conduct on Retirement Choices

3.18 FCA rules and guidance are supplemented by industry requirements. In March 2013, the ABI introduced a code (the ABI code)[10] that required its members to:

- help their customers understand the choices they needed to make at retirement
- inform customers about the different ways to take income
- explain how to shop around

3.19 Many elements of the ABI Code derived from our Conduct of Business sourcebook but the more narrative nature of Code meant the language used and the level of detail differed from our Handbook.

7 http://www.fca.org.uk/static/documents/policy-statements/ps14-17.pdf.

8 ABI industry figures published on 15 July 2015 (https://www.abi.org.uk/News/News-releases/2015/07/100-days-of-pension-reforms) and 2 September 2015 (https://www.abi.org.uk/News/News-releases/2015/09/Payments-made-to-savers-since-the-pension-reforms-reach-nearly-2-5-billion-ABI-stats-show).

9 Retirement Income Market Study, FCA March 2015 https://www.fca.org.uk/news/market-studies/retirement-income-market-study.

10 The output of a dedicated OMO Review Working Group, comprised of a wide range of stakeholders and chaired by the Department for Work and Pensions: https://www.abi.org.uk/Insurance-and-savings/Products/Pensions/Retirement-and-your-pension/Code-of-Conduct-on-Retirement-Choices.

3.20 As indicated in our Retirement Income Market Study[11], we have been considering how we might replace the ABI Code with FCA regulation in a manner that is fit for purpose in the new environment.

3.21 As part of this work, we have reviewed again the risks that both our existing requirements in this area and the ABI Code tried to address, that is:

- Customers making decisions about their retirement income without understanding their options.
- Customers not understanding they can shop around for their retirement income options.
- Firms' processes encouraging customers to stay with their existing pension provider rather than considering their options.

3.22 This section sets out our proposals to ensure that the above risks are mitigated when consumers are deciding how to access their pension savings.

Proposed guidance on existing requirements

3.23 Most FCA requirements for firms' communications with customers approaching retirement are in COBS 19.4. COBS 19.4 is not, however, exhaustive. For example, when communicating with customers about their options to access pension savings, firms must also comply with the client's best interest rule and the fair, clear and not misleading communication rule (COBS 2.1.1R and 4.2.1R respectively).

3.24 For greater ease of use, we propose to:

- Restructure COBS 19.4 to reflect more closely the different elements of the typical customer journey.
- Add guidance to the Handbook that effectively restates our existing expectations on firms and clarifies that these expectations extend to the full range of options in the new pensions environment.

Application and purpose of COBS 19.4

3.25 We propose to add application and purpose provisions at the beginning of COBS 19.4 to emphasise that the rules in this section of the Handbook apply in specified circumstances where a firm communicates with a customer about their retirement options. Retirement options cover accessing pension savings using pension decumulation products such as annuities, drawdown arrangements, features such as UFPLS, or any combination of options to draw an income or release the proceeds of their pensions (in part or in full) as cash. The rules relate to communications made:

- in the lead up to the point at which the customer can contractually access their pension savings ('intended retirement date')
- when a customer makes subsequent or alternative decisions about how to access their remaining pension savings throughout their retirement ('beyond')

3.26 Our rules seek to empower consumers to engage with the market by ensuring they are provided with timely, relevant and adequate information to make an informed decision about the choices

11 http://www.fca.org.uk/static/documents/market-studies/ms14-03-3.pdf.

available to them at the point when they access their pension savings and beyond. This covers the full range of options including total encashment. The purpose provision will make explicit that this is the intention of the rules.

3.27 The adequacy of information should be determined in the light of the information needs of the firm's customers. It relates not only to the level of information provided about the different options for accessing pension savings, but also the extent to which the information makes clear the ability to shop around and the availability of support to help customers make decisions about their retirement options.

> **Q1: Do you agree with the proposal to add these application and purpose provisions in COBS 19.4?**

Guidance on communicating about retirement options

3.28 The point at which firms start to engage with their customers in relation to their retirement options and the decisions that need to be made may vary from firm to firm, according to their own assessment of the most appropriate and effective way of meeting their customers' information needs. As a minimum, our rules require the production and provision of the wake up pack, typically four to six months before the customer's intended retirement date.[12] Through this specified communication, customers should receive:

- information about their pension savings
- a summary of all their options (including information on shopping around for the full range of products available)
- a signpost to free and impartial guidance (Pension Wise)
- a recommendation to seek appropriate guidance or advice

3.29 Firms may choose to go further, communicating with their customers about retirement planning many years before the wake-up pack is sent. We discuss later in this paper the particular example of communicating about lifestyling options (see chapter 7).

3.30 As part of the wake-up pack, customers should also be provided with the Money Advice Service factsheet 'Your pension: it's time to choose' or a statement from the firm that gives materially the same information. We are proposing additional guidance to help firms ensure that such statements do contain materially the same information as the Money Advice Service factsheet.

3.31 Firms may wish to provide additional information about the particular products they offer at the same time as the wake-up pack and reminder. In light of the potential for this information to bias the customer towards the existing provider or reduce their incentive to shop around, our guidance proposals (at proposed COBS 19.4.15G) make clear that, when a firm provides information about its own product offerings, it must not do so in a way that disguises, diminishes or obscures the important messages in the wake-up pack. As highlighted in DP15/5, we encourage firms to be mindful that overloading customers with information reduces the effectiveness of communications.

12 The requirement to provide a wake-up pack can also be triggered by a request for a retirement quotation more than four to six months before the customer's intended retirement date and when the customer plans to discontinue income withdrawal or use the open market options to take further money from the pension.

3.32 Our recent supervisory work highlighted that firms are using a variety of communication channels to interact with customers about their options for accessing pension savings. For example, a number of firms are seeking to support customer decision-making by providing information and tools online. We therefore propose to make guidance highlighting (at proposed COBS 19.4.15G) firms' obligations to their customers under COBS 2.1.1R[13] and 4.2.1R[14] whenever they communicate with customers about retirement options, whether the communications are made together with, alongside, or separate from, the specified wake-up pack (required by current COBS 19.4.2R) and 'reminder' (current COBS 19.4.3R).

3.33 We propose to include some non-exhaustive examples of good practice to assist firms to comply with the client's best interests and the fair, clear and not misleading communications rules when providing information additional to the wake up pack and reminder. These include:

- Referring to the information required as part of the written wake-up pack to identify what information may be useful to customers making decisions about their options for accessing pensions savings.
- Prominently highlighting the message that a customer can shop around when accessing their retirement income.
- Ensuring that information is expressed and presented in a manner that aids the customer's ability to navigate and understand the information.

The proposed guidance also makes it clear that communications should not undermine or draw attention away from the messages within the wake-up pack.

Q2: Do you agree with our proposal to add guidance on communications about retirement options?

Proposals for additional consumer protections

3.34 In pursuing our objective to promote competition in the interests of consumers, we propose to introduce new rules that incorporate elements of the ABI code that reflect our expectations around communications about annuities options. These rules will apply to all options for accessing pension savings, to address the risks that our requirements in COBS 19.4 and the ABI Code originally sought to address.

3.35 In particular, we remain concerned that consumers do not fully appreciate the potential benefits of shopping around across the full range of options now available. We are concerned about the potential for firms' processes to encourage customers to stay with their existing pension provider rather than consider their options. The pension freedoms offer greater choice which in turn increase the need to shop around for both the right provider and the right product. Inevitably, the pension freedoms will present consumers with a greater number of issues to consider when comparing the options they have available, comparing both between annuities and other decumulation products and between types of annuities.

Prohibiting application forms in wake-up packs and reminders

3.36 The ABI Code prevented members from sending annuity application forms with wake up packs and reminders, unless specifically requested by the customer. We propose to incorporate this prohibition on annuity applications into our rules (at proposed 19.4.8R and 19.4.10R) and

13 The client's best interest rule.

14 The fair, clear and not misleading rule.

extend it to prevent firms sending application forms with the wake-up pack or reminder for any of the options for accessing pension savings.

3.37 It is our view that sending application forms, with the wake-up packs or reminders, risks undermining efforts to encourage consumers to shop around. Presented with an application form in this way, we consider customers are not likely to explore the potential benefits of shopping around and will simply sign and send back an application form without having considered all their options.

3.38 By preventing firms from exploiting this behavioural bias (consumer inertia) to obtain competitive advantage, we seek to improve consumer communications and ensure a more level playing field in the 'at retirement' market. This will, in turn, help consumers get better value for money whenever they access their pension savings using a pension decumulation product.

Q3: Do you agree with our proposed rule to prevent application forms being sent in 'wake-up packs' and reminders?

Restricting illustrations

3.39 The ABI Code required members to ensure that unrequested annuity illustrations aided comparison of the annuity options available from the firm by containing quotes for various scenarios including covering joint, single, level and escalating annuities and prominent statements highlighting where certain annuities options were not offered by the firm. It is our view that, without some corresponding controls around illustrations for any retirement product (not just for annuities) in the new pensions environment, firms could (intentionally or unintentionally) direct customers to a specific route with the existing pension provider and reduce the likelihood of customers considering their options and shopping around.

3.40 In an environment where greater choice may reduce consumers' confidence and appetite to shop around, it is especially important for consumers to have timely, relevant and adequate information to help understand all their options.

3.41 Therefore, where an illustration for pension decumulation product(s) is not required by COBS 14 (to serve the specific purpose of those rules) or requested by the customer (unprompted by or without solicitation by the firm), it is our view that the illustration should only be for the purpose of comparing all the options offered by the firm. To fulfil this purpose and avoid the risk of leading a customer down a particular route we are proposing that a firm sending an illustration that is not required or requested must:

- Include an illustration for each of the pension decumulation product options that the firm offers; or
- Include multiple illustrations that are representative of the range of pension decumulation product options that the firm offers

3.42 We anticipate that representative illustrations would only be produced where they are more cost effective for the firm and less likely to overload the consumer than illustrating each of the firm's options.

3.43 Our Retirement Income Market Study acknowledged that in the longer term comparison tools for products in the new environment will need to be developed. We consider illustrations to be distinct from tools so our proposals are not expected to inhibit firms' ability to develop unbiased interactive tools and calculators that could genuinely assist customers to develop

a notional understanding of retirement options. To fulfil this function, we anticipate such tools would rely exclusively on customer inputs (where necessary, supported by well-reasoned underlying assumptions) and would not be used by firms to direct or encourage a customer to invest in a particular product.

3.44 In future, we may look to further restrict the provision of illustrations in light of any developments in this area as well as any insights from our current work on an annuity comparator tool and behavioural testing of the wake-up pack.

Q4: Do you agree with our proposal to restrict when firms can send illustrations?

Q5: Do you have any proposed alternatives?

Q6: In what ways would the alternative be more beneficial for firms and consumers?

Providing product information on request

3.45 A customer request for more information about a firm's products may trigger the requirement for firms to produce key features documents (KFD) and / or key features illustrations (KFI) (which must be provided in good time before a transaction is completed), for which there are specific rules in our Handbook. The form that additional information may take could vary by firm and according to the customer's requirements.

3.46 We propose to introduce a rule that requires firms to provide customers with the information necessary for its customers to assess key aspects of a product relevant to their circumstances. To satisfy this rule (and as per DP15/5), we encourage firms to consider:

- what information their customer needs to know
- how much information they need to know
- when they need to know this information
- the most appropriate and effective way to deliver the information

3.47 We also propose to supplement the rule with non-exhaustive guidance on what the key factors might be for the different options. In relation to annuities, as well as highlighting the guarantee of income associated with an annuity, the guidance will reflect key factors that the ABI Code required to be covered with the customer when generating an annuity quote:

- The ability to provide an income for a marital spouse, partner or dependants, if required.
- That the income from an annuity can be protected from inflation.
- That those with health conditions or lifestyle factors might qualify for an enhanced annuity (whether or not these are available from the incumbent provider), which may offer them a higher income.

3.48 We believe there are other important factors that customers need to be made aware of when seeking information about how drawdown pensions or UFPLS arrangements might work for them. We have developed a list of relevant factors relating to these options, including:

- Investment of the remaining fund.
- Sustainability of income over time, relative to the customer's individual needs (including where relevant, the extent to which any income is guaranteed and the implications of full encashment on income in retirement).
- The need to review, make decisions about, or take further actions during the life of the option.
- Tax implications.
- Impact on means-tested benefits.

3.49 Some firms may already be addressing these issues if or when they provide customers with KFDs. COBS 13 requires that these documents must include enough information about the nature and complexity of the product, how it works, any limitations or minimum standards that apply, and the material benefits and risks of buying or investing so that a retail client will be able to make an informed decision about whether to proceed. As we consider this good practice, we are proposing guidance that firms should have regard to the new information requirements at proposed COBS 19.4.12R and 19.4.14R when preparing key features documents for pension decumulation products.

3.50 It is important that the information firms may provide (other than the wake up pack and reminder) at the latter stages of the decision-making process which is specific and focused on consideration of a particular option, does not undermine or compromise important messages provided to customers earlier in the process. We consider this an articulation of the requirements under existing client's best interest and fair, clear and not misleading rules, but we are proposing guidance to make this expectation explicit.

Q7: Do you agree with our proposal to require firms to make customers aware of key factors relevant to the product the customer is seeking information for?

Q8: Do you agree with the factors we propose these are likely to be in relation to this rule?

Pension freedoms communications

3.51 At the request of the pensions industry, we published a modification by consent[15] to provide firms with a methodology for providing illustrations to customers wishing to access their pensions flexibly. We now propose to make permanent Handbook rules that extend the disclosure regime to the new scenarios created by the introduction of the pension freedoms, as well as propose changes to ongoing reporting to customers. We have also considered other areas of our Handbook that may need amending to take account of the new freedoms.

3.52 A key risk attaching to the pension freedoms is that individuals are in danger of running out of money. Appropriate information given to consumers can help mitigate this risk. Educating those intending to access their pension funds should start with the 'wake-up' packs (or before

15 Modification by consent of COBS 13 and 14 (February 2015): https://www.fca.org.uk/firms/being-regulated/waiver/waiver-by-consent/cobs-13-14

if the firm chooses to do so through other communications), continues where the customer uses Pensions Wise or takes advice, and is supported at the point of decision by the retirement risk warnings.

3.53 Broadly speaking, there are three routes a customer can take:

- Guaranteed income, generally speaking some form of annuity.
- Total encashment.
- Income from flexi-access drawdown (FAD) or UFPLS, either as regular income or as ad hoc or one-off withdrawals.

3.54 Since the introduction of the pension freedoms, in addition to the purchase of an annuity, DC pension scheme members can designate funds to FAD or access the UFPLS option. Both FAD and UFPLS give customers the option to withdraw all their funds, take one-off or ad hoc withdrawals or take regular income. Firms must recognise in their communications the specific risks faced by those accessing their pension savings in these ways, particularly where they do so without advice.

3.55 We consider that it is important that the customer is given appropriate information in relation to total encashment at the first point of access. The wake-up pack will have given the customer information about the range of options available, including full encashment. The retirement risk warnings should make explicit the implications of taking the entire fund in one lump sum, including any charges, tax and potential benefit consequences, and that there will be no future benefits available from the arrangement.

3.56 Where the customer uses FAD or UFPLS for regular, one-off or ad hoc income, we consider that any communication given when the pension fund is first accessed must be supported with written product disclosure. This should show how the funds may run down over time, giving individuals an indication of the sustainability of their chosen income level. This needs to be an ongoing process. A single projection when first accessing pensions flexibly is unlikely to be sufficient. Varying investment returns from year-to-year and the ability to vary income levels on a frequent basis will mean that consumers need regular updates on the progress of their funds and/or how long their income may last.

3.57 Our Handbook already provides rules for illustrating drawdown, both at point of sale or when varying contracts subsequently or simply providing ongoing projections from time to time. However, there are currently no rules in relation to UFPLS. Drawdown illustrations provide consumers with information on the income that can be supported by their diminishing fund, under different assumptions, and the effect of charges on their funds. Given that UFPLS payments will operate in a similar way, we see no reason to have different requirements for UFPLS. Indeed, a consistent approach is likely to help consumers compare the two options.

3.58 The modification by consent that we published effectively provided firms with an extension of the drawdown rules to UFPLS payments. Approximately half of all pension providers chose to opt into the modification by consent voluntarily. We now propose to include the text from the modification by consent in our Handbook rules, therefore making it a requirement on all firms.

3.59 Most UFPLS payments will be made from an existing pension fund (rather than a new contract set up explicitly for the purpose) and the modification by consent treats these as a variation of the pension scheme. The variation rules in COBS 14 typically require firms to provide consumers with relevant information on non-contractual premium increases. However, we see no reason

why these rules should not also require firms to provide consumers with relevant information when funds are withdrawn from a contract and this is consistent with other areas of the Handbook.

3.60 Where income is taken on a one-off or ad hoc basis, the variation rules require firms to provide information that enables customers to understand the consequences of withdrawing money from their fund. This will include, where relevant, a re-projection of the future benefits for drawdown pensions and UFPLS pensions. We do not specify the circumstances in which a re-projection is required as this could depend on a number of factors. As we stated when we published the modification by consent, we would expect firms to consider, among other things, the frequency and content of regular statements and projections, the materiality of the one-off or ad hoc payment, and whether this is the first such payment.

3.61 In the modification by consent, we required providers facilitating UFPLS payments as variations to provide consumers with sufficient information as necessary for the customer to understand the consequences of the variation, including details of any guarantees that would be given up and the consequences of the loss of any guarantee for the client. We recognise this overlaps with the retirement risk warnings (being consulted on starting at paragraph 4.17 below) and consider that firms do not need to repeat the warning in their disclosures.

3.62 We recognise that there may be circumstances where pension providers choose not to facilitate UFPLS payments and it may be necessary for customers to switch providers in order to access their funds. So there will be a need for point of sale illustrations that show the effect of UFPLS payments, in the same way as contracts may be specifically set up for the purpose of drawdown. In these circumstances, we would expect the receiving pension provider to prepare a KFI that is not dissimilar to a drawdown KFI.

3.63 For both drawdown and UFPLS, there will be occasions when a new contract is started, to make a full withdrawal of funds. The projection becomes irrelevant if the customer takes full encashment and there are therefore no remaining funds. We propose to disapply the rules to provide a projection, including the effect of a charges table and reduction in yield (RIY) within a KFI in such circumstances. There would remain a requirement to describe the nature and level of any charges attached to setting up the contract and facilitating the full withdrawal. If an individual who initially indicated an intention to withdraw their fund subsequently decided not to do so, perhaps only making a partial withdrawal, the requirements to provide a projection will be reinstated if the funds are not in fact withdrawn in full. Where a member has both crystallised and uncrystallised funds within the same scheme, and intends to withdraw one of them in full, firms are not required to undertake a projection of the remaining fund outside of the normal cycle.

3.64 We are aware that KFIs involving income withdrawals can be long and we are taking this opportunity to reduce some of the complexity:

- Given the expectation that there will be a reduced number of annuities sold, we are consulting on making it optional for firms to include the projected amount of an annuity that could be purchased in future. Where annuity projections are included, the restriction to show the annuity value at the ten year point is removed.
- Where there is a planned pattern of regular withdrawals, which can be simply described, for example, in level terms or by reference to a fixed increase or an index, we are proposing that firms may show the age of the consumer at the expected date when funds will expire for each of the assumed projection rates. This is instead of showing tables of projected values for at least ten years into the future.

- We are proposing to amend the effect of charges table so the number of years shown is based on the mid-projection rate, which is consistent with how the figures are calculated, rather than the higher projection rate.

3.65 We consider that our proposals for UFPLS are, generally, a logical extension of the current product disclosure rules. But we also recognise that income withdrawal disclosures can be lengthy, so the additional modifications give firms more flexibility to provide consumers with appropriate information in a more concise form, which is more likely to be read and understood.

3.66 Our proposals will bite most when consumers access their funds for the first time or take one-off or ad hoc withdrawals. However, we consider it vital that consumers who have started accessing pensions flexibly are kept informed so that they can review the level of withdrawals and monitor how long their funds may last. Unless consumers are given appropriate information both initially and on an ongoing basis, they risk making decisions that might not be in their best interests and suffering financial harm.

Ongoing product communication

3.67 Our proposals for risk warnings and disclosures should ensure that consumers are given appropriate information at the point when they access their pensions for the first time or make subsequent withdrawals. It is not sufficient to assume that these alone are sufficient for keeping them informed. As long as the consumer is invested in a product where they have choice over how much income to take and when, the customer journey continues until funds are exhausted. This means that consumers should continue to receive information about their product to help them continue to make informed decisions.

3.68 Our current rules on reporting information to consumers refer to the need to provide information to those who are taking income withdrawals from drawdown contracts. Specifically, the rules require providers to provide information (which could take the form of a projection) that will enable them to review the election of their income withdrawals at least every 12 months. This means that, once they have accessed their pension fund at any point to take a withdrawal, firms must provide information at least once a year. We propose to extend this information requirement to UFPLS.

3.69 Our rules are not prescriptive about the information that firms should provide although, given the risks that consumers face, we would expect that this should already cover the sustainability of income. This is supported by the reference in the rules that a future projection may be relevant. The introduction of pension freedoms is likely to increase the number and range of customers using non-annuity decumulation products and doing so on a non-advised basis. Given this, we consider that there is a need to clarify what types of information we expect firms to provide.

3.70 We are therefore consulting on guidance that provides a number of suggestions for ways in which firms can provide information to customers on sustainability of income so that consumers have a better idea of how long their funds are likely to last. We do not consider that these are the only methods available to firms. Firms themselves should consider what sustainability risks their products pose and develop appropriate measures to keep their customers informed. These may vary according to the design and features of the product. It may be that more than one measure is needed or that different measures are needed at different points in the customer journey, perhaps depending on the pattern of withdrawals or the materiality of the last withdrawal, relative to the size of the fund. Equally, firms may consider whether additional information should be supplied to their customers at times where significant market movements have materially affected funds held.

3.71 Firms should also consider how the information is presented to clients so that it is readily accessible and not easily overlooked. Our rules do not prescribe how the information is provided, only the frequency, nor do they prescribe the document in which the information must appear. Given the risk of running out of funds prematurely, firms should ensure that the information they provide is given due prominence. The purpose of providing the information at all is to encourage customers to act, when necessary, so the information should be clear, concise, engaging and prominent. Firms may find it helpful to refer to our discussion paper on Smarter Consumer Communications when developing the presentation of the information.

Q9: Do you agree with our proposals for providing product disclosures and information when accessing pensions flexibly? If not, what alternatives would you suggest?

Advice on pension freedoms

3.72 In reviewing our position on disclosures, we have taken the general approach that UFPLS and income drawdown should be treated similarly. We have also reviewed our rules on suitability to see if they need to be extended in the same way as the rules on disclosures.

3.73 Our rules require a suitability report to be produced whenever a personal recommendation is made in relation to an investment product, including the election of income withdrawals. We also have guidance on the relevant circumstances to be considered when making personal recommendation on income withdrawals and the risks to be included in the suitability report. We consider that, when providing advice and preparing suitability reports on UFPLS, many of the same considerations would apply as when advising on income withdrawal. Given that UFPLS and income withdrawals will often be viable alternative courses of action, we further consider that it is appropriate to produce an equivalent suitability report when recommending UFPLS payments.

3.74 We are therefore proposing that, where our rules and guidance on suitability reports and providing personal recommendations specifically refer to income withdrawals, they should be extended to include UFPLS.

Q10: Do you agree with our proposals for extending the rules and guidance in COBS 9 to UFPLS? If not, please explain why you consider this is not appropriate.

SIPP retained interest

3.75 The introduction of the pension freedoms is likely to encourage growth in SIPPs, both in the accumulation and decumulation stages. As such, the need for clear communication to consumers is vital. In particular, consumers will want to have a clear view of the likely benefits of investing in a SIPP and the charges they are likely to incur. This information is made available to potential investors through KFDs.

3.76 In 2013, SIPP operators were brought into the disclosure regime and were required to start providing KFIs in the same way as other pension providers. We have subsequently become aware that the disclosures, in practice, are not disclosing all charges as we had intended. The effect of this is that consumers are not able to compare charges on SIPPs with charges on other types of pensions on a consistent basis, and SIPP operators have an unfair competitive advantage compared to other pension providers.

3.77 In bringing SIPPs into the disclosure regime, we recognised that the cash account in SIPPs differentiated them from other types of pension, and additional rules were introduced to ensure that charges related to the cash account were disclosed. The existence of the cash account, as well as individuals' investment choices, means that a personalised KFI will invariably be needed for a SIPP, rather than firms being able to rely on a generic KFI.

3.78 From 2013, firms were required to treat the retained interest on cash accounts as a charge. Retained interest is the difference between the interest earned on cash accounts by SIPP operators and the interest actually paid to investors. As it contributes to the profits of the SIPP operator in the same way as other product charges, it was the policy intent that it should be taken into account in projections and projected charges in the same way as any other product charge.

3.79 It is a requirement of KFIs that the nature and level of all charges are described and our rules were explicitly changed to make clear how that disclosure should be made for the retained interest charge. As a charge, it was automatically the case that the retained interest charge should be included in projections. It was also the intent that the retained interest charge should also be included in the effect of charges table and RIY measure for consistency with the projection.

3.80 However, it has become apparent, through our supervisory activity with firms, that some firms are not including the retained interest charge in SIPP projections and charges information as we had intended because of an uncertainty around how our rules should apply. The effect of this is that projections are overstated and charges are understated. This reduces consumers' ability to use charges information to compare products. It also makes SIPP illustrations look more attractive than those for other types of pensions, potentially giving SIPP operators an unfair competitive advantage over other pension providers. On average, 10% to 12% of SIPP assets are held in cash accounts; this is supported by the data we collected when reviewing the SIPP Capital Adequacy framework. We estimate that the industry earns about £60m a year from retained interest charges which is not being included in projections, effect of charges tables and RIYs.

3.81 Given the scale of undisclosed retained interest charges and the inconsistent way this is being disclosed, which creates the potential to mislead investors, we propose to modify our rules to clarify that the retained interest charge should be included in projections, effect of charges tables and RIY measures in the same way as any other charge. This will enable consumers to compare charges on pension products on a consistent basis and enable firms to compete more equally.

Q11: Do you agree with our proposal to clarify that SIPP retained interest charges should be included in projections and charges information? If not, how would you suggest we level the playing field for disclosing charges between SIPP and other pensions?

4.
Ensuring the market works well

4.1 In the context of the pensions and retirement income, we consider that in addition to timely and adequate information, good governance of pension schemes is a key component of ensuring the market works well. This is an essential feature of a workplace pension scheme that operates in the interests of its customers. In its report[16], published in September 2013, the Office of Fair Trading (OFT) found that the buyer side of the market was 'one of the weakest that the OFT has analysed in recent years'. Given the complexity of choices facing customers, governance is equally important during decumulation. In this chapter we set out our expectations of firms in the new environment with regard to the design and distribution of products and facilities for accessing pension savings. In the case of retirement risk warnings, we focus our regulation on cases where there is maximum benefit from regulatory intervention.

4.2 Specifically, this chapter sets out proposals:

- To remind firms of their obligations regarding the operation, distribution and communication of existing products, as well as when developing new products and sets out some example scenarios to help firms in this area.
- To retain the rules on the retirement risk warnings, while removing the requirement for firms to go through step 2 of the risk warning process where the consumer has a pension pot of £10,000 or less, with no safeguarded benefits. In this situation firms will still be required to provide appropriate risk warnings to these consumers.

Design and distribution of retirement income products and facilities for accessing pension savings

4.3 In the previous chapter we focused very much on the importance of customer communications as a means of ensuring informed decisions. In this section we consider product design and distribution. Before the introduction of the pension freedoms in April 2015, most people bought an annuity with their pension savings. Most of those who used income drawdown took advice (over 95% of income drawdown transactions were advised).[17] As well as being advised at the point of sale, customers in income drawdown have historically received ongoing advice with periodic reviews of the amount of income that could be taken from the fund.

4.4 Income drawdown products are now being used by different types of consumers (e.g. those with smaller pension pots), through non-advised distribution channels, and are potentially used in a different way (e.g. for taking ad hoc lump sums rather than a regular income). This

16 *Defined contribution workplace pension market study* – http://webarchive.nationalarchives.gov.uk/20131101164215/http:/www.oft.gov.uk/OFTwork/markets-work/pensions/

17 Thematic review of annuities, February 2014: http://www.fca.org.uk/static/documents/thematic-reviews/tr14-02.pdf.

means that some products designed for those using drawdown before April 2015 may not be appropriate for the consumers who now want to use this option.

4.5 Pension products that have been updated to allow partial UFPLS on a non-advised basis may also pose risks to customers, particularly if the consumer does not understand the implications of the decision they are making. The information needed by both sets of customers, both at the point of sale and throughout the life of the product, is likely to be different from that needed by typical drawdown customers before April 2015.

4.6 Our recent supervisory work also suggests that many firms have developed, or are in the process of developing, a variety of new products and facilities for customers to access their pension savings. Given the changes to the target market and distribution for these products and the potential uncertainty regarding actual consumer behaviour, firms need to ensure that their product design and distribution are subject to robust product governance before and following their launch.

4.7 An example from our supervisory work highlights how this can work in practice. One firm undertook detailed research in the run-up to the implementation of the pension freedoms to help inform the development of its prospective product range. The research focused on identifying the level of support customers needed to understand their pension options, as well as the needs and objectives of different customer groups. The firm used this information to help inform the amendments it made to its existing product range and the granular design of the new products it developed to meet customer needs within its target market. It also updated the information within its written and online communications to support non-advised customers in making both informed purchase decisions and ongoing decision. Before the launch of its new products, the firm undertook customer testing on key elements of the purchase journey and used the output to refine its approach. It also planned to undertake further post-sale testing with actual consumers to ensure the products and the linked service was working as intended.

Complying with FCA requirements in the new pension environment

4.8 There are a number of specific existing rules that provide protections in this area including (and on which we have already discussed in chapter 3):

- information on broader options as part of the wake-up pack process
- information provided at the point of sale and annual statement requirements for drawdown (Statutory Money Purchase Illustrations and requirements for pensions where a partial UFPLS has been taken)

4.9 These requirements broadly require 'sufficient' information such that the customer is able to make an informed decision about undertaking the transaction and reviewing their arrangement.

4.10 While these protections measures are important, good product design is also essential.

4.11 We have made clear in our regulatory guide 'The Responsibilities of Providers and Distributors for the Fair Treatment of Customers' (RPPD) what the combination of Principles for Businesses and detailed rules require respectively of providers and distributors, in certain circumstances, to treat customers fairly. This includes firms' responsibilities to their customers in the governance, design, operation and communication of their products, which firms need to consider throughout the product lifecycle.

4.12 As pension and retirement products are long-term products, firms may have to make, or decide to make, changes to the products as a result of either internal or external drivers. Both types of

change impact on the way that the products operate within the wider market. Firms need to consider when external drivers might require product changes. And when firms make changes to existing products, however driven, they need to consider their responsibilities to act in the best interest of their clients and communicate in a way that is clear, fair and not misleading. Firms should refer to the RPPD for high-level guidance. Two examples of the types of areas firms may need to consider in the pension and retirement income markets are: how they might seek to make changes to lifestyling investment strategies, and the design, distribution and customer communication needs in non-advised drawdown propositions.

4.13 We cover the issue of lifestyling investment strategies in Chapter 7, but of particular relevance here are our expectations for communications in light of the new pension freedoms. For most individuals invested in pensions, when their policy was sold it was envisaged that they would buy an annuity with the proceeds. Lifestyling investment options were included within the contract designed to smooth the investment path to this purchase. In this situation and as an illustrative example of how the RPPD applies, we would expect firms would seek to communicate clearly with customers any lifestyling options included within their contract and the objective of such options. Where such options no longer remained suitable for customers we would expect the firm to communicate clearly alternative options available to their customers that might better meet their needs.

4.14 As the target market and distribution of drawdown products changes and a new market develops for cash withdrawal products, firms need to consider their responsibilities and ensure the way in which existing products are designed and operate, the information provided about them, the way they are distributed, and the customer support provided, are appropriate. This means it is likely that firms will need to make changes in how they operate their drawdown offerings under these existing requirements. They will also need to consider the needs of customers taking cash payments from their pension.

4.15 In circumstances where new pension and retirement income products are developed or changes are made to the design of existing products, firms should carefully consider their responsibilities under the RPPD, particularly where products are to be sold on a non-advised basis. In particular, firms should:

- Identify the target market for the product, namely which types of customer it is likely to be suitable (or not suitable) for.
- Stress-test the product to identify how it might perform in a range of market environments and how the customer could be affected.
- Take account of the information customers need to understand the product (paying regard to their likely level of financial capability) and make an informed purchase decision.
- Select appropriate distribution channels, including deciding whether it is a product where customers would be wise to seek advice.
- Consider their ongoing, post-sale responsibilities in particular those listed in paragraph 1.21 of the RPPD. For example, firms should periodically review any pension product whose performance may vary materially. This is to check whether it is continuing to meet the general needs of the target audience that it was designed for, or whether the product's performance will be significantly different from what the provider originally expected. This should be communicated to the customer at the time of the sale, or where there are material changes to the external environment impact.

- Have adequate systems and controls in place to manage the risks posed throughout the product lifecycle.

4.16 The RPPD applies across all regulated products. We do not consider it necessary to add any additional rules or guidance specific to pension and retirement products within COBS 19 at this stage. We would welcome views from respondents whether the specific nature of this market requires additional rules, guidance or further examples of our expectations.

> **Q12: Do you agree with our proposal not to add guidance at this stage to support firms in meeting their obligations to review the operation and distribution of their products over time?**

Retirement risk warnings

4.17 This section sets out:

- The background on the retirement risk warnings rules that we published in Policy Statement (PS) 15/4[18].
- Consultation as to whether to retain the rules.
- Responses to questions we have received in relation to the rules.
- Consultation on a proposal to remove the requirement for a firm to go through the question and answer process when a consumer has a pension pot of £10,000 or less, and where there are no safeguarded benefits, but to require the firm to give appropriate risk warnings.

PS 15/4 – retirement reforms and the guidance guarantee: retirement risk warnings

Background

4.18 We published new rules requiring firms to give consumers appropriate retirement risk warnings in PS15/4 on 27 February 2015. We did so without consultation, in reliance on the exemption in section 138L(1) of the Financial Services and Markets Act 2000 (FSMA), on the grounds that the delay involved in consulting would be prejudicial to the interests of consumers.

4.19 The rules were made because we had significant concerns that the introduction of the pension freedoms brought in a much greater risk of poor financial outcomes if consumers accessed their pension savings without fully understanding the consequences of their decision. Given the risk of poor financial outcomes we amended our Handbook rules to require firms to signpost all customers to the availability of Pension Wise and recommend that the customer seeks appropriate guidance or advice. Advisers and Pension Wise play an important role in helping consumers to understand their options and the implications of their decisions. Not all consumers will use Pension Wise or seek advice and they may not read information from firms in detail. As a result, consumers may make a decision about accessing their pension savings without having considered all the relevant factors.

4.20 The rules, introduced in February, require firms to give appropriate retirement risk warnings to consumers at the point they have decided how to access their pension savings. Firms must ask the consumer questions, based on how the consumer proposes to access their pension savings,

18 http://www.fca.org.uk/static/documents/policy-statements/ps15-04.pdf.

to determine whether risk factors are present. If they are, appropriate risk warnings (prepared in advance) must be given.

4.21 The risk warnings aim to help consumers understand the implications of their decision. Firms are required to engage with consumers to help them understand the potential consequences of what they intend to do with their pension savings. This process may slow down the consumer's access to their pension savings but we believe this is a necessary consequence of ensuring an appropriate degree of consumer protection.

4.22 The retirement risk warnings do not replace guidance from Pension Wise or regulated advice. Furthermore, the rules do not prevent firms having more detailed conversations or communications with consumers, or providing them with information or guidance where appropriate. Firms could, and should, have been engaging with consumers in a similar way to that set out in the retirement risk warning rules; the rules introduced in February do not, in principle, change our requirements. FCA principles and rules require firms to communicate clearly with consumers and to act in their best interest. We believe the risk warnings are a useful additional clarification.

4.23 The risk warnings should also be seen as part of a package of measures that support consumer decision-making across the spectrum. This includes information and guidance provided by Pension Wise and firms, through to full regulated financial advice, and – when accessing pension savings – the retirement risk warnings. The rules are triggered when a consumer indicates to a firm that they have decided how to access their pension savings; this does not prevent firms from discussing the key considerations and risks related to products or product features available to access pension savings in earlier communications. Firms may even have provided such information in Key Features Documents. Our supervision teams have seen good examples of consumer engagement when firms have sought to make customers aware of the key considerations and the risks of the different options for accessing pension savings at an early stage of the consumer journey. In this way, firms are looking to ensure that the messages are not new and serve as a reminder, at the point that the risk warnings are delivered.

The retirement risk warning rules

4.24 Our rules require firms to encourage consumers to use Pension Wise or take full financial advice. While many consumers do, others do not. The rules require firms to give appropriate retirement risk warnings to consumers who have decided to access their pension savings on an execution-only basis. The retirement risk warnings reinforce the messages that Pension Wise deliver and, at the point of taking benefits, help focus the consumer on the consequences of the course of action they intend to take. The rules are triggered when a consumer says (verbally or in writing) that they want to take a specific action to access their pension savings, regardless of whether the consumer:

- makes contact with the firm or the firm contacts the consumer (even if the contact was for some other purpose, such as promotion)
- has received guidance from Pension Wise or received regulated advice

4.25 Firms are not required to give retirement risk warnings if:

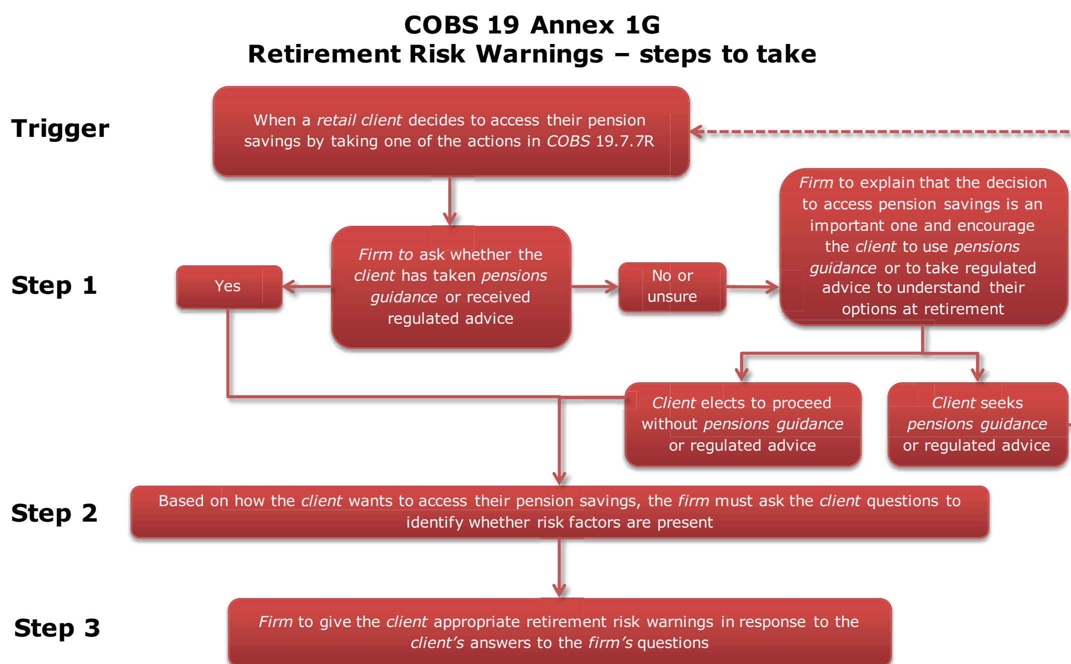
- an adviser is conducting a transaction on behalf of a consumer to whom they have given regulated advice on options to accessing their pension savings
- the firm has already provided retirement risk warnings under the rules and believes those risk warnings are still appropriate

4.26 The rules therefore apply to firms:

- holding the consumer's pension savings, including SIPP operators
- selling pension decumulation products, where the consumer goes direct to them to buy a decumulation product before contacting their holding provider
- providing services that facilitate execution-only transactions

4.27 Firms must give the risk warnings to the consumer during the course of the contact after the consumer has decided that they would like to take a specific action.

4.28 The rules require firms to take the steps set out in the flowchart below:



Consultation on whether to retain or modify

4.29 We made clear in PS15/4 that, although we were not required to consult on the new rules (see paragraph 4.18 above), we intended to invite views subsequently on whether to retain or modify the rules.

4.30 We consider that the rationale that led to the introduction of the rules in PS15/4 remains valid and that the rules are a proportionate response to our concerns. We therefore intend to retain the rules set out in PS15/4. Based on feedback from stakeholders, we are also consulting on a *minimum pot size* rule – see paragraph 4.47 onwards below.

Q13: Do you agree that the rules in PS 15/4 should be retained? If not, please explain what change you would propose and why?

Questions on the new rules

4.31 In PS15/4 we welcomed comments on how the rules were working in practice. We have received a number of comments and queries from firms and trade bodies and we also held a stakeholder workshop as part of the review of our rules. This feedback has not caused us to change our view about the need for the rules. In some cases the comments reflected a misunderstanding of the scope of the new rules or their application in particular situations. We set out below the key themes coming out of the comments and queries we received, along with our response.

Additional prescription

4.32 At our stakeholder workshop a significant number of stakeholders said that the rules would benefit from being more prescriptive, for example specifying the risks and corresponding risk warnings for each decumulation product. However, others preferred the flexibility available in the existing rules.

4.33 We do not intend to add further prescription to the rules – though we set out proposed general guidance at paragraph 3.67 regarding the ongoing product communication. Part of the reason for making the rules was to clarify our expectations of firms at the point where consumers decide how to access their pension savings. However, we did not want to be prescriptive. We preferred to give firms the flexibility, so they could for example integrate the warnings into existing processes. Being prescriptive would risk making the process and consumer journey rigid and turning the retirement risk warnings into a tick box exercise. Firms are also better placed to identify the relevant risks to consumers, particularly in relation to the products or options that they offer consumers. Furthermore, being more prescriptive would go against the policy intention of engaging consumers to ensure that they understand the implications of the decision they have made.

Delivery

4.34 A number of comments that we received relate to the way the risk warnings are delivered.

4.35 Some firms queried how frequently the risk warnings needed to be delivered, particularly for example, when regular payments have been set up to access pension savings. Unless an exemption applies, the risk warning rules are triggered when a consumer says (verbally or in writing) that they want to take a specified action to access their pension savings. For example, the exemption will apply if the firm believes that risk warnings already given under the rules are still appropriate – that is, the firm does not have to go through COBS 19.7 (see COBS 19.7.3(2) R). In PS15/4 we said that, to determine whether a previous retirement risk warning is still appropriate for the consumer, a firm may want to consider the effect of:

- the passage of time since the previous retirement risk warning was given
- a change in the client's circumstances
- a change in product features
- changes in the market (for example, availability of products in the market)

4.36 Where a consumer begins withdrawing funds from their pension savings, firms should exercise judgement as to what risk warnings are appropriate after the first withdrawal, particularly in relation to sustainability of income.

4.37 Therefore, if a consumer sets up regular payments, depending on the length of time between those payments, the firm may consider that the risk warnings given at the outset are still appropriate. Whereas for ad hoc payments a firm may consider that, for example, due to the

passage of time or potential for a change in the consumer's circumstances, the previous risk warnings are no longer appropriate and therefore new risk warnings should be given.

4.38 Firms should also be mindful of our guidance proposals on the provision of ongoing product information to consumers, in particular regarding information to the customer about the sustainability of income over time as set out in paragraphs 3.66-3.70 above.

4.39 A number of firms commented on the approach to delivering the risk warnings when benefits are being transferred to another provider, with some saying that it should only be the receiving scheme that gives the risk warnings. However, we have not heard that this is having a significant impact and we do not propose to change the trigger for the risk warning process. While there may be situations where the consumer receives the risk warnings twice, we believe this is better than the consumer not receiving the risk warnings at all.

4.40 Many firms commented on the operation of the rules when the firm communicates with the consumer in writing, and so goes through the steps to deliver risk warnings in writing. Some firms called for a more standardised approach or have suggested that firms need not wait for a response to the question before providing the risk warning (a 'one and done' process).

4.41 We do not propose to make any change to the rules to accommodate a different process for the minority of customers who are receiving risk warnings through the post. Creating a different process for warnings delivered in writing creates a risk of inconsistent outcomes for consumers. Where the risk warnings are delivered via a telephone conversation, there is an interactive element which is missing where risk warnings are delivered in writing. For written risk warnings we do not consider that a 'one and done' process, where the risk warnings are delivered at the same time as the questions are asked, goes through the steps required by our rules.

4.42 The following is an example of how the risk warnings might be delivered in writing. This is not the only way, and firms will have developed their own ways for delivering the risk warnings in writing.

1. Consumer writes to provider asking to access money from their pension savings.
2. Provider writes back with a questionnaire (for use in giving appropriate retirement risk warnings).
3. Consumer responds with completed questionnaire.
4. Provider responds with risk warnings and document allowing customer to proceed (e.g. application form).
5. Consumer responds confirming that they have read and understood the risk warnings and indicating if they wish to proceed (completed application form sent in).

4.43 We have been monitoring how the risk warnings are being delivered in practice through our ongoing supervisory interactions with firms. Our work with a sample of large insurers found that firms have put in place clear processes to deliver the relevant retirement risk warnings to their customers. In general, the risk warnings are also being delivered at the right time. However, the format in which these firms delivered the risk warnings varies. This has allowed us to identify examples of good, poor and non-compliant practice that are likely to impact upon how effective the risk warnings are in helping customers understand the implications of their prospective decision.

4.44 For example, in one firm we were concerned that the verbal delivery of the risk warnings as a non-personalised list was non-compliant and could limit the ability of customers to determine how they applied to their particular circumstances and act accordingly. This approach contrasted with the approach taken by a different firm, which we consider to represent good practice. This firm delivered its risk warnings over the telephone using a question and answer format. Call handlers sought to increase the efficacy of the risk warnings by asking customers additional, follow-up questions to check whether they understood how it applied to their circumstances.

Boundary with advice

4.45 Some firms and trade associations have raised concerns that, in giving the risk warnings, particularly verbally, firms could stray into regulated advice.

4.46 We acknowledge firms will need to exercise care, particularly when a consumer asks follow-up questions. However, this already happens with sales calls and it remains our position that the retirement risk warnings can be delivered without giving regulated financial advice. The rules require firms to ask the consumer questions based on how the consumer is accessing their pension savings to ensure the firm provides the right information about this decision in response. We are not requiring firms to tell consumers what to do or to imply that the consumer's decision is wrong; that would constitute advice. We are simply requiring firms to ensure that the consumer is aware of the risks arising from the course of action they are seeking to take.

Minimum pot size

4.47 A number of firms asked whether the risk warnings are necessary in cases where the consumer has a small pension pot. Some firms reported that consumers were reluctant to provide answers to the questions required by the risk warning process, particularly when the consumer thought their pension savings was a small amount of money. Some firms felt that, where a consumer had a small pot the risk warning rules should not apply. Others acknowledged that some judgement may need to be applied as the firm does not know the consumer's wider financial circumstances – what is a small pot for one person, might not be for another.

4.48 While we believe there is still a risk that consumers with a small pension pot will not understand the implications of their decision to access their pension savings, we acknowledge that, in protecting consumers, we need to take a proportionate approach. In considering this issue further we felt it was step 2 of the retirement risk warning process – where the firm is required to ask the consumer questions in order to identify risk factors – that might not be working as well as it could for both firms and consumers when a small pension pot is involved. We accept that firm experience has been that the benefit to consumers from receiving risk warnings is lower for those consumers with smaller pension pots. Similarly, the cost to firms of step 2 of the retirement risk warning process can be disproportionate where customers have small pots.

4.49 Therefore we propose that firms should not be required to go through step 2 of the retirement risk warning process where the consumer has a pot below a minimum level and where there is no safeguarded benefit. We believe that, given the number of customers with smaller pots, this could significantly reduce the compliance burden for firms and improve consumer experience in accessing their pension savings, while having a limited impact on any reduction in the protections they receive.

4.50 As outlined above we consider that no matter what size the pension pot, there will still be a risk that the consumer does not understand the implications of their decision, for example tax consequences. Therefore we also propose that, where the consumer has a pension pot below the minimum level and where there is no safeguarded benefit the firm should still give the consumer appropriate risk warnings by going through the risk warning process without the

need to go through step 2. This does not prevent firms from continuing to go through step 2 if they consider that given the circumstances, their customer would benefit from step 2. We would encourage firms to engage more fully with their customers in this way.

Q14: Do you agree with our proposal to remove the requirement on firms to go through step 2 of the risk warning process where the consumer's pension pot is below a minimum level and where there are no safeguarded benefits but that firms should still give the consumer relevant risk warnings? If not, why not and what alternative would you propose?

4.51 In deciding on where to set the minimum level we considered a number of factors including the retirement income different pots sizes might generate, the uplift this might have on an individual's State Pension, and existing monetary limits on the way in which consumers can access their pension savings such as the small pot limit. As noted above, the individual consumer is in the best position to know the impact their pension savings will have on their wider financial and in some cases benefit position. On balance, we consider that it is best to link the minimum level to the small pot limit as this is known to industry and in the context of pensions may be a known level to consumers. Firms will already have systems and processes set up to recognise this limit, therefore we believe it will reduce the cost to firms of systems changes to set the minimum at £10,000 or less.

Q15: Do you agree that the minimum level should be set at £10,000 or less? If not, what level do you think the minimum should be set at and why?

4.52 Since we made the retirement risk warning rules, we have added a definition of UFPLS to the FCA Handbook Glossary. As a result we have removed references to payment out of uncrystallised funds from COBS 19.7 and replaced it will a link to the Glossary definition of UFPLS.

5.
Protecting consumers

5.1 Before the introduction of the pension freedoms, our rules and guidance ensured an appropriate degree of consumer protection in the pension and retirement market. Since the introduction of the reforms we have made the necessary changes to our Handbook to support the implementation of the pension reforms, for example requiring firms to signpost customers to Pension Wise, provide customers with information on the tax implications of accessing their pension savings, and give customers appropriate retirement risk warnings.

5.2 The reforms change the options people have when accessing their pension savings and, in turn, the way in which consumers interact not only with the pension and retirement market but also with other markets, for example, consumer credit and investments. As a result we want to ensure that our rules and guidance are fit for purpose, are working as intended, and protect consumers from poor outcomes.

5.3 In this chapter we explain that the way in which our rules on cancellation apply in the new environment has not changed. We also set out proposals to:

- Amend the FCA's 'certified high net worth investor' and 'restricted investor' certification criteria so that it is clear that, except where the withdrawals are intended to serve as income in retirement:
  - Lump sum pension withdrawals are expressly excluded from the HNWI income criteria
  - Money released from pensions as cash is excluded from the definition of net investable assets for the purposes of HNWI and RI certification (in addition to the current exclusion of money held in pensions).
- Add Handbook guidance to make explicit the application of existing rules in CONC, in the context of pension reforms, particularly in relation to debt collection and debt advice. Also, to remind debt collection and advice firms that advising on the conversion or transfer of pension benefits is a regulated activity.
- Add Handbook guidance for providers and advisers on pension attachment orders following divorce or dissolution of a civil partnership.
- Standardise the methodology for determining maximum projection rates.
- Require firms to show contractually obliged future values in projections, including GARs.
- Update references in our rules to the 2008 mortality tables and propose that, in future years, firms use the improvement factors published the previous year.

- Amend the Glossary definitions of 'income withdrawals', 'short-term annuity' (and by consequence 'drawdown pension') to ensure that our rules align with legislation.

Cancellation rights

5.4 This section considers how our rules on cancellation apply to the new pension freedoms.

Background

5.5 Identifying the best option for their circumstances from the greater range of options in the new environment requires consumers to make a number of decisions, each with potentially significant implications. Firms and consumer groups alike remain concerned about the potential for poor decision-making and, as some consumer decisions may be irreversible, have asked us to give consumers an opportunity to change their mind about the decisions they take.[19]

5.6 A right to cancel/withdraw from a financial arrangement reduces the risk that a consumer becomes bound by an arrangement whose features, risks and consequences they do not fully understand. Rules in our Handbook (COBS 15) provide that a cancellation period, or 'cooling-off' period of up to 30 calendar days typically becomes available to consumers on entering a new contract (or a contract to vary a contract).

Cancellation rights in the new environment

5.7 The way in which our rules on cancellation apply is not altered by the introduction of the new pension freedoms. Life policies, pension annuities, contracts to join personal pension schemes or stakeholder pension schemes, pension contracts, contracts for a pension transfer, and contracts to vary an existing personal pension scheme or stakeholder pension scheme[20] are all 'cancellable contracts' for the purposes of our rules.

5.8 This means that, where a consumer enters a new contract (or a contract to vary a contract) that satisfies the terms of these definitions in order to access their pension savings, they may have an opportunity to change their mind about the contract they are entering into. Neither legislation nor our rules prescribe the mechanisms by which firms should offer the freedoms and new contracts, or variations to contracts may or may not be required. Not all pension providers are currently offering all of the new access options and early indications among those that are, suggest that the market is evolving and long-term propositions are still being developed. Our recent data collection[21] found that, while most customers had access to the pension freedoms, in the largest 15 firms (by number of customers aged 55 or over), 86% would need to change contract to access drawdown and 50% to access UFPLS[22] suggesting a right to cancel would arise in law and under our rules.

5.9 Firms may allow their customers to have cancellation rights beyond those required by our rules but our data suggests that, in most cases, customers have some opportunity to change their mind. But where no change of contract is required to access pension savings, the availability of cancellation rights under our rules will depend on the contractual drafting by the firm for the

19 For example, an open letter to the Chancellor, the Shadow Chancellor and the FCA Chief Executive from LEBC Group suggested non-advised decisions should attract a 30-day cancellation period during which a description of the tax implications, warnings about longer term income needs, and a recommendation to consider seeking guidance or advice should be provided.

20 By exercising an option, for the first time, to make income withdrawals.

21 FCA pension freedoms data collection exercise: analysis and findings (September 2015) http://fca.org.uk/static/documents/pension-freedoms-data-collection-exercise.pdf

22 These figures include and reflect that full encashment under UFPLS would be required in 2% of cases and in 20% of cases for full encashment via flexi access drawdown. The data request also revealed that less than half of the pension pots accessed in the first three months were fully encashed.

product. Furthermore, full encashment might be regarded by some firms as the termination of a contract or potentially as exercising an option within a contract.

5.10 We have considered whether, and to what extent there is an absence of a right to cancel an access decision and whether this creates a consumer protection gap. At this stage, we consider that existing rights to cancel and other protections that are already in place for the majority of consumers negate the need for any further regulation to be put in place for a new post-decision period of reflection.

5.11 For example, the risk of a consumer entering into an arrangement whose features, risks and consequences they do not fully understand should be mitigated by:

- the availability of free impartial guidance available from Pension Wise
- our requirement that firms recommend customers seek appropriate advice or guidance
- our suitability and appropriateness requirements (where advice is taken)
- Handbook rules that require the provision of important relevant information (including retirement risk warnings, discussed earlier starting at paragraph 4.17) at relevant times before customers can access their funds

Q16: Do you consider our cancellation rules expose some consumers to a risk that is not mitigated by any other measures? In what other ways might we reduce that risk and improve consumer outcomes?

5.12 In our view, awareness that an access decision may be irreversible could help sharpen a customer's focus on other information about their retirement options and/or could incentivise them to seek guidance or advice. Compliance with our rules and principles for the best interests and fair treatment of customers is likely to involve firms giving serious consideration to whether irreversibility is information that:

- should be disclosed to the customer in good time
- could be a relevant risk factor for the purpose of our retirement risk warnings requirements

5.13 We are monitoring the market closely to understand changes in firm strategies and to keep abreast of new product development and changes in distribution. The nature of consumer behaviour is also likely to evolve in response to the new freedoms. We will continue to gather internal and external intelligence and sources of information to monitor trends and emerging issues in consumer queries and complaints. Should we identify any consumer risks and harm, we will consider the appropriate regulatory tool to address these and would consult if any new or revised requirements on firms are required.

Q17: Do you agree that monitoring the evolving environment is an appropriate and proportionate FCA response in the pursuit of consumer protection?

If not, what action do you think we should take and how would this alter consumer outcomes?

Restrictions on the promotion and distribution of high risk investments

5.14 This section concerns amendments to the rules which limit the type of consumers to whom authorised firms may promote and / or distribute non-mainstream pooled investments non-readily realisable securities, contingent convertible instruments (CoCos) and mutual society shares ('the restricted investments').

5.15 The proposals seek to provide a short to medium term solution to protect consumers who use the new freedoms to withdraw their entire pensions savings pot (or significant proportions of it) for purposes other than to serve as income in retirement. The ability to access significant amounts of cash could expose them to certain, potentially inappropriate, high risk and complex, investments from which they would previously have been shielded by restrictions in our rules that safeguard retail investors of ordinary means and sophistication. Given that some of our restrictions are derived from similar definitions in legislation, we will continue to develop a longer-term solution to ensure the appropriate application of our safeguards and will involve HM Treasury in this work.

Background

5.16 With effect from 1 January 2014, the FCA introduced rules that restrict retail promotion by authorised persons of any non-mainstream pooled investment unless the recipient is in one of a number of categories. Firms cannot freely promote these investments to retail investors, but exemptions to this restriction are available, such as where the investor is certified as sophisticated or high net worth.[23] In summary, a certified high net worth investor (HNWI) is an individual who confirms[24] that they have:

- an annual income of £100,000 or more, or
- net investable assets (excluding primary residence, pensions and qualifying contracts of insurance) of more than £250,000

5.17 At later dates we introduced rules in our Handbook that rely on similar certification criteria to restrict the retail promotion or distribution by authorised persons of non-readily realisable securities (e.g. unlisted securities promoted on investment based crowd-funding platforms), CoCos, CoCo funds and mutual society shares ('the restricted investments'). These are all high risk or complex investments that the FCA considers unlikely to be suitable for most ordinary retail consumers, including some for which (prior to the distribution restrictions) we uncovered unacceptably high levels of inappropriate promotion, sales and resulting harm, particularly among consumers in retirement.[25] When we consulted on the distribution restrictions, we noted how we considered the restricted investments carry particular risks for individuals reliant on pension savings, lacking a disposable income or seeking a higher yield on their savings.

5.18 In addition to the high-net worth exemption, for non-readily realisable securities, an additional exemption was introduced for retail investors who certify they will invest no more than 10% of their net investable assets in these investments ('restricted investor' or 'RI').

5.19 Money held within a pension wrapper is excluded from the calculation of net investable assets for the purposes of the HNWI and RI certification. We do not consider that the act of

23 We have previously identified that the restricted investments may only be appropriate where an investor is sufficiently sophisticated and / or wealthy to understand them and tolerate the potential adverse consequences of their unique risks.

24 To certify as HNWI, the consumer must sign a statement, within 12 twelve months of (and ending with) the day on which the firm provides a promotion, the contents of which are set out in our rules at COBS 4.12.6R.

25 August 2012, FSA Consultation Paper 12/19 Restrictions on the retail distribution of unregulated collective investment schemes and close substitutes: http://www.fsa.gov.uk/static/pubs/cp/cp12-19.pdf

withdrawing funds from a dedicated tax wrapper (into which consumers have saved, over a number of years, specifically to provide for their retirement) alters the consumer's overall wealth for the purposes of this calculation. We are concerned that some consumers' perception of their overall financial wealth following withdrawal of up to 100% cash from their pension savings may lead:

- consumers to certify themselves as HNWI
- consumers to invest more money than is appropriate under the RI category
- firms to distribute potentially inappropriate investments to these consumers

Amending the certification statements

5.20 To address this risk, we propose to amend the FCA's 'certified high net worth investor' and 'restricted investor' certification criteria so that it is clear that, except where the withdrawals are intended to serve as income in retirement:

- Lump sum pension withdrawals are expressly excluded from the HNWI income criteria.
- Money released from pensions as cash is excluded from the definition of net investable assets for the purposes of HNWI and RI certification (in addition to the current exclusion of money held in pensions).

5.21 The amended rules will afford a consistent level of protection from the distribution of the restricted investments to consumers who would otherwise be considered ordinary retail investors, whether or not their pension wealth is held in a pension wrapper.

5.22 We recently reviewed data from 107 firms (or groups of firms) about more than 200,000 pension pots accessed between 6 April 2015 and 30 June 2015. Almost 10,000 pots worth more than £100,000 were accessed in some way, of which almost 2,000 were fully encashed. Depending on whether these funds are perceived as assets or income our proposed rules could extend important protection to these 2,000 consumers. It is likely that the protection will extend further as:

- the HNWI criteria relate to the consumer's aggregate assets or annual income (i.e. their other income or assets added to money released from the pension). Consequently, consumers accessing pots of less than £250,000 or £100,000 could also be protected.
- Any consumer that fully encashes their pension pots via UFPLS or flexi access drawdown could certify as a restricted investor, though we assume that this is most likely to be of interest to customers who access higher amounts of savings.[26] Consequently, we assume consumers accessing pots of £50,000 or more could be protected from excessive risk.

5.23 On the assumption that restricted investments would be distributed to between 0.5% and 2.5% of these certified investors[27], the number of at-risk consumers is likely to be a small proportion of the total number of consumers who retire each year with defined contribution pension schemes. However, the possible harm could be more severe for them than for other retail investors if the objective of the investment is to generate retirement income: both their income and their ability to generate income may be significantly reduced. While restricted investors should limit their exposure to 10% of their net investable assets and, therefore, should

26 Based on the assumption in CP14/23

27 This is the distribution assumption used in CP14/23.

not expose the majority of their net assets to non-readily realisable securities, unsuitable sales that result in unexpected losses could still lead to significant detriment for them.

> **Q18: Do you agree that amendments to HNWI and RI certification statements are necessary to provide appropriate protection to consumers who access their pension savings?**

Longer term consumer protection

5.24 We consider the proposal outlined above to be an initial safeguard only. Its effectiveness may recede with time if consumers lose sight of how much of their wealth came from pension funds. Importantly and additionally, we consider that additional steps are needed to provide appropriate, consistent and effective protection to all ordinary retail consumers, not just those at retirement.

5.25 In our previous consultations on the distribution restrictions we signalled that we would keep the exemptions under review and may consult on further changes where necessary. Therefore, rather than impose a time limit on the exclusion of lump sum withdrawals of pension savings from the certification criteria, we propose to undertake a wider review of the restrictions in our rules including an assessment of the monetary thresholds in the HNWI criteria, taking into account the current economic climate and outlook.

5.26 Currently, the monetary thresholds reflect those used by HM Treasury in its similar legislative conditions that prevent unauthorised persons from communicating financial promotions except where other criteria are met.[28] Those criteria were last reviewed in 2001, when approximately 1% of the adult population had an annual income of at least £100,000. If this ratio had been preserved, according to HMRC tax statistics, the threshold would have risen to a projected £166,000 for the 2014/15 tax-year. Alternatively, if the £100,000 threshold had risen at the same pace as the national average earnings, it would now be closer to £150,000. Similarly, if the net assets threshold had been adjusted for inflation in line with the Consumer Prices Index, it would now be almost £341,000 while adjusting it in line with the Retail Price Index would have increased it to £375,000.

5.27 We will work together with HM Treasury during the review to prevent any unintended widening of the gap between our separate restrictions that might be unscrupulously exploited to the detriment of consumers.

> **Q19: Do you agree that our proposals provide an appropriate initial safeguard for consumers accessing their pension funds? If not, what other measures could we consider?**

> **Q20: Should payments from pension savings only be excluded from the HNWI and RI criteria if they were accessed within a set period of time before the date on which the statement is signed? If so, what period of time would deliver the appropriate consumer protection?**

28 Section 21 FSMA provides that an unauthorised person must not, in the course of business, communicate a financial promotion unless the content is approved by an authorised person or an exemption is available under secondary legislation. The HNW exemptions are set out in FSMA (Financial Promotions) Order 2005 (see art 48(8)) and the FSMA (Promotion of Collective Investment Schemes) (Exemptions) Order 2001 (see art 21) and apply in respect of investments that are shares and debentures (or relate to or pool shares and debentures).

Q21: Do you agree that we should undertake a wider review of the promotion and distribution restrictions in our rules?

Using pension savings to repay debt

5.28 This section discusses proposed guidance to make explicit the application of existing rules in CONC in the context of pension reforms, particularly in relation to debt collection and debt advice.

5.29 These proposals do not create any new obligations on firms, nor do they place any barriers to consumers choosing to access pension savings to repay debts; they are intended to make clear how existing requirements on firms carrying out debt collecting and advice apply in relation to pensions.

5.30 In this section we use 'creditor' to mean lenders, owners, operators of peer-to-peer lending platforms, and debt collectors acting on their behalf.

Debt collection

5.31 When the pension reforms were announced, a number of concerns were raised with us about the potential impact on people with problems repaying debts. In particular, there were concerns that creditors may put pressure on people to access pension savings to repay their debts.

5.32 While in some circumstances it may be in a customer's interests to do this, the effect of our existing rules is that creditors must not pressurise customers to repay a debt in a single or small number of repayments, or in unreasonably large amounts, if doing so would adversely affect their financial circumstances (CONC 7.3.10R).

5.33 We propose to make clear that an example of behaviour that is likely to contravene this rule and Principle 6 (treating customers fairly) is pressurising a customer to raise funds to repay a debt by accessing their pension savings.

5.34 Although this should be clear to firms already, we feel there is merit in making it explicit and, as such, propose to add guidance in CONC 7 to that effect.

5.35 We also propose to add a reminder to firms of existing perimeter guidance (PERG 12.6G) on the regulated activity of providing advice on conversion or transfer of pension benefits and the overlap with advising on investments. Advising on accessing pension savings is likely to fall into one or both of these regulated activities.

Debt advice

5.36 In addition, concerns were raised that debt management firms may advise customers to access pension savings in order to build up a pot of money with which to offer full and final settlement with creditors.

5.37 Our debt advice rules require that all advice given and action taken by debt advice providers must have regard to the best interests of the customer (CONC 8.3.2R(1)).

5.38 In common with our proposal on debt collection, we are consulting on adding guidance to CONC 8 to remind firms that advising on the conversion or transfer of pension benefits is a regulated activity.

Q22: Do you agree with our proposal to add guidance to make explicit the application of existing rules on debt collection in relation to pension savings and remind both debt collection and advice firms that advising on the conversion or transfer of pension benefits is a regulated activity?

Attachment orders

5.39 This section sets out proposed guidance for providers and advisers on pension attachment orders following divorce or dissolution of a civil partnership.

5.40 In divorce cases, or on dissolution of a civil partnership, the courts may order that an attachment order[29] be placed on a person's pension. The attachment order requires the scheme administrator or pension provider to make specified payments out of the payments due to the individual. Since the individual as scheme member retains control of the pension, there is a concern that the pension freedoms might result in a former spouse or former civil partner receiving less than they expect.

5.41 While attachment orders may be made on pension benefits in trust, including benefits in DB and DC occupational pension schemes, attachment orders may also be made on benefits in personal and stakeholder pension schemes.

5.42 Attachment orders tend to be designed around individual circumstances and therefore it is difficult to generalise about how they work. In practice it depends on the precise wording of each order. Nonetheless, in some cases there may be the potential to circumvent the intent behind the attachment order in the context of the pension freedoms. In particular, a court, in writing an attachment order, may not have anticipated the possibility of an individual withdrawing all their pension savings in cash, nor the possibility of an individual accessing their pension savings from age 55.

5.43 We have discussed with the DWP guidance for trustees, providers and advisers to ensure that they take into account attachment orders and, where appropriate, notify the former spouse or former civil partner. The DWP is considering options to remind occupational pension scheme trustees to take into account attachment orders.

5.44 We propose guidance for providers and advisers that they should take into account any attachment orders made by a court on a divorce or dissolution of a civil partnership. In particular, we propose guidance that an operator of personal or stakeholder pension schemes should:

- ensure that it is aware of, and acts fully in accordance with, any attachment orders, and
- be mindful of its obligations to give notices to other parties where relevant events occur, such as transfers and significant reductions in benefits[30]

5.45 We have discussed with the DWP whether trustees and providers should be required to notify the relevant former spouse or former civil partner on receiving an application to access pension

29 Attachment orders may also be known as 'earmarking' orders, particularly in Scotland.

30 The Divorce etc. (Pensions) Regulations 2000 require that the operator of the receiving scheme and the former spouse or former civil partner be notified in the event of a transfer and that the former spouse or former civil partner be notified in the event of a significant reduction in the benefits payable..

benefits. This would highlight an intention to access pension benefits before the benefits have been taken. If the application is to access benefits in a way not expected, and that might be counter to the intent of the attachment order, the former spouse or former civil partner may wish to apply to the courts for a variation of the attachment order.

5.46 The DWP may consider changes to the pensions legislation that would require trustees and providers to notify the other party on receipt of an application to access pension benefits. The DWP would consult on any proposed changes to the legislation.

5.47 Variations to existing attachment orders to take into account the new pension freedoms are a matter for the courts. Interested parties would be well advised to check the wording of the relevant order and take advice.

5.48 With regard to guidance for advisers, we recognise that the adviser's client may be the scheme member and not their former spouse or former civil partner. Nonetheless, we consider that it will not be in their client's best interests to ignore or seek to circumvent an attachment order.

5.49 Therefore, we propose guidance for advisers that they should enquire as to the existence of any pension attachment orders and take these into account when providing advice to their client.

5.50 We note that pension sharing orders are now more commonly used than attachment orders. Since a pension sharing order transfers irrevocably a share of the value of the pension benefits to the former spouse or former civil partner, there is no similar concern in relation to these.

Q23: Do you agree with our proposed guidance for providers and advisers on attachment orders? If not, what would you suggest and why?

Determining maximum projection rates

5.51 Firms are required to undertake projections of future benefits for life and pension products that reflect the investment potential of the product, subject to maximum rates, which are set by the FCA. Three rates can be given, a maximum intermediate projection flanked by an upper and a lower bound. The differential for the upper and lower bounds is fixed at set boundaries above and below the intermediate projection rate (currently +/-3%). The intermediate projection rate is determined by reference to the investment potential of the product and then tested against the maximum rate.

5.52 We are aware that some firms may be interpreting our rules on applying the maximum projection rates in ways that impact on our statutory objectives. In particular, some firms are applying our rules on maximum projection rates in ways that mean some consumers are receiving projections that are higher than the projections we would expect them to receive. Not only does this create inconsistency for consumers but firms preparing these projections may be able to gain an unfair competitive advantage over their competitors.

5.53 A simple example can demonstrate the two methods. Two firms, F1 and F2, assume gilt returns of 3% pa, and equity returns of 7% pa. If a customer invests 30% in gilts and 70% in equities, firm F1 caps the equity return at 5% and provides a projection averaging 4.4%. Firm F2 determines an average return from both assets of 5.8% but caps it at 5%. On a single investment over 20 years, the projected fund and retirement income would be 12% higher on F2's projection.

5.54 In assessing the investment potential of the product, firms generally look through to the underlying assets. A common practice is to have projection rates for each underlying fund/asset and calculate an overall rate based on the proportion of assets in each fund. There appear to be two different ways in which firms do this:

- Some firms ensure that the underlying projection rate for each underlying investment does not exceed the maximum.
- Other firms ensure that the overall combined projection rate does not exceed the maximum.

5.55 Where the rates for the underlying funds or assets exceed the maximum rate, the second method gives rise to higher projections. We consider that the difference in approach is not helpful to consumers. The second method also potentially gives firms using it a competitive advantage over those using the first method.

5.56 We therefore propose to standardise the methodology by making it clear that all providers should be applying the maximum rate at the level of the underlying assets. This should introduce a greater degree of consistency to projections from different providers as well as assisting in charges comparison.

Q24: Do you agree that we should clarify the methodology as described? If not, what alternative would you propose which achieves similar outcomes?

Projections including guarantees

5.57 In April 2014, the maximum intermediate projection rate was lowered and the flanking rates were widened from +/-2% to +/-3%. For pensions, this meant that the maximum intermediate projection rate fell from 7% to 5% (nominal) and the lower and upper rates became 2% and 8%, rather than 5% and 9%.

5.58 As a result of the drop in the lower rate, firms queried how to prepare projections when they were contractually obligated to provide a minimum rate of return which exceeded 2% for pensions (1.5% for non-tax advantaged products). We issued some rule waivers to specific firms, enabling them to replace the lower projection rate with a rate that reflected the minimum rate in the contractual obligation. Recognising that the issue could be more widespread, we then issued a modification by consent[31], enabling other firms to adopt the same approach. We now propose to amend the Handbook rules to reflect the approach taken in the modification by consent. Firms should note that this applies to both life and pension contracts.

5.59 The modification by consent only applies to the lower projection rate. We have seen no evidence to suggest that there are contractual obligations that are greater than intermediate rates that are currently in use. Therefore, the Handbook rules on which we are consulting only apply to the lower projection rate. However, we are open to modifying the approach if there is evidence that the proposed rule needs to be extended to the intermediate projection rate. Firms submitting any evidence should make it clear how their contractual obligations work, e.g. year on year or at specific points in time.

31 http://www.fca.org.uk/modification-consent-cobs-13-annex-2.

5.60 We recognise that, where there is a contractual obligation for a firm to pay a minimum rate of return, it could be misleading to consumers to provide product disclosures that show projections which are lower than this rate. We therefore propose to require firms that have a contractual obligation to pay a minimum rate of return to reflect this in the lower projection rate. Firms should be clear that this proposal only applies where there is a contractual obligation to pay a minimum rate of return so would not apply, for example, to cash funds unless a guaranteed minimum return is offered. Extending the principle further, many pension contracts have GARs attached to them. These enable pension scheme members to convert their pension fund into an annuity using the guaranteed rate, which is typically above the rates available in the market today, and higher than the rates shown in projections. We therefore consider that it is appropriate to ensure that customers are aware of their guarantee by ensuring that any future projections of annuity income reflect the guarantee where this is higher than the rate that would otherwise be used. Firms should indicate on a projection where a guarantee annuity rate has been used instead of the usual annuity interest rate. We propose that this should bite across all three projection rates, as necessary. However, we are aware that if firms chose to show GARs on Statutory Money Purchase Illustrations (SMPIs), they are shown alongside the statutory illustration, rather than instead of the statutory illustration.

5.61 We are open to views on how the GAR should be presented. The current modification by consent expires on 31 December 2016. For consistency with most of the other product disclosure issues in this CP, we propose to implement the changes to our rules on 1 November 2016 and simultaneously withdraw the modification and any relevant individual firm waivers.

Q25: Do you agree with our proposals to show contractually obligated future values in projections, including GARs? If not, how could we amend it?

Projecting a future annuity – mortality assumptions

5.62 From time to time, it becomes necessary to update the mortality table used for calculating a future annuity in a projection. New tables produced by the Continuous Mortality Investigation (CMI) are based on data collected more recently and reflect more recent trends in mortality. The 2008 tables are now being made available by the CMI and we propose to replace references to the 2000 tables with the new 2008 tables. This will apply to projections of future annuities under both COBS 13 Annex 2 (Projections) and COBS 19.1 (Pension transfers, conversions and opt-outs).

5.63 While the differences may appear small, inevitably, a delay in implementing the new tables would lead to greater differences over time. Given that the new tables are published using the same format as the old tables, we do not believe that it should be onerous for firms to adopt the new tables. We understand that the Financial Reporting Council (FRC) is aware of the benefit to SMPI recipients of consistency between the mortality basis it specifies and the FCA basis, and intends to review Actuarial Standard Technical Memorandum 1 (AS TM1) in due course. Assuming that consistency of basis is maintained, this will simplify the adoption of the new table for firms using combined systems for producing FCA projections and SMPIs.

5.64 We have also been made aware that the timing of the annually released improvement factors will change, from November to March. This may provide firms with insufficient time to implement the factors in April each year. We also consider that if, for any reason, the factors were published late in any year, it would be problematic for firms to comply with our requirements. We are therefore proposing that firms use the improvement factors published the previous year.

Q26: Do you agree with our proposal to update the mortality table and timing of the improvement factors? If not, how could we amend it?

Glossary amendments

5.65 In this section, we consult on minor amendments to two Glossary definitions in our Handbook to ensure that our rules and legislation are aligned. We are making these changes now to remove any scope for ambiguity or confusion and to ensure greater parity with our policy intent, as expressed before the drafting of the legislation was finalised.

Background

5.66 'Drawdown pension' is defined in the FCA Glossary as an 'income withdrawal' or 'short-term annuity'. The Glossary definitions for 'income withdrawals' and 'short-term annuity' in the FCA Handbook rest upon and copy out the definitions set out in Schedule 28 to the Finance Act 2004 ('the Schedule'), including the definition of drawdown pension funds.

5.67 The Schedule was amended by the Taxation of Pensions Act 2014 (17 December 2014), the key piece of legislation that gave effect to the retirement reforms. Our Glossary definitions were not updated to reflect the amending provisions of the Taxation of Pensions Act that created 'member's flexi-access drawdown funds'.

5.68 Flexi-access drawdown (FAD) is a specific new form of accessing pension savings from 6 April 2015 onwards, with no cap on the amount that can be withdrawn each year and no minimum income requirement. In effect, FAD replaces 'flexible drawdown'.[32] 'Drawdown pension funds' which were set up before 6 April 2015 will, unless consciously converted, remain distinguishable from FAD as they are subject to the pre-April 2015 annual cap on withdrawals.

5.69 The Taxation of Pensions Act designates all new drawdown arrangements set up after 6 April 2015 as flexi-access drawdown funds. FAD is therefore the specific legislative terminology for what was more broadly described in the HM Treasury and FCA publications relating to the retirement reforms as using drawdown without any limits applied.

5.70 In Consultation Paper 14/11, *Retirement reforms and the Guidance Guarantee*[33], we consulted on the Handbook changes we anticipated would be necessary for firms to take account of the Government's proposed reforms. The proposed changes made clear our intention that regulatory requirements should be broadened to all retirement options available.[34] In addition, we proposed deleting references to maximum withdrawal limits for income withdrawal in the expectation that this would bring post-April 2015 flexible income arrangements within the scope of our rules. By the time the Taxation of Pensions Act was finalised, however, our amendments were no longer aligned with the legislative terminology.

32 'Flexible drawdown' was subject to a minimum income requirement of £20,000 until 26 March 2014 and £12,000 27 March 2014 to 5 April 2015.

33 http://www.fca.org.uk/static/documents/consultation-papers/cp14-11.pdf

34 For example, we amended the requirements around the open market options to broaden it to all retirement options, not just annuities, and to make our expectations on the information that should be provided about the existing pension scheme clearer. We also added a requirement for providers to provide their customers with a description of the potential tax implications whenever they apply to access some or all of their pension using any of the options available.

Glossary amendments

5.71 Updating the Glossary to reflect the amended legislative definitions will help to ensure that authorised firms apply and comply with our rules regarding all income withdrawal or short-term annuities that are paid from FAD funds not just those paid from pre April 2015 drawdown funds. In turn, this will lead to consistent outcomes (and appropriate protection) for consumers.

5.72 Through our supervisory work and ongoing engagement with the industry, we have reason to believe that most firms are interpreting our rules in line with the legislation and applying our rules consistently to all drawdown arrangements, including FAD.

5.73 If and where this is not the case, firms may need to make changes to their systems and processes in order to comply with certain specific elements of the Handbook[35] and this may result in increased costs. Each of the distinct potential costs is explored in the cost benefit analysis and in most cases is anticipated to be of minimal significance.

Q27: Do you agree with our proposals to amend the definitions?

35 COBS 9 (9.3.3G, 9.4.1R & 9.4.10G), COBS 13 (Annex 2 and Annex 4), COBS 14 (14.2.1R(3B)), COBS 15 (15.2.1R and Annex 1). COBS 19 (19.4.4R, 19.7.1R, 19.7.4G, 19.7.7R, 19.7.11G and 19.7.12G) and PERG 12.3.

6.
Discussion: non-advised annuity purchase

6.1 Annuities may be purchased by consumers in a variety of ways. They may buy an annuity direct from an annuity provider (who may have managed the investments during the accumulation stage), or via a third party distributor. Alternatively, they may receive advice from a financial advisor who subsequently arranges the annuity purchase for the consumer.

6.2 Typically, most annuities have been bought without advice, either direct from the annuity provider (often the accumulation pension provider) or via a third party distributor. With the latter, the distributor of the annuity may be paid a commission by the pension provider for arranging the sale. This contrasts with taking regulated advice, which involves consumers themselves agreeing to the service they want to receive and the fee to be paid to the adviser. In either case, firms are required to disclose the amount of commission or the adviser charge to the consumer.

6.3 Concerns have been expressed that the commission payment could be so high that, in some circumstances, it would be more than the cost of advice. That is to say, it would be less expensive to take advice with the benefit of receiving a personal recommendation (and of redress should the advice prove to have been unsuitable), than to transact on a non-advised basis. We want to explore the issue of remuneration of the sale of non-advised annuities, any consumer harm that might be associated with that, and policy options to deal with any harm.

6.4 This section looks at the possible issues associated with the non-advised sale of annuities and considers some options for dealing with them. We are not proposing Handbook rules at this stage but asking for views on the issues identified and the policy options for dealing with them. We are of course mindful of the clear links with FAMR, which will publish a call for input in early October, with feedback and initial proposals in Q1 2016, ahead of the Budget. We will ensure we are joined up as this work progresses.

Commission payments on non-advised annuity sales

6.5 Data from the ABI shows that around 189,000 annuity contracts were written in 2014. Of these, 132,000 were sold without advice. Based on value data[36], fewer than 20% of non-advised annuity contracts written in 2014 were introduced by third-party distributors. Furthermore, there has been a substantial drop in the number of annuities bought since the announcement of the pension freedoms in March 2014. In Q1 2014, there were 74,000 new contracts; in Q1 2015, that number had fallen to 21,000, a drop of over 70%. In the same period, non-advised annuity purchases had fallen by just under 70%. Non-advised annuities provided by third party

36 This data is not available by number of contracts and so is based on value data. It is possible that a large number of customers with small pot values could have been served by third party distributors.

distributors fell by two-thirds, to £157m, estimated at somewhere between 3,000 and 5,000 contracts compared with an estimated 16,000 contracts a year earlier.

6.6 The Retirement Income Market Study[37]highlighted that in *certain* circumstances, the costs of purchasing a product without advice could potentially be equivalent to purchasing through a full advice service where an annuity rate that firms offer on a non-advised basis is lower (because it incorporates the distributor's commission). Consumers using such services should be aware of the specific costs involved, as firms are already required to provide this information under existing COBS rules.

6.7 We do not have comprehensive data on commission rates paid on non-advised annuities. According to research by the Financial Services Consumer Panel and evidence that we saw during the course of the market study, commission rates for a standard annuity are 1% to 1.5% and 2.5% to 3% for enhanced annuities. For the average size of pot used to purchase an annuity (around £34,000), this is equivalent to £330 to £990. This assumes that the annuity rate offered on a non-advised only basis incorporates the broker commission.

6.8 There is, however, anecdotal evidence that commission payments can in some circumstances exceed payments for an advised sale. The Consumer Panel research (in 2013) included reports of very high commissions (5% to 6% as compared with an average of 1.5% to 3%) being paid by providers keen to secure high-volume distribution channels. They found non-advised services ranged in quality, with many appearing to use limited panels of providers and to operate 'shallow' (superficial) underwriting processes for enhanced terms.

6.9 There may be benefit in collecting more comprehensive information regarding industry levels of commission rates on non-advised sales to allow us to more fully assess the scale of these issues. We are therefore exploring the potential to complete some additional data collection following the review of responses we receive to this discussion section of the consultation paper. This will allow us to determine whether and in what circumstances a consumer might pay more to buy an annuity without advice than with the benefit of a professional recommendation for the best annuity to suit their circumstances.

6.10 We could also explore the outcomes for consumers with different sized pots since the costs may depend on the size of the pension pot the consumer has, particularly if an adviser charges a fixed sum for their advice. In that situation consumers with small pension pots would likely still pay less for a non-advised, commission funded, sale than for a sale with advice. By way of illustrating this point, given that 50% maturing pension pots are valued at less than £20,000, commission rates would need to exceed 3.75% to outstrip an adviser charge of e.g. £750.

What is the harm to consumers?

6.11 In addition to the risk of high commission being charged, non-advised services could carry the risk of bias, with third parties only prepared to offer those annuities that offered the highest commission levels. But consideration also needs to be given whether advice is available: the Consumer Panel suggested that the higher profit margins for non-advice could mean that, although advice is theoretically economical for pots worth about £25,000, it may in practice be rarely offered for pots worth less than £100,000, unless the customer has other investible assets or a pre-existing relationship with an adviser.

37 Retirement Income Market Study, FCA March 2015 https://www.fca.org.uk/news/market-studies/retirement-income-market-study.

6.12 Any potential harm would need to be considered in the context of the protections that have been in place in response to the pension freedoms such as the establishment of Pension Wise.

6.13 While concerns have been raised about the potential for customers to pay more in commission than they would have paid for advice, it is important for us to understand the resulting consumer outcomes in each case. Evidence from the pension market study indicated that there have been instances in which consumers procure annuities from the pension accumulation provider without shopping around. This may lead to the customer purchasing an annuity that is not competitive from a pricing perspective. In these circumstances, the consumer may have achieved a more competitively priced product from a non-advised broker even taking into account the cost of the commission. We recognise that there may be benefits in exploring these outcomes in more detail and will assess the potential need for additional data collection to analyse these issues following the review of responses to this paper.

Options for dealing with the issue

6.14 **Improved disclosure:** If the consumer was fully aware of the cost of commission and the implications of that for their annuity income, they would be better able to make a judgement on whether to purchase non-advised or seek advice. Better disclosure could encourage consumers and help them decide between taking advice and buying non-advised.

6.15 However, there are already requirements[38] for disclosure of commission. Our recently published financial promotions review and Finalised Guidance relating to annuity comparison websites states that, in order to be viewed as fair, clear and not misleading, annuity comparison websites must include sufficient information regarding their charges and commission (where applicable). This would suggest that disclosure in itself, or at least in its present format, may not be enough to deliver good outcomes as customers may not understand or act upon the information.

6.16 The revised wake-up packs (once in place) may deliver information in a way that makes clear the relative costs and benefits of shopping around. Any additional new disclosure would require rigorous testing to address effectiveness and behavioural bias, and to ensure its effectiveness. At the same time, it would ensure that it did not create false focal points, encouraging consumers to focus on commission at the expense of other things.

6.17 **Restrict commission on non-advised sales of annuities:** If commission were banned or otherwise restricted for non-advised sales, this would immediately address concerns that customers may pay more for non-advised than advised sales. Distribution would need to be paid for in another way, meaning that consumers would be charged an arrangement fee for non- advised sales. This could have a significant impact on competition.

6.18 Annuities are only one solution for providing retirement income. Other options, such as drawdown, would still carry commission. Therefore limiting any ban to annuities could distort competition between these potentially substitutable products. Firms might as a consequence be incentivised to promote drawdown over annuities with potential harmful impacts on consumers in the long term. This would mean that, to avoid distorting competition, we would need to consider banning commission on a wider range of investment solutions.

6.19 In addition, banning commission might not result in better-value annuities, particularly if providers replaced the commission spend with alternative marketing/distribution spend.

38 See COBS 6.4.3R.

6.20 Removing or restricting commission might also mean that some intermediaries would leave the annuity market, reducing the number of third-party distributors with a possible adverse implication for competition. In addition, consumers may be reluctant to pay fees for a non-advised annuity service.

6.21 Any ban could also have an adverse effect on shopping around through the Open Market Option. FCA's Occasional Paper 5[39] (published December 2014) illustrated that the purchase of an annuity from the incumbent provider typically represented worse value for money for consumers than the purchase of an annuity via the open market, despite the commission that is paid.

6.22 An alternative to banning commission would be to cap commission levels. While this might address the potential for bias and the relative cost to the consumer, it may have unintended consequences for competition, since firms may price up to the maximum level of the cap. Another more extreme option would be to consider banning non-advised sales of annuities altogether, if non advised sales are more expensive than advised sales and consumer outcomes are better with advice. However it is not at all clear that such an intervention would be warranted, or that the potentially significant increase in demand for advice from those consumers wanting to buy an annuity would be appropriately met.

6.23 **Improve competition:** The issue may reflect an underlying failure of competition. In particular, the third-party intermediaries may have market power that allows them to seek high commissions. We could undertake further work into the operation of the market to identify market failures and pro-competitive solutions.

Q28: Do you agree with the analysis of the issue? If not, what is your assessment of the situation?

Q29: Of the options above, which do you think is likely to be the most effective in dealing with the issue identified and why is that? Are there any alternatives that we should consider?

39 https://www.fca.org.uk/your-fca/documents/occasional-papers/occasional-paper-5.

7. Discussion: lifestyling investment strategies

7.1 In Chapter 4 we explained that, in light of the new pension freedoms, the information needs of customers throughout the life of their pension product are likely to be different.

7.2 We added that we believe that our existing rules, plus some further guidance, will provide firms with enough clarity as to our expectations in this area and a sufficient level of consumer protection.

7.3 These broad conclusions also inform our view of firms' responsibilities regarding their customers' information needs in relation to lifestyling investment strategies.

Lifestyling investment strategies

7.4 Lifestyle profiles are designed to automatically switch investments to less volatile assets, on a pre-determined basis, during the years approaching a customer's selected retirement date.

7.5 Historically, many profiles were designed to have a 75% fixed interest and 25% cash investment split immediately before the customer's retirement date. This investment mix was designed to broadly match the tax-free cash and annuity purchase choice most customers made. In the new pension environment, with fewer people choosing to buy annuities, these investment profiles may no longer be suitable for many customers.

7.6 In the new environment lifestyle profiles will need to reflect a greater number of options and, hence, increased uncertainty around when people will retire and how they will access their retirement savings. To the extent that firms use lifestyling strategies within their default funds, as more people are automatically enrolled into pension saving, this will increase the number of people for whom the lifestyling approach is used.

7.7 This raises a number of practical issues for firms:

- ensuring that any lifestyle profiles selected are and continue to be appropriate for existing and new customers' decumulation needs
- ensuring that changes are communicated to customers
- ensuring that communications to customers more generally about lifestyling allow them to make an informed decision as to the appropriate lifestyling investment strategy for them.

7.8 Firms need to consider the likelihood of consumer harm from the continuing use of old style lifestyling profiles by new and existing customers, and consider what steps they need to take

to address this. Our supervisors have been investigating the planned responses of key pension providers to these emerging lifestyling risks.

7.9 Our rules and guidance in this area broadly require 'sufficient' information be provided for the customer to be able to make an informed decision, that is:

- The client's best interests rule – COBS 2.1.1R.
- The fair, clear and not misleading rule – COBS 4.2.1R.
- The Responsibilities of Providers and Distributors for the Fair Treatment of Customers (RPPD).

7.10 In the RPPD – which applies across all regulated products – we clarified firms' responsibilities to their customers in the governance, design, operation and communication of their products.

7.11 The new freedoms mean that firms can no longer assume that most customers will opt to annuitise at their selected retirement age. Moreover, the concept of a single retirement date will have increasingly less relevance for many customers. Firms, therefore, need to ensure that their lifestyle profiles remain appropriate for their customers' decumulation needs and provide their customers with sufficient information for them to make an informed decision about the suitability of their current and future investment strategies.

Q30: What else do you think the FCA can and should do to make firms aware of their responsibilities in relation to lifestyling investment strategies?

8. Discussion: transfer value analysis

Background

8.1 Another area highlighted by our review of the current Handbook rules for pensions is pension transfer value analysis (TVA). TVA is the process that must be undertaken when assessing the suitability of a transfer of deferred benefits from a DB scheme to a DC scheme. It involves comparing the benefits that would be given up in the DB scheme with those that would be available by transferring to a personal pension or stakeholder scheme and subsequently purchasing an annuity. The key output from the analysis is the rate of return (often referred to as the critical yield or hurdle rate) that would have to be achieved in the DC pension scheme to replicate the benefits of the DB scheme. From April this year, legislation made pension transfer advice compulsory when the value of the benefits being transferred is worth at least £30,000.

8.2 In PS15/12[40], we said that we would consider the need for a review of the pension transfer rules in light of the pension freedoms. We are now giving interested parties the opportunity to provide input as we develop our policy thinking.

8.3 While our key focus is on the transfer value analysis process, we raise a number of issues below on which we are keen to receive feedback. This does not preclude respondents from providing commentary on other aspects of the pension transfer advice process.

Client's best interests

8.4 Both we and TPR believe that the starting point when assessing the suitability of a pension transfer is that it will not be suitable, unless it can be shown to be in the client's best interests. We have both previously considered that very few transfers are likely to be suitable. Given that the pension freedoms focus on the individuals being able to use their pension funds in a way that works best for them, we are interested to obtain views on whether this starting assumption is still appropriate.

8.5 The premise for the starting assumption is that benefits provided by DB schemes are generally considered to be valuable. They generally provide a lifelong income, with spousal benefits, which maintains its value in real terms. As longevity has improved and interest rates have fallen, the net present value of these benefits has increased. The increase in the present value of the scheme benefits can make it look more attractive to transfer, although the cost of replicating those benefits via a DC scheme will also have increased.

40 PS15/12 *Proposed changes to our pension transfer rules: feedback on CP15/7 and final rules* (https://www.fca.org.uk/static/fca/documents/policy-statements/ps15-12.pdf), June 2015.

8.6 Although in the past most people in DC schemes purchased an annuity, with the new pension freedoms this is less likely to be the case in the future. Those seeking to transfer out of a DB scheme are perhaps those most likely to want to take advantage of not taking their income in a predetermined pattern. Changing the starting point for pension transfer advice may enable advisers to take account of customers' objectives without being unduly focused on whether the transfer is providing a lifelong income.

8.7 For DB members who are under age 55 and therefore not able to exercise the pension freedoms, we consider the starting assumption that to transfer out of a DB scheme is unlikely to be in the member's interest remains appropriate. Similarly, if a member over the age of 55 wished to transfer and intended to buy an annuity, we consider the same assumption holds valid. However, a member aged 55 or over may have good reasons to consider a transfer in order to access cash or to take some level of flexible income.

Q31: Should we be reviewing the starting assumption for those over minimum retirement age that a pension transfer will be unsuitable unless it is can be proven to be in the client's best interests? How, if at all, does pension freedom change the interpretation of client's best interests in respect of pension transfers?

TVA methodology

8.8 TVA methodology is based on the concept of replicating the benefits of a DB scheme via a personal or stakeholder pension, followed by annuity purchase. Essentially, the process involves projecting the value of the deferred benefits at retirement, allowing for revaluation, estimating the cost of purchasing those benefits via an annuity, then determining the rate of return that would need to be achieved on the cash equivalent transfer value to enable that annuity purchase. That rate of return will then be considered relative to the customer's attitude to risk, among other things, as part of the suitability process.

8.9 The process involves a significant number of assumptions about:

- Revaluation rates of benefits accrued at separate times, and subject to different and, sometimes, complex caps and collars.
- Future annuity interest rates, for different shaped annuities.
- Future mortality.

8.10 FCA rules provide a set of assumptions although more cautious assumptions must be used if appropriate. Where relevant, the assumptions are consistent with those used in product disclosure. In general, we have taken a view that this consistency is important for aiding consumer understanding as recommendations to transfer will be accompanied by a KFI from the receiving scheme. Members should be able to see how the benefits of the receiving scheme align with the recommendation and the comparison that has been provided.

8.11 There is no regulated TVA methodology for taking retirement income in any way other than via a conventional annuity. Since the introduction of the pension freedoms, market participants have approached us seeking to extend the methodology of TVA to drawdown purchase. By assuming the assets remain invested for longer and are not used to fund an annuity purchase,

effectively the period over which the required rate of return can be achieved is increased, potentially reducing the annual rate of investment growth required. However, with drawdown, unlike annuities, there are no guarantees that the income will last a lifetime. Investment returns are likely to fluctuate throughout the duration of the investment and individuals would have the flexibility to drawdown income as they wish. We have also seen the recent development of new annuity products with more flexible options that may also not fit well into a traditional TVA.

8.12 While our rules do not explicitly preclude alternative analysis, in addition to the traditional TVA, there are some questions about the appropriateness of unregulated comparisons, whether there is a need for a more uniform approach, and consideration of any underlying assumptions needed to enable consistent outcomes for consumers.

8.13 It may be that different requirements are needed for members at different stages of their lives:

- As indicated above, for members before the minimum retirement age, the current TVA process may still be appropriate as these members are not yet in a position to take advantage of the pension freedoms.
- For members who have attained the minimum retirement age, using a DB pension to access the pension freedoms, the current TVA methodology may be less appropriate.

8.14 We would be interested in views on appropriate methodologies to use for members who have reached the minimum retirement age, when drawdown or UFPLS are seen as potential alternative vehicles and how different payment patterns should be taken into account, particularly if these may be unknown. We would also be interested in views on what process should be followed when a member simply wishes to transfer to encash the full value of the Cash Equivalent Transfer Value (CETV) as a once-off withdrawal and there is no future period over which to run any analysis.

Q32: How should the pension freedoms be reflected in TVA in a way which results in good outcomes for consumers? Is there a need for change and if so, how?

Insistent clients

8.15 Our Handbook makes no specific reference to insistent clients. However, we recognise that there may be occasions when advised clients choose to act against their adviser's recommendation and these clients are typically referred to as 'insistent clients'. Although we have previously commented on insistent clients in relation to pension transfer advice (for example, TR14/12: *Thematic review of enhanced transfer values*[41]), the concept of insistent clients is not unique to pension transfer advice.

8.16 The feedback we have received from firms since the introduction of the pension freedoms suggests that the potential for an increase in the number of insistent clients is substantial in relation to pension transfer advice. Having provided a personal recommendation, advisers are not required to transact business for insistent clients, although some choose to do so. Despite this, there have been calls for more guidance from us on the treatment of insistent clients.

41 See: http://www.fca.org.uk/static/documents/thematic-reviews/tr14-12.pdf

8.17 Earlier this year, we published an adviser factsheet[42] that brings together in one place the process we consider advisers should be following when dealing with insistent clients, irrespective of the type of advice being provided. We are aware that advisers are still uneasy about dealing with insistent clients, particularly in relation to scrutiny by the ombudsman service and the availability of professional indemnity insurance. We would be keen to hear further from advisers on how they consider that our rules could be amended to provide more certainty. We would also like to find out more about why advisers consider that professional indemnity insurance acts as a barrier to undertaking insistent client transactions.

8.18 The Government have expressed their concerns about consumer access to the pension freedoms and requested that we seek information to understand the scale of the problems facing individuals who want to transfer to a different pension provider. In July 2015, we requested data[43] from all pension and retirement income providers, including DB to DC transfer data. The data collected highlighted that many providers will not accept insistent client pension transfer business and some providers will not accept any DC transfer business. We recognise that in a similar way to advisers, providers are at liberty to decide what business they accept. However, we would welcome views from providers on the perceived regulatory barriers to accepting transfer business, including insistent client business and non-advised business.

8.19 It is apparent that the refusal of advisers and providers to transact insistent client business is perceived as an impediment to DB scheme members wanting to take advantage of the pension freedoms available to DC scheme members. While such transfers are permitted, the legislative requirement to take advice (for benefits worth at least £30,000) indicates that the Government considers that some consumer protections must be in place for a transaction that many regard as complex, which carries risks for the consumer and for which our own rules require sign-off by a pension transfer specialist.

8.20 In considering the advice landscape, we are mindful of the FAMR launched by HM Treasury in August 2015 stating that "The Financial Advice Market Review will examine how financial advice could work better for consumers, building on the government's pension reforms which have allowed people real choice and freedom over their savings and given them access to free and impartial guidance." We will feed in the results of our data collection and other data we gather to the FAMR.

> **Q33: Given that the main barriers to transacting insistent client business are external to the FCA, how do you consider that regulation could be amended in a way which facilitates such transactions more easily but still provides a satisfactory level of consumer protection?**

Communication to customers

8.21 Our COBS rules on pension TVA require that once the comparison between the DB scheme and the DC scheme has been undertaken, a firm should:

- ensure that the comparison includes enough information for the client to be able to make an informed decision

42 Factsheet 035: Pension reforms and insistent clients, June 2015 (https://www.fca.org.uk/your-fca/documents/factsheets/factsheet-no-035).

43 Pensions data requests (https://www.fca.org.uk/your-fca/documents/dear-ceo-letters/pensions-data-request).

- in good time, and in any case no later than when the key features document is provided, give a copy of the comparison to the client, drawing the client's attention to the factors that do and do not support the firm's advice
- take reasonable steps to ensure that the client understands the firm's comparison and its advice

8.22 We have concerns about the comparisons that are currently provided to customers. The comparison, or TVA report as it is commonly referred to, is typically 20 to 40 pages long and appended to a suitability report. We believe that such a long TVA report will increase the likelihood that it is not read.

8.23 TVA reports usually contain not one but a variety of comparisons. They will frequently include comparisons to different retirement ages and show potential DC income assuming different rates of return. They will provide comparisons of DB and DC lump sum payments and death benefits. A surprising amount of space is often given to showing the benefits if the DB scheme was to be taken over by the Pension Protection Fund, even though no assessment of the likelihood of that is provided.

8.24 Too much information will typically overwhelm consumers and may hinder their ability to make informed decisions. This effect can be exacerbated if the terminology used is unfamiliar as it makes the document impenetrable and confusing. In general, the documents we have seen appear to provide more of a risk mitigation tool for advisers than help consumers make informed decisions.

8.25 Consequently, we do not consider that the current TVA reports are achieving their purpose. We would welcome views on whether our requirements in this area are appropriate and on the way in which they are being interpreted. We are keen to receive feedback on how the content of a TVA report could be both shortened and refined – which commonly provided information could be dropped without prejudicing members and how information could be presented in a way that encourages members to engage better with the process, including possible online solutions:

> **Q34: How can TVA comparisons to members be improved to make them shorter, more meaningful and more likely to engage members in the TVA process? What changes, if any, are necessary to FCA rules to ensure that TVA comparisons are fit for purpose?**

Enhanced transfer value exercises

8.26 The discussion above has largely been on the basis that individual members are independently seeking to transfer out of DB schemes. In practice, a lot of transfer activity is driven by employers looking to de-risk their DB pension liabilities. Employers are increasingly reminding scheme members approaching minimum retirement age of their flexible retirement options. In many cases, they will provide free access to an adviser to help members make informed decisions. Some of these options may involve transferring out of the scheme and there may or may not be enhancements offered to members.

8.27 In TR14/12, we identified good and poor practice in relation to enhanced transfer value exercises following an independent review of the suitability of advice provided. We were concerned that

only 52% of the advice we reviewed was clearly suitable. Further, only 21% of disclosures to members were clearly acceptable.

8.28 In enhanced transfer value exercises, employers normally meet the cost of the advice. In TR14/12 we found that limited budgets provided by the employers, and the numbers of employees advised in a relatively short time, meant that the advice was often 'process driven', creating a risk that not all the members' circumstances were considered in all cases. This also meant that advice was generally 'limited scope' and solely in respect of whether to take the ETV offer. In particular, we saw that information gathering was reduced and there was a failure to consider other pension arrangements and investments. We said that, "While in principle it is possible to limit the scope of advice, given the complexity of ETV advice in this review we saw specific examples where placing limits on the scope of advice became a driver of unfair customer outcomes."

8.29 The limited scope of the advice we saw in TR14/12 is generally referred to as 'focused advice'. In FG15/1, we described focused advice as advice that "involves the client stipulating the boundaries of the service they wish to receive." In the case of enhanced transfer value advice, there could be a conflict between the client who is the employer who pays for the advice, and the client who is the member who receives the advice, in that the client who receives the advice is not the same client who stipulates the boundaries of the service.

8.30 We would expect that the FAMR will consider focused advice as part of its work in terms of situations where focused advice is appropriate and how it is carried out.

Q35: What advice options should we be considering to ensure that members receive good outcomes when considering a pension transfer?

9.
Discussion: product disclosure

Background

9.1 In this CP, we have proposed a number of changes to our product disclosure rules. We consider that the proposed changes are necessary at the current time to ensure that consumers receive information that will help them make informed decisions, and ensure that firms are not using the current rules in a way that potentially gives them an unfair competitive advantage when selling products.

9.2 During our review of the Handbook rules for pensions, there have been calls for a more broad-ranging review of the product disclosure regime. In general, when referring to the product disclosure regime in this chapter, we are referring to point of sale KFIs and existing business projections or other relevant information prepared and provided according to the rules in COBS 13 and 14. Although this CP focuses on pensions, the product disclosure rules extend beyond pensions.

9.3 Consumers are provided with a KFI when purchasing a relevant product. The KFI contains three projections of possible outcomes that are intended to demonstrate that the investment outcome is variable rather than certain. It also describes the nature and level of charges associated with a product, the effect of these charges at different points in time, and the extent to which charges reduce the yield a customer may earn on their investment over the full period of the contract.

9.4 The original policy intent of charges disclosure was to provide consumers not only with a way to understand the effect of charges but to enable them to compare products from different providers. The effect of charges table shows potential purchasers of packaged products how charges reduce what they might get back in cash terms. The RIY measure is relatively insensitive to differences in investment growth so can be used for comparison purposes.

9.5 During our discussions with stakeholders, firms have spoken to us about the need to review the product disclosure regime. In particular, firms have raised issues in relation to:

- The length of product disclosures.
- Consumer understanding of product disclosures.
- Deterministic vs stochastic projections, as well as real vs monetary disclosures.
- Reflecting risk better within disclosures.
- Having a more consistent approach to projection rates for charges disclosure.
- The lack of inclusion of some decumulation charges in disclosures.
- Using different mediums/delivery channels for providing product disclosures.

- Disclosures that better reflect the customer needs and the journey through accumulation to decumulation.
- Simplification of drawdown disclosures, including the presentation of sustainable income.
- The boundary between regulated disclosures and tools/calculators.
- The lack of regulation of tools and calculators.
- The lack of consistency between FCA disclosures and SMPIs as well as pensions vs Individual Savings Accounts.
- Inconsistent terminology in disclosures.

9.6 While our Handbook includes rules around how charges should be calculated and disclosed, firms have flexibility to address a number of the concerns raised. For example, in most cases firms have the ability to address issues around the length of disclosures and the inconsistent use of terminology. In June 2015 we published our Smarter Consumer Communications Discussion Paper. This kick-started a debate around the need to develop consumer communications which engaged and empowered people to make effective decisions. It also called on the industry, working with relevant stakeholders, to address the complexity and inconsistent use of terminology in the pensions market.

9.7 While we feel firms should be doing more to address these issues, we recognise that, for a number of the concerns raised, it is our responsibility, working with stakeholders, to consider potential solutions. While many of these are not new, their nature has changed with the introduction of pension freedoms. For example, almost none of the firms we have spoken with consider that stochastic projections are helpful to customers in decumulation. On the other hand, they do consider that sequencing risk needs to be better understood, although it is not clear if firms think this should be done through product disclosures. The growth in non-advised decumulation options and the development of online tools and calculators has also brought new challenges for firms in delivering information that may or may not be product specific.

9.8 Against the backdrop of changes to UK pensions, there is also a range of European initiatives that may impact on the current product disclosure regimes in various ways. This includes the PRIIPs Regulation. Although pensions are currently excluded from the scope of PRIIPs, this position will be reviewed four years after it is implemented. If pensions are brought within scope, it makes it hard to make a cost-benefit case for making substantial changes to our domestic regime in the meantime.

9.9 This does not mean that we will not continue to make amendments to the existing product disclosure rules or related areas where we consider that such changes are in clients' best interests or in response to external changes, such as the proposals in this CP. Routine changes such as the four-yearly projection rate review, the last one of which began in 2011, are also not out of scope. We continue to welcome firms' views and are happy to discuss the development of potential disclosure solutions that can be provided within the current framework, in addition to the minimum mandated requirements.

Q36: Do you have any comments on possible future changes to our product disclosure regime? If there are any specific areas which you consider should be reviewed now, please include details of the changes you feel the FCA should introduce and those where firms should bring about improvements.

10. Discussion: FSCS protection of pensions

10.1 The FSCS was set up in 2001 to replace a number of existing compensation schemes. Following consultation, the Financial Services Authority (FSA) decided that the overall maximum amount per claim should be set separately for each sub-scheme[44] and should not result in a reduced level of cover under the corresponding existing scheme. The FSA considered that there were differences in the purpose of compensation in the three main sectors (deposits, investments and insurance) and that the compensation limits should be set to reflect this.

10.2 At present, FCA and PRA rules do not provide for separate compensation limits for claims in relation to deposits, long-term insurance contracts, or investments that relate specifically to pensions. Therefore, a person who purchases a particular investment product is in the same position with regard to FSCS limits whether the investment product is held in an ISA, in a SIPP, or a defined contribution occupational pension scheme. A consumer who invests via a life insurance contract will, under PRA rules, get 100% of their money back if the provider firm fails, whereas a consumer who makes a non-insurance investment can only receive at most £50,000 per failed firm.

10.3 There may be a potential issue with these differential limits, especially in light of the changes made to the pensions environment. At this stage there is little data or evidence on consumer or firm behaviour on which to base any conclusions as to whether or not this difference in limits may be distorting the choices consumers or firms make. Some stakeholders have already noted the possible disparity in outcomes between consumers who choose to purchase an annuity and consumers who choose some form of drawdown product, where the latter is not an insurance contract, if the provider fails.

10.4 If there was evidence that the difference in limits between insurance and investment provision was distorting decision-making, or was likely to lead to undesirable outcomes for large numbers of consumers, then we could consider options for change, either generally or in relation to a particular subset of pensions-related business. We could also decouple the limit for investment provision from the limit for intermediation (as is already the case for life insurance provision and intermediation).

10.5 We recognise that the causes of firm failures vary, and that the outcome for consumers if a firm fails will also vary between firm types, given different prudential requirements, client asset rules and other factors. The question we want to invite views on is, whether in a situation where consumers' objectives are arguably the same, FSCS compensation limits should also be similar.

10.6 It is important to note that there is no difference in the limits for intermediation, since whether a consumer invests in an insurance-based product or another investment, the maximum claim in the event of an intermediary's failure is £50,000. In other words, if consumers are misadvised

44 Deposits, investments and insurance.

in relation to their pension investments, and the adviser firm fails, then there is no difference in the maximum compensation they can claim.

10.7 We intend to look at other changes related to FSCS coverage for certain pension schemes and the compensation limits for non-investment insurance mediation as part of our forthcoming review of FSCS funding so, for the purposes of the current paper, we would like responses on the following questions related to FSCS cover for investment provision in relation to pensions.

Q37: Do you have any evidence or analysis to offer in relation to the impact on firm or consumer behaviour, or possible consumer outcomes, of the current difference in compensation limits for investment and insurance provision in relation to pensions?

Q38: Do you have any views on whether compensation limits should reflect the objectives of the consumer in making the investments? For example, regardless of the type of investment, if it is for the purposes of pension accumulation or decumulation, then the FSCS limit should be consistent between investment and insurance provision?

Q39: Would you support an increase in the limit for some or all investment provision, and if so, do you have any views on what the new limit should be, which types of claim or business it should apply to, and how any increase should be funded?

Annex 1:
List of questions

Q1: **Do you agree with the proposal to add these application and purpose provisions in COBS 19.4?**

Q2: **Do you agree with our proposal to add guidance on communications about retirement options?**

Q3: **Do you agree with our proposed rule to prevent application forms being sent in wake-up packs and reminders?**

Q4: **Do you agree with our proposal to restrict when firms can send illustrations?**

Q5: **Do you have any proposed alternatives?**

Q6: **In what ways would the alternative be more beneficial for firms and consumers?**

Q7: **Do you agree with our proposal to require firms to make customers aware of key factors relevant to the product the customer is seeking information for?**

Q8: **Do you agree with the factors we propose these are likely to be in relation to this rule?**

Q9: **Do you agree with our proposals for providing product disclosures and information when accessing pensions flexibly? If not, what alternatives would you suggest?**

Q10: **Do you agree with our proposals for extending the rules and guidance in COBS 9 to UFPLS? If not, please explain why you consider this is not appropriate.**

Q11: **Do you agree with our proposal to clarify that SIPP retained interest charges should be included in projections and charges information? If not, how would you suggest we level the playing field for disclosing charges between SIPP and other pensions?**

Q12: **Do you agree with our proposal not to add guidance at this stage to support firms in meeting their obligations to review the operation and distribution of their products over time?**

Q13: **Do you agree that the rules in PS 15/4 should be retained? If not, please explain what change you would propose and why?**

Q14: **Do you agree with our proposal to remove the requirement on firms to go through step 2 of the risk warning process where the consumer's pension pot is below a minimum level and where there are no safeguarded benefits but that firms should still give the consumer relevant risk warnings? If not, why not and what alternative would you propose?**

Q15: **Do you agree that the minimum level should be set at £10,000 or less? If not, what level do you think the minimum should be set at and why?**

Q16: **Do you consider our cancellation rules expose some consumers to a risk that is not mitigated by any other measures? In what other ways might we reduce that risk and improve consumer outcomes?**

Q17: **Do you agree that monitoring the evolving environment is an appropriate and proportionate FCA response in the pursuit of consumer protection?**

If not, what action do you think we should take and how would this alter consumer outcomes?

Q18: **Do you agree that amendments to HNWI and RI certification statements are necessary to provide appropriate protection to consumers who access their pension savings?**

Q19: **Do you agree that our proposals provide an appropriate initial safeguard for consumers accessing their pension funds? If not, what other measures could we consider?**

Q20: **Should payments from pension savings only be excluded from the HNWI and RI criteria if they were accessed within a set period of time before the date on which the statement is signed? If so, what period of time would deliver the appropriate consumer protection?**

Q21: **Do you agree that we should undertake a wider review of the promotion and distribution restrictions in our rules?**

Q22: Do you agree with our proposal to add guidance to make explicit the application of existing rules on debt collection in relation to pension savings and remind both debt collection and advice firms that advising on conversion or transfer of pension benefits is a regulated activity?

Q23: Do you agree with our proposed guidance for providers and advisers on attachment orders? If not, what would you suggest and why?

Q24: Do you agree that we should clarify the methodology as described? If not, what alternative would you propose which achieves similar outcomes?

Q25: Do you agree with our proposals to show contractually obligated future values in projections, including GARs? If not, how could we amend it?

Q26: Do you agree with our proposal to update the mortality table and timing of the improvement factors? If not, how could we amend it?

Q27: Do you agree with our proposals to amend the definitions?

Q28: Do you agree with the analysis of the issue? If not, what is your assessment of the situation?

Q29: Of the options above, which do you think is likely to be the most effective in dealing with the issue identified and why is that? Are there any alternatives that we should consider?

Q30: What else do you think the FCA can and should do to make firms aware of their responsibilities in relation to lifestyling investment strategies?

Q31: Should we be reviewing the starting assumption for those over minimum retirement age that a pension transfer will be unsuitable unless it is can be proven to be in the client's best interests? How, if at all, does pension freedom change the interpretation of client's best interests in respect of pension transfers?

Q32: How should the pension freedoms be reflected in TVA in a way which results in good outcomes for consumers? Is there a need for change and if so, how?

Q33: **Given that the main barriers to transacting insistent client business are external to the FCA, how do you consider that regulation could be amended in a way which facilitates such transactions more easily but still provides a satisfactory level of consumer protection?**

Q34: **How can TVA comparisons to members be improved to make them shorter, more meaningful and more likely to engage members in the TVA process? What changes, if any, are necessary to FCA rules to ensure that TVA comparisons are fit for purpose?**

Q35: **What advice options should we be considering to ensure that members receive good outcomes when considering a pension transfer?**

Q36: **Do you have any comments on possible future changes to our product disclosure regime? If there are any specific areas which you consider should be reviewed now, please include details of the changes you feel the FCA should introduce and those where firms should bring about improvements.**

Q37: **Do you have any evidence or analysis to offer in relation to the impact on firm or consumer behaviour, or possible consumer outcomes, of the current difference in compensation limits for investment and insurance provision in relation to pensions?**

Q38: **Do you have any views on whether compensation limits should reflect the objectives of the consumer in making the investments? For example, regardless of the type of investment, if it is for the purposes of pension accumulation or decumulation, then the FSCS limit should be consistent between investment and insurance provision?**

Q39: **Would you support an increase in the limit for some or all investment provision, and if so, do you have any views on what the new limit should be, which types of claim or business it should apply to, and how any increase should be funded?**

Q40: **Do you have any comments on the cost benefit analysis?**

Annex 2: Retirement outcomes review – update

Context

1. As set out in more detail in this consultation paper, since the pension freedoms were announced in the 2014 Budget, we have made a number of necessary changes to our Handbook to protect consumers and ensure firms are clear about our expectations. We are also monitoring market developments closely to see how firms have responded to consumer demands and how the protections in place are working in practice. We are continuing to work on the proposed remedies stemming from our Retirement Income Market Study, as well as looking at the business models that are emerging following the reforms.

2. Much of the FCA's work to date has been in support of successful implementation of the reforms. Now that those reforms have come into effect, we plan to assess their impact on the market – in particular, how firms and consumers have responded to the new freedoms, and the impact on consumer outcomes.

3. In the Retirement Income Market Study we identified a number of risks to consumers making good decisions on a product or strategy to generate an income from their pension savings. We are keen to understand whether these risks have become more or less acute in the new landscape. Increased flexibility, product complexity and opaque charges for products (such as income drawdown) could make it harder for consumers to compare and shop around, weakening competitive pressure. Firms seeking to meet mass market consumer demands need to develop appropriate distribution and guidance arrangements, commensurate with more complex and higher risk products such as income drawdown. We intend to examine these risks through the Retirement Outcomes review.

Key areas of review

4. The Retirement Outcomes review will build on the work of the Retirement Income Market Study using the first six months of post-reform market data to inform our view of how the reforms have affected the market in practice (see below for more information on the key metrics we will use to gather that data). At this stage, we consider that our review is likely to consider issues such as product innovation and charging structures, and the impact of the reforms on competition and switching in the market, including whether they have reinforced the grip of incumbent pension providers in the market. They key issues that we have identified at this stage are:

- **Product options, features, charges and access:** what new products, options and features are appearing on the market, and do consumers find these easy to understand and compare? How are the charges of income drawdown and other products structured, and how clear and comparable are they? To what extent do the product options available to consumers when accessing their pension savings offer good value for money? What degree of innovation has appeared in the market?

- **Consumer decision making:** given the behavioural biases and increased flexibility and complexity consumers are subject to, what are the barriers to consumers making good decisions when accessing their pension savings? How are consumers taking account of factors such as longevity risk, inflation and charges when making choices? How is the changing consumer journey affecting outcomes? When exploring these demand side issues, we intend to focus primarily on barriers that would not be directly addressed through our continuing work on the proposed remedies stemming from our Retirement Income Market Study.

- **Impact of advised and non-advised distribution channels:** are firms ensuring that they have appropriate distribution arrangements for complex and higher risk products? We anticipate that issues around access to guidance and financial advice will be covered by the joint HM Treasury and FCA Financial Advice Market Review,[45] and the anticipated HM Treasury consultation on the provision of free and impartial guidance. If so, these issues will be scoped out of the Retirement Outcomes review.

Key metrics through which we are monitoring the market

5. We plan to launch our follow up review of Retirement Outcomes in early 2016 with the publication of the terms of reference. The key metrics that we will use include product choices made by consumers, product charges, new and planned product options, sales by distribution channel, market shares and firm marketing data. We will also repeat the quantitative research undertaken as part of the interim phase of the Retirement Income Market Study. The scope of this research will be updated to take account of the market reforms and the risks we identified in the market study.

6. While we consider that using six months' worth of post-reform market data will allow us to begin our review, it will only provide us with a snapshot of how the market is developing, and the market will continue to evolve. Given the importance of pensions and retirement income, and ageing population issues, we may need to gather other sources of data (including requesting information from firms) and conduct further research as part of this review. We may also need to continue to monitor and revisit this market following the completion of our review.

Stakeholder views

7. Before publishing our terms of reference and launching the Retirement Outcomes review in early 2016, we will be meeting interested stakeholders and seeking written comments on the possible shape and scope of the review. Please send your comments to RetirementOutcomes@fca.org.uk by **Friday 30 October 2015**, or in writing to:

Retirement Outcomes Team
Competition Division
Strategy & Competition
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

45 https://www.gov.uk/government/publications/financial-advice-market-review-terms-of-reference/financial-advice-market-review-terms-of-reference.

Annex 3:
Cost benefit analysis

1. This Annex sets out our cost benefit analysis (CBA) for the proposals in this consultation paper that require one, and explains why we do not consider the other proposals need a CBA.

2. Section 138I of FSMA requires us to publish a CBA unless, in accordance with section 138L of FSMA, we believe there will be no increase in costs or that the increase will be of minimal significance. Section 138I also requires us to publish an estimate of costs unless they cannot be reasonably estimated or it is not reasonably practicable to produce an estimate.

3. We assess the costs and benefits of our proposals against the benchmark of what would happen without our intervention ('the baseline').

Chapter 3: Promoting competition

Communications concerning accessing pension savings

4. Our proposals for revising COBS 19.4 aim to ensure that:

   - In the new pensions environment firms understand what the FCA requires firms to do when communicating with their customers about accessing their pension savings.
   - Firms' customers receive timely, relevant and adequate information that:
     - Enables informed decision-making about the options for accessing pension savings at the customer's intended retirement date and beyond.
     - Empowers the customer to explore the full range for accessing their pension savings, including on the open market.

5. We seek to achieve these outcomes partly through clarification and guidance on the application of existing requirements in the new environment and partly through the introduction of new rules and guidance on the information firms can and cannot provide to their customers during the decision-making journey.

6. Our proposals to restructure this chapter of the Handbook and to insert application and purpose provisions do not introduce any new requirements on firms. Similarly, the guidance we are providing on what constitutes materially the same information as the Money Advice Fact Sheet (for inclusion in the wake-up pack) and guidance highlighting firms' obligations to their clients under COBS 2.1.1R and 4.2.1R whenever they communicate with customers about retirement options, seek only to help firms meet the existing communication requirements in the new pensions environment. This is whether the communications are made together with, alongside or separate from the specified wake-up pack and reminder. The guidance should

not create additional costs for firms as it contains no new requirements, but we expect that there are benefits in improving the clarity of our expectations around rules. The proposed rule changes, however, may impose new requirements on firms.

Rules restricting the provision of application forms and illustrations

7. Sending an application form with the wake-up pack or providing illustrations at any time that are not required by our rules or requested by the customer, could reduce the probability of active informed decision-making by encouraging customers to pursue a particular option for accessing their pensions savings via their existing provider, without considering all their options on the open market. In these circumstances, both documents have the potential to exploit consumer bias (inertia and default bias). To the extent that their inclusion might be perceived as an implied endorsement or interpreted as a recommended course of action, they discourage the consumer from exercising their market power by shopping around.

8. Data published by the ABI in September 2015 revealed that 55% of annuities and 45% of income drawdown products purchased in the first three months of the freedoms were sold by the incumbent provider. Providing product application forms (in the wake-up pack) and / or unrequested illustrations could:

- further discourage or distract similar or greater levels of customers from exploring all the options available to them
- lead to an overconsumption in products with incumbent providers that in many cases may not be the most appropriate option for the customer's needs and circumstances

9. In the absence of our intervention, we expect that consumers' choices would continue to be affected in this manner.

Making consumers aware of key considerations when providing product information

10. Between the point at which the wake-up pack is provided and the point at which the customer elects their preferred option, customers need to develop an understanding of the options and to be able to shop around. Information gathered from firms may play an important role in their decision-making and help refine their choices.

11. At the point there is a request for information specific to a particular retirement income option (or it is provided by the firm), our proposal requires firms to provide customers with the information necessary to assess key aspects of a product relevant to their circumstances.

12. Without these rules, consumers may not be aware of the degree of significance and relevance of these factors when considering the information provided. This could lead the consumer to make inappropriate choices with the potential for poor consumer outcomes, such as uncompetitive annuity rates, unexpected tax liabilities, running out of income in retirement and, (in respect of drawdown pensions) inappropriate investment of residual funds.

Benefits

13. Our proposals have the potential to encourage the exploration of all the options available, including on the open market, before and / or instead of transacting with the incumbent provider. Extrapolating from the recent ABI data suggests that over a year some 35,000 pension pots (£2.4bn) could be invested in an incumbent provider's drawdown products, while 39,160 pots (£2.2bn) could be invested in an incumbent's annuities. Our thematic review of annuities in February 2014[46] found that 80% of consumers who purchase an annuity from their existing

46 http://www.fca.org.uk/static/documents/thematic-reviews/tr14-02.pdf.

provider could get a better deal on the open market. We assume that comparable levels of consumers could source more appropriate choices by shopping around on the open market for the full range of options in the new pensions environment.

14. We accept that in some cases, the customer might actively select the incumbent provider after shopping around because, in certain circumstances, the incumbent may offer the best deal for that customer. Nevertheless, our proposals increase the probability of more informed decision-making and could therefore lead to a more appropriate and / or profitable product for up to 80% of consumers who did not shop around.

15. If half of these consumers were to purchase a more appropriate product on the open market as a result, this could lead to a more effective and profitable re-direction of £1.8bn pension savings that might otherwise have been invested in an incumbent's drawdown product or annuity product. There would be a corresponding reduction in the risk of poor outcomes resulting from almost 30,000 access decisions.

16. Furthermore, our proposals could lead some of the 300,000 pension pots that would otherwise be fully encashed each year (extrapolating from the volumes of full encashments via flexi-access drawdown or UFPLS recorded in the responses to our recent data request) to be accessed in whole or in part via other pension decumulation products.

Costs

17. We do not expect the FCA to incur any additional costs from the introduction of these proposals, as they do not create material additional work.

18. Our proposals are not expected to change the size of the market, but collectively may lead to a redistribution of funds within the market: as the number of consumers who choose a different provider increases, some firms may see their revenues diminish, others may see them rise. For some firms, revenues may not change significantly, but the products generating them may change.

Restrictions

19. The ban on application forms should have minimal impact on most annuities providers as the ABI code prevented members from sending annuity application forms with the wake-up pack and reminders, unless specifically requested by the customer. It is unlikely that ABI members would consider including application forms for any other decumulation product to be consistent with the spirit of the code.

20. Before April 2015, drawdown pensions were the most common alternative to annuities and these arrangements were largely sold on an advised basis[47], suggesting that few firms were sending application forms for income withdrawal with the wake-up pack. However, we may see changing behaviour in this area if the anticipated shift towards non-advised sales continues.

21. There is little evidence to suggest that, since the introduction of the freedoms, firms (ABI members and others) have been using unsolicited illustrations as part of their marketing strategy for any or all of their decumulation products.

22. Complying with our proposed restrictions on illustrations is unlikely to impose material additional costs on firms. The cost of producing and providing illustrations when required by our rules or requested by the customer are costs that firms already incur. Our proposals do not require illustrations to be provided in other circumstances, but permit firms to provide them

47 In 2013, only 2.6% of drawdown arrangements were sold on an execution only basis (RIMS, 2014).

so long as they include illustrations for all of the firms' product options or multiple illustrations that are representative of the range of products. Adopting this approach may result in IT costs for firms, but the extent of these costs will vary from firm to firm according to the number and range of decumulation products they offer.

23. For some firms, illustrations of this nature could lead to large packs of information that discourage the customer from engaging with their contents. In such cases, firms are unlikely to derive benefit from using illustrations of this nature to inform customers about their product offerings.

24. We therefore consider that firms would only choose to produce an illustration that is not required or requested where the firm considers it is a cost effective way of helping their customers to understand and compare options

Additional requirements

25. A customer request for more information about a firm's decumulation products may prove the trigger for firms to produce key features documents and / or key features illustrations (which must be provided in good time before a transaction is completed). We do not anticipate that this requirement will lead to significant costs for the vast majority of firms and we anticipate that firms are reflecting our proposed guidance when complying with the existing rules.

26. However, as the form that requested information may take could vary by firm and according to the nature of the customer's request, we have not specified how firms must comply with this rule, giving firms flexibility to adopt the most cost-effective approach in the interests of their customers, and where possible integrate into existing processes. For example, the information required is similar to that which the ABI code required members to collate and discuss when generating annuity illustrations. Hence, ABI members may be able to apply this approach more widely to other options without incurring significant additional cost.

27. Some firms may choose to comply with our new requirements by including information or statements on or alongside existing information sources, such as key features illustrations (though firms should be aware of the risk of information overload, which would undermine the intention of the rule and reduce benefits for consumers).

28. This approach could give rise to additional costs and these may vary according to product type and the type of document on / alongside which the information will be included. If we assume that the cost of covering all the factors is comparable to the cost of adding an extra paragraph to an illustration, as considered in the Financial Services Authority's 2006 survey on 'Compliance costs of proposed changes to the investment product disclosure regime'[48] (appropriately adjusted for inflation), then complying with our rule could lead to maximum costs per case of £5.40 for annuities illustrations and up to £4.50 for drawdown or UFPLS arrangements. Revising illustrations to include this information might also attract a change in presentation layout cost, which the survey suggests could be around £4.02 per case. Given the flexibility in our rules, we expect firms would only adopt this approach where they consider it the most cost-effective option for achieving compliance with our rules.

Pension freedoms communications

29. We are proposing to extend our current rules for illustrating and providing information on drawdown pensions to UFPLS. At the same time, we recognise that projections of benefits and charges are not needed for those withdrawing all of their pension fund. So, we propose

48 November 2006, Compliance costs of proposed changes to the investment product disclosure regime (http://www.fsa.gov.uk/pubs/consumer-research/compliance_costs.pdf).

to simplify our requirements so that only a description of the costs attached to the withdrawal are disclosed.

30. To enable firms to simplify drawdown and UFPLS projections further, we propose to give firms the option to:

- remove the future projection of an annuity ten years after withdrawals begin, and
- show the age at which funds expire at different projection rates, where there is a regular income pattern that can be simply described instead of showing the income and remaining fund in each future year

31. We are also making a minor change to the effect of charges table so that its length is determined by reference to the intermediate projection rate on which the figures are based, rather than the high projection rate.

32. When providing product information to customers on withdrawals, we have proposed some guidance on the information we would expect firms to be providing on sustainability of income, which they may choose to use.

33. We are also proposing to extend the suitability rules and guidance that relates to income withdrawals to UFPLS.

Benefits

34. KFIs that provide a projection, an effect of charges table and RIY information are intended to provide potential consumers with information on what they might get back and how charges affect their investment. Further projections throughout the period of drawdown ensure that consumers have access to ongoing information to enable them to continue to make informed decisions about how to take their retirement income.

35. UFPLS effectively forms an alternative to drawdown for those pension scheme members whose schemes offer it. Extending the existing drawdown regime to UFPLS ensures that customers intending to access their pensions through UFPLS are able to access the same information, for the same reasons, and enables them to compare the outcome consistently with most similar alternative.

36. Our proposals are based on a modification by consent that was put in place in February 2015, following discussions with industry. Before this, there were no specific rules for firms to refer to on preparing product disclosures for UFPLS. Effectively, the lack of rules would have meant that firms would have to develop their own disclosure material. We consider that providing firms with a consistent way to prepare consumer disclosures benefits consumers who then find it easier to read and understand documents from different firms. Without consistency, consumers may be unable to compare UFPLS with other decumulation options, particularly drawdown. UFPLS is largely expected to be used by consumers on a non-advised basis so it is particularly important that disclosures are clear and comparable. Given that many consumers have more than one pension pot, such consistency can help informed decision-making and also helps engender trust in the industry.

37. Given that the modification by consent was voluntarily taken up by approximately half of pension providers, it suggests that firms agreed with us that these disclosures would benefit consumers. On the other hand, the future benefits of embedding the approach into our Handbook are reduced as many customers are already benefitting from firms' early adoption of the approach.

38. We are aware that illustrations for showing retirement income can be long as they typically contain several tables of projected figures at different projection rates. Such information can be off-putting to consumers and therefore is less likely to be read than if the information was provided in a more useful way. We are therefore providing firms with options which should help them prepare more engaging product disclosure documents.

39. Firstly, by making it optional to show a projected future annuity, firms may be more easily able to combine the three projections into one table, instead of using three separate tables. This would have the benefit of shortening the documents and enabling consumers to compare the projections more easily without having to flick backwards and forwards in the document.

40. Secondly, where the income pattern is regular (for example, level or with a fixed rate of increase, or a percentage of the remaining fund) and easily described, instead of providing a table of income levels and the remaining fund for future years, firms will be able to provide just the age at which the fund is projected to expire at the three projection rates. Consumers would benefit from information that is not only shorter but considerably easier to understand than tables of numbers.

41. Initial data for the three months from April 2015 suggests that just over 60,000 consumers accessed pots through UFPLS. This suggests that total yearly access could be just over 240,000. Given average UK hourly wages of around £13 per hour, and assuming that these changes save consumers' five minutes of time, ongoing benefits to consumers from simplification could be around £260,000 per year. However, given the additional benefits to consumers through the facilitation of better decisions, and in view of the total value of pots to which this applies (a lower bound of £1.6 billion per year), we expect ongoing benefits to be significantly larger than this figure.

Costs

42. The costs associated to extending the drawdown disclosure requirements to UFPLS will vary, depending on whether firms have already opted in to the modification by consent, and whether they offer or intend to offer UFPLS payments.

43. Around half of pension providers have already opted in to the modification by consent. Their reasons for opting in might have varied. Some firms may have opted in to take advantage of the reduced requirements on providing projected benefits and charges when a scheme member takes a full withdrawal, whether by drawdown pension or UFPLS. Others may have opted in for the UFPLS methodology more generally. And some firms may have opted in as they offer both drawdown pension and UFPLS options.

44. Firms that did not opt in will be required to implement our proposals in full, if they offer drawdown pensions or UFPLS. Given the number of different scenarios, we have considered the compliance costs on the worst possible scenario that all pension firms are required to introduce the new requirements.

45. All pension firms will already have systems in place to provide KFIs and projections for existing customers. These existing systems would require extending to take account of future withdrawals. The 2006 Compliance Cost Survey suggested that changing an effect of charges table and RIY information would cost £5.68 per contract. We consider that incorporating the effect of future withdrawals would be similar in complexity to adding asset specific projections. The survey indicated this would cost £10.29 per new contract. There would also be changes to the layout of the document, which would potentially add up to £3.70 per contract, for the largest companies. Taking these together and using the CPI index to inflate the costs into

today's terms, we estimate that the one-off costs of amending illustration systems to add in planned withdrawals could total around £27.50 per contract.

46. Using the assumption above of access of just over 240,000 consumers accessing their pensions through UFPLS, the one-off industry cost of developing UFPLS disclosures would be £4.125m.

47. We know that some firms are choosing not to offer pension freedoms and recognise that the additional cost of providing mandated illustrations and projections may be seen as a further barrier. Even in the absence of mandated product disclosures, firms would still be obliged to offer information which was fair, clear and not misleading and there would be a cost to developing this. Consequently, we do not consider that the cost of introducing disclosures that introduce consistency across the industry should be a considerable hurdle compared to the cost of facilitating the freedoms per se.

SIPP retained interest

48. We are clarifying that, when providing KFIs or other projections for SIPPs, firms need to ensure that the charges retained on SIPP cash account balances throughout the life of the contract are taken into account in the projected benefits, the effect of charges table and RIY. Although we consider that the rules already provide for this for projections and RIY, it has become apparent, through our supervisory activity with firms, that some firms are not including the retained interest charge in SIPP projections and charges information. Our CBA therefore considers that the changes will need to be made to all of the elements.

Benefits

49. Incorporating the charges attached to the cash account in disclosures of projected benefits and charges will enable consumers to understand better the potential outcomes from SIPPs. In general, we consider that our proposals are consistent with firms providing fair, clear and not misleading information to customers.

50. Using data collected for our SIPP Capital Adequacy framework project and Supervisory data, we have found that 10% to 12% of funds invested in SIPPs are usually held in cash accounts. This will normally be used to pay SIPP fees, platform fees and adviser fees as well as to enable income withdrawals without the need to sell other assets. The introduction of the pension freedoms and the potential for SIPPs to be sold to a wider, possibly less sophisticated, customer base, often on a non-advised basis, is likely not only to increase the number of SIPPs but may also increase the proportion of cash balances. Improved disclosures of the charges attached to retaining cash balances will increase transparency and make customers more aware of the need to manage cash balances appropriately.

51. Our data suggests that retained interest charges total £60m a year. Effectively, this means that the key benefit is to reduce misstatement of fees to consumers by £60m a year. In practical terms, projected charges disclosed in effect of charges tables will increase by £60m a year, and projections of future benefits will reduce accordingly. Potential customers will receive better quality point of sale information, which no longer overstates the benefits of purchasing a SIPP but gives a fairer estimate of the cost.

52. In particular, by requiring all SIPP providers to include the SIPP retained interest charge in the same way as charges on other assets are included, customers and their advisers will be better able to assess the merits of different holdings within a SIPP. Further, the total charges will now be more comparable with other types of pension plans. Including retained interest charges in the effect of charges table and RIY will enable customers to compare the overall cost of investing in a SIPP more effectively with investing in a personal or stakeholder pension plan.

53. It could be considered that SIPP providers potentially have an unfair competitive advantage by not disclosing SIPP retained interest in the same way as other asset-based charges. If we did not undertake this intervention, there would be an incentive for SIPP providers to retain higher margins on retained interest as these would not be incorporated in the projected benefits and charges.

54. Regulatory disclosures are designed to inform consumers about their potential product purchase on a consistent basis. The omission of SIPP retained interest in projected benefits and charges by some firms introduces an imbalance by making SIPPs look more attractive than other types of pensions, distorting market competition. Our proposals should enable market participants for pensions to compete on a fairer basis and result in potentially fewer sales of the wrong product to consumers.

Costs

55. SIPP operators already have systems in place to prepare KFIs and may produce other FCA projections for existing customers. Existing business projections are not required, but if provided, in addition to DWP-mandated annual statements, must use the same projection methodology as KFIs. The proposals we are making require a once-off change to the way in which those documents are produced. Any subsequent changes to the rate of retained interest can be treated in the same way as changes to any other asset-based charge and do not introduce any new costs specifically.

56. In making the once-off change, most SIPP providers will need to change the calculation routines for projections, effect of charges tables and RIYs in KFIs. The nature of the change means that the changes to all the elements will be consistent with each other. We have previously undertaken work on the costs associated with making changes to disclosure documents.[49] In this research, we discovered that the one-off cost of introducing asset specific projections was at most £10.29 per new business contract, in 2006. In the changes we are proposing, changes will only be required for one asset class. We consider it reasonable to assume that the cost of introducing an asset-specific projection for one asset class is one-tenth of that figure, given the range of asset classes that exist. Allowing for inflation in the interim, the cost today would be around £1.20 for each new contract. Assuming approximately 750,000 new SIPP contracts each year, based on information from Product Sales Data, the total cost to industry of making the change at £1.20 per new contract would be £900,000.

57. Everything else remaining equal, our proposals may make SIPPs look more expensive than they have previously. This might be expected to reduce demand for SIPPs and increase demand for other types of pensions, due to the elimination of a competitive distortion. This would result in a transfer of revenue away from SIPP firms to other providers.

Chapter 4: Ensuring the market works well

Retirement risk warnings

The baseline

58. We assess the costs and benefits of our proposals against the benchmark of what would happen without our intervention.

49 November 2006, Compliance costs of proposed changes to the investment product disclosure regime (http://www.fsa.gov.uk/pubs/consumer-research/compliance_costs.pdf).

59. Without the proposed change to bring in a *minimum* limit (of £10,000 or below), firms would be required to go through the full risk warning process at the point that the consumer says (verbally or in writing) that they wish to access their pension savings. The risk warnings must be based on how the consumer has decided to access their pension savings to help the consumer understand the implications of the decision they are making.

60. We accept that firms' experience has been that the benefit to consumers from receiving risk warnings is lower for those consumers with smaller pension pots. Similarly, the cost to firms of step 2 of the retirement risk warning process can be disproportionate where customers have small pots.

Benefits

Firms

61. There will be reduced compliance costs as firms will be able to simplify processes for many consumers who they believe will not benefit from the question and answer (Q&A) part of the process. There is likely to be an overall reduction in the staff time required to give consumers access to their pension savings.

62. Our information suggests that giving risk warnings takes approximately 15 minutes. Assuming that staff pay is equivalent to £20 per hour, this would equate to a benefit to firms of approximately £5 per pot accessed.

63. Where the risk warnings are delivered in writing, the potential benefits of not using an interactive Q&A process are likely to be higher.

64. Our data suggest that 132,364 pots of less than or equal to £30,000 were accessed in the three months from April 2015. Assuming the same volume occurs in each three month period, and that pot sizes are uniformly distributed within this interval, this would suggest consumers would access 175,000 pots of less than £10,000 per year. This suggests benefits to firms of just over £700,000 per year.

Consumers

65. Consumer experience of accessing their pension savings would be improved, that is, it would not take the consumer as long to access their pension savings. This applies especially when the amount of money in their pension pot is small and even more so where they are looking to engage with the firm in writing.

66. To the extent that staff time is freed up as a result of the proposal, staff will have more time to focus on those customers with the greatest risk, resulting in a benefit to consumers from better matched consumer protection.

67. Our information suggests that giving risk warnings over the phone takes approximately 15 minutes. Using average hourly full time wages (excluding overtime) of approximately £13 per hour, this suggests time-saving benefits to consumers of approximately £3.25 per consumer. Assuming, as above, that 175,000 consumers access pots of less than £10,000 per year, this equates to benefits to consumers of around £150,000 per year.

68. Where firms are seeking to engage with firms in writing such a change could shorten the time needed to access their pension savings by a week.

Costs

Direct costs to FCA

69. We do not expect any costs to the FCA as a result of these proposals.

Costs to firms

70. If firms change their systems and process as a result of the proposal, there may be some costs. However, because the proposed change to the rules are not mandatory, we anticipate that firms would only make changes where it is cost effective to do so.

71. Where firms do make changes to systems and processes we believe the cost will be insignificant. In particular, firms will already have systems and processes in place to recognise the proposed £10,000 limit, which we believe will reduce the cost to firms of making changes.

72. Firms have noted in particular the cost of a Q&A process where consumers are seeking to engage with the firms in writing.

Cost to consumers

73. We considered whether consumers are likely to face a higher risk of poor outcomes in the absence of the Q&A process as this establishes whether a risk factor exists and engages the consumer with the risks before they make a choice. But, we believe that the risk of removing the Q&A process for customers with small pots is minimal, and that this will not give rise to costs to consumers for two reasons. Firstly, we are not removing all consumer protections; our proposal requires firms to still give consumers appropriate risk warnings and the proposed change gives firms the flexibility to provide these warnings in a way that best matches consumers' needs. Secondly, for pots of this size, the potential for harm is smaller.

74. Overall, we believe the proposal will have a marginal benefit for consumers and a similar impact in reducing costs faced by firms.

Chapter 5: Protecting consumers

Restrictions on the promotion and distribution of high risk investments

75. The proposals on which we are consulting are amendments to the rules that limit the type of consumers to whom authorised firms may promote non-mainstream pooled investments and distribute non-readily realisable securities, contingent convertible securities and mutual society shares ('the restricted investments'). The proposals also impact on the rules that apply when firms approve promotions for these investments for unauthorised communicators.

The baseline

76. Our proposals seek to limit the number of consumers who are able to certify as high net worth investors (HNWI) or restricted investors (RI), by explicitly excluding consumers who withdraw lump sums of up to 100% of their pension savings as cash, except where these sums are intended to serve as income in retirement.

77. The number of consumers who could certify as HNWI or RI has increased since April 2015 as a result of the new pension freedoms. In the case of RI, these could be any of the consumers who used the freedoms to withdraw some or all of their pension savings as cash. In the case of HNWI, these are consumers who:

- Withdrew an amount of their pension savings as cash that, when added to their income, took this total amount from less than £100,000 to £100,000 or more.

- Withdrew an amount of their pension savings as cash that, when added to their non-pension wealth, took the value of their net assets from less than £250,000 to £250,000 or more.

78. Responses to our recent data request revealed that the number of pots worth more than £250,000 that were fully encashed between 6 April 2015 and 30 June 2015, accounted for less than 0.3% of pots accessed in this period. Encashing such an amount implies that these consumers now satisfy the HNWI criteria, though some may already have done so if they had non-pension wealth in excess of £250,000. Research published by the Institute of Fiscal Studies in March 2012[50] identified that the value of DC fund holdings is higher for individuals with higher non-pension wealth.

79. In addition, consumers encashing amounts of less than £250,000, including partial encashments of pots greater than £250,000[51] and full encashments of pots less than £250,000[52], might also certify as HNWI. This is because the assets criterion relates to consumers' aggregate assets, and also because consumers could perceive their encashed sums as income and therefore classify as HNWI when pension pots tip aggregate income beyond £100,000.[53]

80. The data we requested showed that 609 pots greater than £250,000, and 1,268 pots between £100,000 and £250,000 were fully encashed during the three months from 6 April 2015 to 30 June 2015, implying that these customers could certify as HNWI. This number omits customers who would count as HNWI as a result of fully encashing pots of less than £100,000, or partially encashing pots greater than £100,000, but this omission may be offset by the fact that some of them would already have been classed as HNWI.

81. In CP14/23, we assumed it most likely that people with higher amounts of savings would be interested in self-certifying as restricted investors for the purposes of investing in mutual society shares and used £50,000 as a benchmark for higher savings amounts. For the purposes of this CBA, we have used the same assumptions for investments in non-readily realisable securities. Our data request showed that just over 6,000 pots worth £50,000 or more were fully encashed in the three months from 6 April 2015 to 30 June 2015. Allowing for those who could certify as HNWI, this would suggest that almost 4,200 customers could certify as restricted investors.

82. Overall, this suggests that, without our proposed rule changes, approximately 7,500 additional consumers per year could certify as HNWI and 16,800 as RI. However, in CP14/23 we assumed that the restricted investments would be distributed to between 0.5% and 2.5% of these investors. Using this assumption implies that 120 to 600 additional retiring consumers per year could buy the restricted investments.

83. These additional consumers gain the potential to earn a higher return than might be achieved from other investments. Conversely, they are also exposed to a much higher risk of unexpected losses that could have a very serious impact on their circumstances. This is particularly the case if the objective of the investment is to generate retirement income: both capital and the ability to generate income could be lost. Furthermore, on account of the age at which consumers become entitled to access their pension savings, and the changes that may occur to their employment income at a similar time, these consumers are likely to have little scope or capacity to rebuild the lost capital.

50 *Fund holdings in defined contribution pensions*, IFS Briefing Note BN127 looks at levels of saving in DC pensions across the population of Great Britain (on the eve of auto enrolment) http://www.ifs.org.uk/bns/bn127.pdf.

51 Our data request revealed there were 8,744 partial encashments of pots greater than £250,000 in the period 6 April 2015 to 30 June 2015.

52 Our data request revealed there were 1,268 full encashments of pots between £100,001 and £250,000 in the period 6 April 2015 to 30 June 2015.

53 HM Revenue and Customs Survey of Personal Incomes 2012-13, as updated in January 2015, revealed that the 96th, 97th and 98th percentiles of taxpayers (£57,500, £61,500 and £71,700 respectively) could meet the pre-tax income criterion to be assessed as high net worth by encashing sums of as little as £30,000: 80% of full encashments (drawdown or UFPLS) in the period 6 April 2015 to 30 June 2015 fell within this category.

84. Currently, there are 34 known unregulated collective investment scheme operators.[54] In February 2015, the total number of firms authorised or seeking authorisation to conduct regulated activity in relation to investment-based crowdfunding market, was 35.[55] In October 2014, we estimated that around 150 specialist wealth management firms were likely to consider the promotion of CoCos, CoCo funds and / or mutual society shares. We do not know how many of these currently promote and distribute the restricted investments, but those that do would gain from higher demand for their products as a result of pensions freedoms. The amount is so modest that it is unlikely to have prompted firms to significantly alter their behaviour.

Costs

85. Our proposed rule changes relate only to firms that promote and distribute the restricted investments, therefore any incremental compliance costs will be borne by those that have relied on the exemptions to the restrictions since April 2015.

86. There are a number of costs associated with the restrictions regime that we do not expect the proposals will affect materially. We estimate minimal ongoing costs associated with:

- ensuring customers are properly classified, as existing distributors have to do this in any case
- ensuring firms comply with our rules and guidance, as existing distributors should already have procedures in place to ensure that they comply with our rules on high net worth individuals

87. The main incremental compliance costs from our proposed rules are expected to arise from amending distributor firms' existing processes and training their staff.

Certification

88. Where electronic / online systems and controls are employed for client certification and assessment processes, we estimate that amendments could result in modest one-off costs which may be minimal (where they involve minor changes to online systems), but could necessitate up to one day of web-based programming or equivalent, at a cost of just over £200[56]per firm. This probably overstates the costs, however, as these firms should already have processes that come close to the new requirements we are introducing. Across the firms that distribute the restricted investments, this suggests one-off systems and controls changes costing up to £45,800.

Record-keeping and amending literature

89. Firms are already obliged to keep records of:

- the basis on which a restricted investment has been promoted
- confirmation of compliance with the marketing restriction

90. Firms should have processes in place to comply with these requirements, and should not therefore encounter additional ongoing costs as a result of these rules. However, as our rules

54 Based on the number of firms authorised by the FCA to undertake the regulated activity of 'Establishing, operating or winding up an unregulated collective investment scheme'.

55 February 2015, *Crowdfunding and the promotion of non-readily realisable securities by other media* http://www.fca.org.uk/static/documents/crowdfunding-review.pdf.

56 CP 13/13 (October 2013) estimated 5 days programming at £200 per day would be required to introduce the restrictions: http://www.fca.org.uk/static/documents/consultation-papers/cp13-13.pdf Our cautious estimate of the time required to make modest programming amendments to these existing restrictions is 1 day. Adjusting for inflation increases the original daily cost estimate by less than £2.

amend the wording of the certification statement, one-off record-keeping costs arise in theory because of the need to amend literature.

91. We expect firms will be able to make any necessary amendments to their literature as part of the regular review of their material. The financial promotion rules in COBS 4.10 already require firms to stop using promotions if they become aware that they no longer comply with our rules and we anticipate that there will be few if any literature amendment costs. This is unless firms' post-April 2015 marketing material suggested that restricted investments might be particularly appropriate for consumers who have accessed significant cash sums from their defined contribution pension. This would appear unlikely, given that such investments are highly unlikely to be suitable for customers that are only HNWI due to encashing their pensions.

Training

92. Staff involved in advice, sales, marketing and compliance functions at firms that promote and distribute these restricted investments will need to be trained as a result of the proposals in this consultation paper. For some firms, the cost may be absorbed within existing business as usual training budgets as distributors need to demonstrate their continuing professional development and understanding of market changes. However, where specific training on the effect of our proposed amendment is required at an additional cost, we consider this will take half the time that was required to provide training on the initial introduction of the restriction. We therefore estimate one hour of training per member of staff, at a cost of £74[57] per hour. This could equate to a cost of £50,000 for a large firm and £7,500 for medium-sized firm[58], suggesting an industry cost of between £1.7 million and £11.5 million.

Estimates of cost savings and opportunity costs

93. Without our proposed amendments, firms that distribute these restricted investments would gain from any increase in demand for these products. But with these increased volumes come increased compliance costs.

94. Firms that approve financial promotions for, promote and / or distribute these investments are already obliged to categorise retail consumers as sophisticated, high net worth or restricted investors. Where applicable, compliance directors must also determine that the criteria are met and sign off the promotion.

95. In 2014, we concluded that the cost of performing the certification was likely to be between £24 and £31 per customer and that compliance confirmation would require two hours of Compliance Directors' time, per case (at a cost of £42.60 to £71.00 per firm, depending on firm size). Accounting for inflation leaves these figures unchanged.

96. We expect that our proposed amendment to the certification criteria would reduce the potential market by 120 to 600 customers per year. Minimal costs are associated with the mechanistic categorisation and self-certification of RI but as a consequence of the amended HNWI criteria, our new rules would reduce client categorisation costs for the market by between £2,700 and £19,400 per year (based on a market reduction of 40 to 190 customers per year, returning the number of HNWI to the same levels as before April 2015, which we estimated to be 11,000 to 55,000).

57 Adjusted in line with inflation from the comparable training cost element in FSA CP12/19 http://www.fca.org.uk/static/pubs/cp/cp12-19.pdf.

58 Based on half of the cost per firm estimates in CP14/23, http://www.fca.org.uk/static/documents/consultation-papers/cp14-23.pdf, Figures are unaffected by inflation.

Benefits

97. We have previously identified that the restricted investments may only be appropriate where an investor has the experience and ability to understand the risk involved and tolerate the potential adverse consequences of their unique risks. The act of withdrawing funds from the dedicated tax wrapper (in which they have been saved, over a number of years, specifically to provide for retirement), does not, of itself, alter the consumer's level of financial sophistication or overall wealth.

98. In our view, consumers who satisfy the certification criteria exclusively on account of encashing their pension pot are likely to be particularly poorly suited to the restricted investments. Our proposals protect these ordinary retail investors from exposure to investments that are unlikely to be suitable for them. They would return the pre-April 2015 levels of protection to an estimated 120 to 600 retiring consumers per year, thereby reducing the risks of unexpected losses or significant reductions in retirement income.

99. Given the likely size of pension pots for these 120 to 600 retiring customers, we estimate that consumers with pension pots amounting to approximately £6 million to £47.5 million per year would cease to count as HNWI or RI.[59]

Using pension savings to repay debt

100. The proposals to make changes to guidance in CONC make explicit requirements that already apply. As this does not create any substantive change in responsibilities for firms we do not anticipate that the proposed guidance will give rise to additional costs for firms or consumers. Therefore under section 138L of FSMA, the FCA is exempted from the requirement to publish a CBA under section 138I of FSMA.

Attachment orders

101. The proposal to introduce guidance on attachment/earmarking orders in COBS emphasises requirements that already apply. As this does not create any substantive change in responsibilities for firms we do not anticipate that the proposed guidance will give rise to additional costs for firms or consumers. Therefore under section 138L of FSMA, the FCA is exempted from the requirement to publish a CBA under section 138I of FSMA.

Determining maximum projection rates

102. We are clarifying that, when determining maximum projection rates, firms need to look through to the underlying investment assets and apply the maximum rate at the level of the underlying funds/assets.

Benefits

103. By clarifying the way in which firms must determine and apply maximum projections rates, consumers will benefit from more consistent product disclosures. Currently, even where firms consider that the investment potential of the selected underlying assets is the same, the projections they produce (everything else being the same) could be different if they use different methodology when applying the maximum rate.

104. For example two firms, F1 and F2, both consider that a gilt fund will return 3% a year, and an equity fund will return 7% a year on average. A typical investor may invest 30% in the gilt fund and 70% in the equity fund. Firm F1 caps the equity return at 5% and provides a projection

59

	Lower bound Number of pots	Upper bound Number of pots	Representative Pot size (£)
RI	120	600	50,000 (lower bound)
(of which) HNWI	40	190	250,000 (upper bound)

averaging 4.4%. Firm F2 determines an average return from both assets of 5.8% but caps it at 5%. Ignoring charges, on a single investment over 20 years, the projected fund and retirement income would be 12% higher on F2's projection.

105. Where firms are not currently applying the maximum rate to each underlying fund/asset, projections will overstate the outcomes relative to our clarified requirements. Depending on the proportions of assets in different asset classes, overstatements of up to 25% would not be uncommon. Overstating potential outcomes is not helpful to consumers and could prevent them saving as much as they should be for their retirement. By overstating outcomes by up to 25%, consumers could be misled in to saving 20% less than they should be. The maximum rates are determined following independently peer-reviewed research and are set in order to give consumers a realistic view of the average returns they might receive over the period of their investment. Having projection rates that are prepared more consistently will also impact beneficially on charges disclosure, making comparisons more meaningful.

106. A more consistent approach to determining maximum projection rates will also prevent some market participants from effectively obtaining an unfair competitive advantage when marketing their products. The differences in rates could lead to people buying the wrong products, and competition being distorted as firms might not be rewarded (punished) for good (poor) quality or value if illustrative returns are misleading. By clarifying the methodology and ensuring that all firms use a similar approach, consumers have the opportunity to assess products on fair and equal terms, increasing the likelihood that a suitable purchase will be made.

107. Our product sales data suggests that around 2.4m contracts are issued each year that would require a KFI. If we assume that half of all firms did not apply the maximum rate to each underlying fund or asset, and overstatement of 12% as in the example above, then given an average pot size of £25,000 at retirement, the total value of overstatement that our proposed change would correct is £3.66bn in monetary terms.

Costs

108. Some firms are already preparing projections in the way we are proposing. For those who are not, systems changes will be required to apply the maximum rate at the level of the underlying fund/asset rather than at the level of the product. We have previously undertaken work on the costs associated with making changes to disclosure documents.[60] In this research, we estimated that the one-off cost of introducing asset-specific projections was at most £10.29 per new business contract, in 2006. Firms today already have asset-specific projections so, if we assume that the cost of introducing a maximum for each asset specific projection for one asset is about one-tenth of that, and allow for inflation in the interim, the cost today would be around £1.20 for each new contract.

109. Our product sales data suggests that around 2.4m contracts are issued each year that would require a KFI. If we assume that half of all firms would need to make changes to the way in which they prepare KFIs, the cost of the change would be £1.44m. Allowing for a worst case scenario of all firms having to make changes, the costs would amount to £2.88m.

Projections including guarantees

110. We are proposing to modify our projection rules to ensure that firms take account of contractual obligations for providing minimum rates of return by incorporating a modification by consent of COBS 13 Annex 2 into our Handbook. The existing modification by consent was taken up by two firms. We also propose that firms should show GARs when projecting a future annuity.

60 November 2006, Compliance costs of proposed changes to the investment product disclosure regime (http://www.fsa.gov.uk/pubs/consumer-research/compliance_costs.pdf).

111. We consider that our proposals will apply mostly to firms that prepare existing business projections for customers. Our rules do not require firms to prepare existing business projections but, where they do, they must follow the standard methodology for preparing a projection. It is our understanding that most existing business pension projections are prepared on an SMPI basis where the methodology is set out by the FRC; these already permit firms to show GARs.

112. It is possible that new products are or will be sold with minimum returns obligations and the revised projection proposals set out here will also apply in these circumstances.

Benefits

113. Where firms provide projections that are lower than any contractual obligations to provide a minimum rate of return, the information can be confusing for consumers whose purchase may have been influenced by the existence of the contractual obligation. Preparing a projection below the level of the minimum rate of return has the potential to mislead consumers. We consider that our proposals will therefore benefit consumers by increasing the consistency of product information with the contractual obligations of the product. The potential for confusion will be reduced and where consumers receive regular re-projections, it will raise awareness of the contractual obligation and the reason for the initial purchase.

114. In the cases we have seen, it is not unusual for contractual obligations on some products to be set at around 4% on past business. The lower maximum projection rate for pensions is 2% (1.5% for non-tax advantaged business). On a single premium pension investment over 20 years, the projected outcome would be nearly a third higher.

115. Similarly, GARS provide annuity income which can be two to three times higher than purchasing an annuity on the open market at the current time. On an average pot, the value of the GAR could be worth an extra £1500 to £2000 a year. Anecdotal reports suggest there could be up to one million pension contracts with GARS attached, so the additional income illustrated would total £1.17bn to £1.56bn a year, in real terms, assuming the average customer with GARs is ten years from their retirement age. Including GARs in projections will provide consumers with a better indication of the benefits of their contract, particularly close to retirement when they may be considering their options for taking benefits from their funds.

116. Earlier this year, it became a legal requirement for pension scheme members with safeguarded benefits worth more than £30,000 to take advice before accessing pension funds flexibly. This has raised the importance of pension scheme members being aware of GARs. Our proposals to show the projected value of the GAR and highlight its existence will benefit consumers by raising awareness.

Costs

117. Our proposals will only affect firms that offer minimum rates of return on packaged products requiring projections to be provided, including GARs. For these firms, systems changes will be required to ensure that the contractual obligations are shown where they bite, as indicated in the proposed rules, by comparing the usual projection rate with the contractually obligated rate.

118. We have previously undertaken work on the costs associated with making changes to disclosure documents.[61] In this research, we discovered that the one-off cost of introducing asset-specific projections was at most £10.29 for a year's worth of new business, in 2006. We consider that the work involved in updating systems for both new business and existing business on this

61 November 2006, Compliance costs of proposed changes to the investment product disclosure regime (http://www.fsa.gov.uk/pubs/consumer-research/compliance_costs.pdf).

occasion is not dissimilar. Allowing for inflation in the interim, the cost today would be around £14.40 per new business contract.

119. Anecdotal reports suggest that there could be about one million GARs in existence. Given the overall number of unitised with profits contracts and other types of contracts including guarantees, we estimate there could be around six million further in force contracts with forms on contractual minimum rates of return. The amount of new business involving guarantees of any type is currently small although, as the post-pension freedom market develops, there is potential for developing more products with at least partial guarantees.

120. These contracts are not the equivalent of one year's new business as they have been written over a number of years. Both guaranteed growth rates and GARS were commonly sold from the late 1980s to early 2000s. If we assume that the existing contracts have been in force for 14 years on average, the seven million contracts are equivalent to 0.5 million new business contracts. Applying the new business per contract cost to approximately 0.5 million contracts would give rise to an industry cost of £7.2m. However, we are aware that not all providers prepare ongoing projections for existing customers, particularly for pension customers who already receive SMPIs, so the actual cost is likely to be less.

Projecting a future annuity – mortality assumption

121. We are proposing to update the mortality table that firms must use when projecting a future annuity in a projection. The new table is structured the same way as the current table and will be accessed in the same way. It is our understanding that the FRC will review AS TM1 in due course to maintain the consistency of the mortality basis. Although the timing in relation to future improvement factors will change, the structure of the tables and the improvement factors will remain unchanged.

Benefits

122. The conversion of a projected pension fund into an annuity income is intended to provide pension scheme members with an indication of their future lifetime income. The basis for the annuity is assumed to be representative of the cost of purchasing an annuity in the open market based on current indicative market conditions. Our Handbook already allows for changes in the assumed annuity interest rate each year. Similarly, it specifies how firms should apply future improvement factors to the existing mortality table each year. However, from time to time, the underlying mortality table requires updating so that it reflects the latest mortality trends to provide pension members with the best indication of the cost of purchasing an annuity.

123. The change in the mortality table will change projected annuity incomes although the amounts will vary depending on the shape of the annuity. The derivation of the gender equal mortality table from separate male and female mortality tables indicates differences that can vary depending on whether the projection is on a single life basis or a joint life basis. Calculations show that some projected incomes will be higher than previously but others will be lower. The quantum of the changes could mean that projected annuities reduce or increase lifetime income by around 0.5% of the purchase price. Before the pension freedoms, ABI data reported sales of annuities worth £11.9bn in 2013. Recent ABI data suggests that annuity sales have fallen around 50%. Consequently, the absolute value of the projected changes in income would total around £29.75m.

124. Understanding the rate at which pension benefits can be converted to a lifetime income enables individuals to engage in better retirement planning. By having a better appreciation of the cost of purchasing an annuity income, customers are more able to understand the amount that needs to be invested to help them reach their target. Although the differences at an individual level might appear small, delaying an update of the mortality table would possibly

result in greater differences at a later stage when it may be too late for some individuals to make changes to their pension savings.

Costs

125. Pension providers and those undertaking pension transfer work are already required to update mortality tables with new improvement factors annually. The use of a new mortality table should therefore be straightforward and not incur significant additional cost over and above the normal ongoing annual cost. Consequently, we consider that this change has minimal cost to industry as long as the timing coincides with the normal annual update of 6 April. Our proposal is to introduce the new tables on 6 April 2017.

126. We are aware that many firms use the same systems to prepare FCA projections and SMPIs. If the FCA and the FRC did not update the mortality table at the same time, firms may incur more costs if they were required to maintain two separate mortality tables. We therefore consider that our approach to costs is proportionate, given the FRC's intention to maintain consistency.

Glossary amendments

127. We are proposing amendments to the Glossary definitions, which in turn affect the interpretation and application of certain rules and guidance in which these defined terms are used. Our CBA considers the cost of complying with the affected rules together with the affected guidance that reinforces these rules and helps firms understand, apply and contextualise them.

The baseline

128. Without our proposed changes, it would remain possible (permissible) for firms to apply rules relating to 'drawdown pensions', 'income withdrawals' and 'short-term annuities' only to arrangements entered into before 6 April 2015.

129. The effect of our proposals will be to expand the scope of a number of provisions in the FCA Handbook. We anticipate the proposals will confirm the practice already adopted by many firms, as we do not believe that firms discontinued the application of the rules for arrangements entered into since 6 April 2015. However, the technical consequence of the change is to place additional requirements on firms in respect of drawdown pensions funded from FAD and compliance with these may lead to costs for some firms.

The market

130. Our proposed amendments relate only to firms that offer FAD. All but ten providers that responded to our recent data request were offering some form of FAD (directly or via a third party) as at 30 June 2015. We do not expect all of these to be affected by our proposals: there has been little incentive for firms that offered drawdown arrangements before the reforms, to differentiate their approach and processes for arrangements entered into since April. In some cases, adopting a differentiated approach could potentially be inconsistent with our wider regulatory expectations, including the principles (in particular Treating Customers Fairly) and the requirement to act in clients' best interests.[62]

131. We remain mindful, however, that the market for FAD is evolving and that additional firms may have introduced or be developing drawdown propositions.[63] We are also aware that firms may have already incurred significant costs in establishing or changing systems specifically to enable them to provide and / or advise on FAD. For these firms, particularly if they did not previously

62 COBS 2.1.1R.

63 18% of respondents to our recent data request indicated that they are planning to develop further retirement income options over this period: some of which may be FAD, but others include partial designation / phased drawdown, UFPLS, third way products, and fixed term, with profits and long term care annuities: http://www.fca.org.uk/static/documents/pension-freedoms-data-collection-exercise.pdf.

provide or advise on drawdown pensions, the impact of our proposals could give rise to some costs.

Benefits

132. Our COBS rules were specifically designed to achieve fair treatment and good outcomes for consumers in their interaction with financial services firms. Firms that comply with our COBS rules minimise the risk of consumers experiencing poor outcomes, in turn reducing the likelihood of complaints against the firm.

133. Collectively, the COBS rules affected by our proposals are all intended to enable consumers to make decisions about their retirement options by ensuring the provision of timely, relevant and adequate information to help the consumer:

- understand the options, the factors they need to consider and the corresponding implications relative to their own circumstances
- more fully explore options and / or shop around
- understand how and why recommendations meet their needs and personal goals (where applicable) OR determine the most appropriate option(s) for accessing pension savings
- understand transactions they enter into with firms

134. Without our proposed changes, consumers risk making inappropriate decisions that could lead to long term and significant harmful consequences such as unexpected tax liabilities, suboptimal annuity rates, poor investment returns or (possibly complete) loss of capital, all of which could compromise or eradicate the sustainability of the consumer's income in retirement.

135. In the first three months of the pension freedoms, more than 71,000 pension pots were accessed via FAD. According to the ABI, the average fund put into drawdown during the first three months was almost £68,000. Some or all of these access decisions may have been the appropriate choices for the consumers concerned, depending on whether or not:

- guidance or advice was sought
- the consumer first considered all the options available
- firms are already applying COBS requirements in these cases

Though our proposals have the capacity to drive a transfer of business from FAD arrangements to other retirement options, the effects of our proposals may not necessarily manifest in a significant change in the number of FAD arrangements. What should change, however, is the proportion of consumer access decisions that are the most appropriate choice for the consumer. Our proposals should therefore optimise the outcomes of pots worth approximately £19.4bn per year. How these benefits to consumers accrue is uncertain, and most likely include a mixture of higher returns, lower tax liabilities and more appropriate risk-reward trade-offs. If the benefits of the application of the COBS requirements accrued to even 10% of these pots, at an amount equivalent to a 0.5% higher return, this would amount to benefits to consumers of almost £10 million in the first year.

Costs

Persistency reports from insurers and data reports on stakeholder pensions (SUP 16.8)

136. The requirement to produce the reports (and any IT system set up this may necessitate) is unaffected by our proposals, which simply determine the parameters of certain fields within them. For firms that may look to offer drawdown pensions in future, our proposal would not increase the scale of any IT system set-up costs necessary to produce the reports in accordance with the existing rules. The only effect would be to alter slightly the way in which this system was set up.

137. Existing stakeholder schemes are unlikely to be affected by our proposals as recent data suggests none currently offer FAD.[64] In respect of existing life policies, our proposals could alter the fields in which certain data is included in these annual reports to the FCA.

138. Depending on the systems or processes already in place for producing these reports, the work required by firms to ensure the reports are correctly populated could involve limited initial staff training to clarify the change in scope.

139. It is possible that for some firms this would involve IT system changes or builds at both providers and admin outsourcers. However, it is likely that firms will already be making such changes, both for their own business purposes, but also to be able to complete monthly and quarterly data returns to the ABI and other FCA data requests, including the quarterly provider survey. The limited number of field adjustments that might be necessitated by our proposals would be a very modest element of these broader changes.

140. As such, we estimate that these changes could involve firms making up to one day of web-based programming or equivalent, at a cost of just over £200[65] per firm. Across existing providers, this amounts to approximately £23,200.

Suitability (COBS 9)

141. As identified in chapter 3, there is limited data on whether customers entering drawdown do so with advice. Before the freedoms, the requirement to remain within withdrawal limits caused advice to be a key feature of this market. With the new freedoms we know firms are increasingly using non-advised distribution channels to sell drawdown. This trend might continue with the likely development of more mass market products.

142. Our proposals would have the effect of requiring firms that advise on (and in particular, make personal recommendations that lead consumers to enter into) FAD arrangements, to provide suitability reports to their clients regarding that advice. Without these reports it may be difficult for firms to show evidence[66] of how they have acted in their client's best interests and complied with our advice requirements. We therefore consider it likely that FAD recommendations made by existing advisers since April 2015 have been accompanied by a suitability report.

143. Where this is not the case, we consider our proposals are unlikely to drive any significant implementation costs. The process for producing suitability reports should already be well established in firms with advisory permissions, but minor training and procedural updates to advice and compliance staff may be required to clarify that:

- reports should be produced in respect of FAD recommendations

64 This position may change and drawdown pensions may be offered by stakeholder schemes in future. Where this is the case, clarifying our requirements through the amended definitions should assist these firms in achieving compliance.

65 CP 13/13 (October 2013) http://www.fca.org.uk/static/documents/consultation-papers/cp13-13.pdf quantified the cost of programming as £200 per day Adjusting for inflation increases the original daily cost estimate by less than £2.

66 To customers, compliance staff and, where required, to FCA Supervisors or the Financial Ombudsman Service.

- regard should be had to the guidance on additional content for income withdrawals

144. For these firms and for new market entrants, direct ongoing resource and administration costs could arise from advisers completing suitability reports for each FAD recommendation and from checks on those reports by compliance staff. We estimate that this would involve in total at most one additional hour of staff time, at a cost of approximately £20 per hour. Data showed that 71,445 pots were accessed via FAD in the first three months, suggesting a yearly total in excess of 285,000. It is unclear what proportion of these are advised sales, meaning that our estimate of these costs is at most £5.7 million.

Preparing and providing product information (COBS 13 & 14)

145. Without the glossary amendment, consumers entering FAD may not be provided with the information necessary to understand the consequences of that election, most particularly illustrations containing appropriate information[67] on the income that can be supported by their diminishing fund, and the effect of charges on their funds. The risk of these consumers running out of money may increase because of not fully comprehending this aspect of their elected retirement income option.

146. We anticipate, however, that most providers that currently offer FAD already comply with the specific additional information requirements for drawdown, because:

- They remain obliged to act in the client's best interests and to offer information that is fair, clear and not misleading.
- The significant uptake[68] of the modification by consent[69] (that extends the illustration methodology for drawdown pensions to UFPLS and was made available at the specific request of the industry) strongly suggests that firms see merit in providing appropriate illustrations to consumers accessing their funds under any of the freedoms.

147. Where this is not the case, firms will be required to produce appropriate illustrations for drawdown pensions. All existing pension providers will already have systems in place to provide KFIs for existing customers. The effect of our Glossary change is to clarify our expectations as to the FAD-specific contents of these documents.

148. All but ten of the respondents to our recent data request now offer some form of FAD, but further product development by 18% of respondents is anticipated over the next 24 months. We have therefore considered the compliance costs on the worst case possible scenario that all pension providers are required to introduce new requirements, though in reality firms that offered drawdown pensions before April should already have appropriate systems in place.

149. As indicated in in the CBA on pensions freedom communications, starting at paragraph 29 above, we estimate that the one-off costs of amending illustration systems to add in planned withdrawals could total around £27.50 per contract. Our recent data request revealed that more than 71,000 pension pots were accessed via FAD in the first three months of the freedoms. If this reflects future consumer behaviour, the industry cost of developing FAD illustrations could be approximately £7.8m.

150. New market entrants will need to develop systems and processes to ensure they can meet the overarching requirement to offer information to their customers that is fair, clear and

67 Produced in accordance with the methodology set out in our rules.

68 Half of all providers.

69 Modification by consent of COBS 13 and 14 (February 2015): https://www.fca.org.uk/firms/being-regulated/waiver/waiver-by-consent/cobs-13-14.

not misleading. This is a cost of regulation that they will incur irrespective of our proposals: developing and producing appropriate FAD illustrations is just one specific communication within a suite of information that firms will provide customers across the customer journey and product lifecycle. Our proposed changes will therefore factor into and inform the systems developed by new entrants, rather than add additional costs to their development.

Cancellation rights (COBS 15)

151. Our rules on cancellation are framed around entering into contractual arrangements. Our recent data collection found that 40% to 77% of customers whose providers offer FAD would need to change contract to access their pension savings in this way. A legal right to cancel attaches to these contracts irrespective of whether or not the right is explicitly reflected in our rules.

152. The incremental costs of our Glossary amendments are therefore likely to be minimal, particularly as they bring only one specific variant of these contractual arrangements within the scope of our rules on cancellation: a contract that facilitates the first election to withdraw income from a FAD by entering a new contract to vary the contract with the customer. Any resulting costs would only arise where a customer seeks to exercise the cancellation right. We would not expect significant cancellation rates, as this would suggest doubts about appropriateness of the contracts to which they attach.

Open Market Options (COBS 19.4)

153. Without the Glossary amendment, firms may not provide an open market options statement to customers who enter into a FAD arrangement more than 12 months after last receiving an open market options statement and subsequently indicate that they plan to discontinue that arrangement.

154. Our data collection suggests some 286,000 pension pots might be accessed via FAD each year, but we assume that the proportion of customers who subsequently discontinue that arrangement is likely to be small.[70]

155. Incremental costs as a result of our proposals should be minimal for existing pension providers as they already have systems in place for disclosing OMOs to other customers and / or in other scenarios. We anticipate that most of these firms would have been prompted to provide an Open Market Option Statement in this scenario in light of our expressed policy intent in CP14/11 to broaden the application of OMOs to all retirement options, not just annuities. Where this is not the case, the cost of incorporating the requirement into product literature for this low frequency scenario is in any case likely to be minimal.[71]

156. COBS 19.4 sets out specific triggers for the production and provision of open market option statements, most typically four to six months before the customer's intended retirement date.[72] The Glossary amendment relates to a specific, less frequent, additional trigger. New market entrants would need to build systems to produce Open Market Options Statements whenever triggered by any of the specified scenarios in COBS 19.4, but our proposal here would not increase the scale of set-up costs that the firm would, in any case, incur.

70 The baseline period is too short to assess whether or not this assumption is correct, however.

71 FSA Consultation Paper 106 – *Disclosure: Trading an endowment policy and buying a pension annuity* (Aug 2001) anticipated minimal costs to incorporate the open market options requirements into product literature http://www.fsa.gov.uk/pubs/cp/cp106.pdf.

72 The requirement to provide a wake-up pack can also be triggered by a request for a retirement quotation more than four months before the customer's intended retirement date and when the customer plans to discontinue income withdrawal or use the open market options to take further money from the pension.

Retirement Risk Warnings (COBS 19.7)

157. The rules are a consumer protection measure specifically introduced to address the impact of the new pension freedoms. The requirements are not new in principle, however, rather a clarification of our expectations of clear communications with consumers. The policy statement that confirmed these rules did not provide a carve-out for FAD: it made clear that the appropriate retirement risk warnings were required by consumers accessing their pension savings under the pension freedoms.

158. However, without our proposed amendments, there is a risk that firms may not follow the steps specified in COBS 19.7.7R when a customer indicates that FAD is their chosen pension decumulation product.

159. To comply with both the spirit and the letter of the client's best interests rule, we anticipate that existing firms have been delivering the RRW whenever a customer decides to access their funds via FAD. Early indications from our Supervision teams suggest that this is the case. But if /where this is not the case, our proposals should not give rise to material implementation costs: processes and systems are already in place for delivering risk warnings to customers at the point they indicate a decision to access their pension savings using a pension decumulation product. We therefore expect minimal additional costs to be associated with retirement risk warnings.

Q41: Do you have any comments on the cost benefit analysis?

Annex 4: Compatibility statement

Compatibility with the FCA's General Duties

1. This annex explains our reasons for concluding that our proposals relating to the Handbook rules in this consultation are compatible with certain requirements under FSMA.

2. We are required by section 138I (2)(d) of FSMA to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives, and have regard to the regulatory principles in section 3B of FSMA. We are also required by section 138K (2) of FSMA to state whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

Compatibility with our objectives

3. Our proposals are intended to ensure that the market for pension and retirement products and services functions well and advance our operational objective of securing an appropriate degree of protection for consumers and promote effective competition in the interests of consumers.

Compatibility with our principles of regulation

The need to use our resources in the most efficient and economic way

4. We have had regard to this principle and do not believe that our proposals will have a significant impact on our resources or the way in which we use them.

The principle that a burden or restriction should be proportionate to the expected benefits

5. Where required, in Annex 1 we have set out our analysis of the costs and benefits for relevant proposals. Overall, we believe that our proposals are a proportionate response to our concerns.

The desirability of sustainable growth in the economy of the United Kingdom in the medium and long term

6. We have had regard to this principle and do not believe our proposals undermine it.

The general principle that consumers should take responsibility for their own decisions

7. The pension freedoms mean that consumers have more choice when accessing their pension savings. With this increase in choice, consumers need to make more decisions but ultimately it is for consumers to decide what is best for them in their circumstances. Many of our proposals require firms to give consumers information to help them understand the options they have or understand the implications of the decision they have made to enable the consumer to make an informed decision.

The responsibility of senior management of persons subject to the requirements imposed by or under FSMA, including those affecting consumers, in relation to compliance with those requirements

8. We have had regard to this principle and do not believe our proposals undermine it.

The desirability of the FCA exercising its functions in a way which recognises differences in the nature and objectives of businesses carried on by different persons

9. We have had regard to this principle and do not believe our proposals undermine it.

The desirability of publishing information in relation to persons

10. We have had regard to this principle and do not believe our proposals undermine it.

The principle that we should exercise our functions as transparently as possible

11. We were mindful of this principle when making our retirement risk warning rules and publishing PS 15/4. In that paper we set out our reasons for making the rules without consultation

12. In respect of the remaining proposals set out in this paper, we have had regard to this principle and do not believe our proposals undermine it.

Compatibility with our competition duty

13. Many of the proposals in this paper are intended to ensure that consumers receive the right information at the right time. This will give consumers the confidence to understand their options, to shop around to ensure they get the right products and services for their needs, and to make decisions while understanding the implications of those decisions. This will drive competition in the market, ensuring that firms offer consumers products and services that meet their needs and offer value for money

Impact on mutuals

14. Section 138K requires us to prepare a statement about the impact of our proposed rules on mutual societies. In particular, we are required to set out our opinion on whether this will be significantly different from the impact on other authorised persons and, if so, details of the difference.

15. We do not expect the proposals in this paper to have a significantly different impact on mutual societies than other authorised persons or present them with any more or less of a burden than other authorised persons.

Legislative and Regulatory Reform Act 2006 (LRRA)

16. We are required under the LRRA to have regard to the principles in the LRRA and to the Regulators' Compliance Code when determining general policies and principles, and giving general guidance (but this duty does not apply to regulatory functions exercisable through our rules).

17. We have had regard to the principles in the LRRA and the Regulators' Compliance Code for the parts of the proposals that consist of general policies, principles or guidance. We have engaged with firms and consider that the proposals will be effective in helping firms understand and meet regulatory requirements more easily, in a manner that leads to improved outcomes for consumers and addresses the issues identified in this market following the introduction of the pension freedoms. We also consider that the proposals are proportionate and will result in an appropriate level of consumer protection when balanced with impacts on firms and competition.

Appendix 1:
Draft Handbook text

Appendix 1

CONDUCT OF BUSINESS (PENSIONS SUPPLEMENTARY RULES) INSTRUMENT 2015

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (general rule-making power);
(2) section 137R (financial promotion rules);
(3) section 137T (general supplementary powers);
(4) section 139A (power of the FCA to give guidance); and
(5) section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance).

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force as follows:

Annex	Date comes into force
Annex A	[*date 2*]
Part 1 of Annex B	[*date 1*]
Part 2 of Annex B	[*date 2*]
Part 3 of Annex B	[*date 3*]
Annex C	[*date 1*]

Amendments to the FCA Handbook

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

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

Citation

E. This instrument may be cited as the Conduct of Business (Pensions Supplementary Rules) Instrument 2015.

By order of the Board of the Financial Conduct Authority
[*date*]

Annex A

Amendments to the Glossary of definitions

Amend the following definitions as shown:

certified high net worth investor

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

income withdrawals

(a) (as defined in paragraph 7 of Schedule 28 to the Finance Act 2004) in relation to a member of a pension scheme, amounts (other than an annuity) which the member is entitled to be paid from-the member's:

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

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

…

short-term annuity

(as defined in paragraph 6 of Schedule 28 to the Finance Act 2004) in relation to a member of a pension scheme, an annuity payable to the member if:

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

…

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

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

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

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

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

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

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

Annex B

Amendments to the Conduct of Business Sourcebook

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

Part 1: Comes into force on [*date 1*]

9.3 Guidance on assessing suitability

…

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

…

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

…

9.4 Suitability reports

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

…

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

…

…

9.4.10 G When a *firm* is making a *personal recommendation* to a *retail client* about *income withdrawals*, an *uncrystallised funds pension lump sum* payment or purchase of *short-term annuities,* an explanation of possible disadvantages in the *suitability report* should include the risk factors involved in entering into an *income withdrawal*, an *uncrystallised funds pension lump sum* payment or purchase of *short-term annuity.* ...

…

19.7 Retirement risk warnings

19.7.1 R ~~(1)~~ ~~"payment out of uncrystallised funds" is an uncrystallised funds pension lump sum within the meaning of paragraph 4A of Schedule 29 of the Finance Act 2004;~~ [deleted]

(2) "pension decumulation product" is a product used to access pension savings and includes a facility to enable a *retail client* to make ~~a payment out of uncrystallised funds~~ an *uncrystallised funds pension lump sum* payment, a *drawdown pension* or *pension annuity*;

…

…

19.7.4 G …

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

…

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

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

…

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

…

(b) elect to make one-off, regular or ad-hoc ~~payments out of uncrystallised funds~~ *uncrystallised funds pension lump sum* payments; or

(3) receive a one-off, regular or ad-hoc ~~payment out of uncrystallised funds~~ *uncrystallised funds pension lump sum* payment; or

…

…

Step 2: identify risk factors

19.7.9 R Based on how the *retail client* wants to access their pension savings, at step 2 the *firm* must ask the *client* questions to identify whether any risk factors are present, except where *COBS* 19.7.9AR applies.

19.7.9A R If the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, the *firm*:

(1) is not required to ask questions to identify whether any risk factors are present; and

(2) must prepare appropriate retirement risk warnings based on the risk factors relevant to each pension decumulation product it offers to enable *retail clients* to access their pension savings.

…

19.7.13 R At step 3,:

(1) if the value of the *retail client's* pension savings is £10,000 or less and there are no *safeguarded benefits*, a *firm* must give the *client* the retirement risk warnings prepared under *COBS* 19.7.9AR(2);

(2) in all other cases, a *firm* must give the *retail client* appropriate retirement risk warnings in response to the *client's* answers to the *firm's* questions.

Part 2: Comes into force on [*date 2*]

4.7 Direct offer financial promotions

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

"…

Net assets for these purposes do not include:

…

(b) Any rights of mine under a qualifying contract of insurance; or

(c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are), or may be

~~entitled.~~ entitled; or

(d) any withdrawals from my pension savings (except where the withdrawals are intended to serve as income in retirement).

…"

…

4.12 Restrictions on the promotion of non-mainstream pooled investments

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

"…

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

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

…

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

…"

…

13.3 Contents of a key features document

…

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

options in *COBS* 19.4.12R and *COBS* 19.4.14R.

…

13.4 Contents of a key features illustration

…

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

(1) for a single *premium life policy* bought as a pure investment product, a product with benefits that do not depend on future investment returns or any other product if it is reasonable to believe that a *retail client* will not need one to be able to make an informed decision about whether to invest; ~~or~~

(2) if the product is a *life policy* that will be held in a *CTF* or sold with *basic advice* (unless the *policy* is a *stakeholder pension scheme*); or

(3) if a *retail client* proposes to withdraw the funds in full from their *personal pension scheme, stakeholder pension scheme* or *drawdown pension* reducing the value of their rights to zero.

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

…

13.5 Preparing product information: other projections

Projections for in-force products

…

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

Projections: other situations

…

13.5.2A R The requirement in *COBS* 13.5.2R does not apply where a *retail client* proposes to withdraw the funds in full from their *personal pension scheme*

or *stakeholder pension scheme* or *drawdown pension* reducing the value of their rights to zero.

…

13 Annex 2 Projections

…

R			
Assumptions: rates of return			
2.3	~~A *standardised deterministic projection* must be calculated using rates that accurately reflect the investment potential of the product and do not exceed the following maximum rates of return with the lower and higher rates each maintaining a differential of 3% relative to the intermediate rate:~~ A *standard deterministic projection* must be calculated as follows:		
	(i)	the *intermediate rate of return* must accurately reflect the investment potential of each of the underlying investment options of the product;	
	(ii)	the *lower* and *higher rates of return* must maintain a differential of 3% relative to the *intermediate rate of return*; and	
	(iii)	the rates of return must not exceed the following maximum rates:	
…			

2.4	~~Exception~~ Exceptions	
	A *standard deterministic projection*:	
	...	
	(2)	may be calculated using a lower rate of return if a *retail client* requests it;
	(3)	may be calculated using a *lower rate of return* which maintains a differential of less than 3% relative to the *intermediate rate of return* where this accurately reflects a contractual obligation to provide a minimum rate of return.

…

R
Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments

2.9	(1)	A *standardised deterministic projection* for a *drawdown pension* or regular *uncrystallised funds pension lump sum* payments must be based on the requirements contained in (2) to the extent that they impose additional or conflicting requirements to the balance of the *rules* in this section.		
	(2)	A *standardised deterministic projection* for a *drawdown pension* or regular *uncrystallised funds pension lump sum* payments must ~~be based on an assumption that the current gilt-index yield will continue to apply throughout the relevant term and~~ include:		
		…		
		(d)	(under 'What the benefits might be' or similar heading), either:	
			(i)	the amount of income and the projected value of the fund at five yearly intervals to age 99 for the *lower, intermediate* and *higher rate of return* for as long as the fund is projected to exist (at the *higher rate of return*); or
			(ii)	a description of the income and a projection of the age at which the fund will cease to exist for the *lower, intermediate* and *higher rate of return*;
				and
		(e)	~~the projected open market values and the amounts of annuity that might be purchased after 10 years; and~~ [deleted]	
		(f)	…	
	(3)	A *standardised deterministic projection* for a *drawdown pension* or regular *uncrystallised funds pension lump sum* payments may also include the projected open market values and the amounts of annuity that might be purchased at some point in the future.		
	(4)	A *standardised deterministic projection* for a *drawdown pension* entered into before 6 April 2015 must, where relevant, be based on an assumption that the current gilt index yield will continue to apply throughout the relevant term.		

R		
Drawdown Pension: Exception		
2.10	A *standardised deterministic projection* ~~for a *drawdown pension*~~ can be prepared in nominal terms, rather than real terms for a:	
	(1)	*drawdown pension*; or
	(2)	*personal pension scheme* or *stakeholder pension scheme* from which there has

		been an election to take regular, ad-hoc or one-off *uncrystallised funds pension lump sum* payments.

…

R		
3.2	A *projection* for a future annuity:	
	…	
	(2)	may be calculated using a lower rate of return if a *retail client* requests it;
	(3)	(for an annuity with a *guaranteed annuity rate*) must be calculated on the basis of the rates in the *guaranteed annuity rate*, instead of those in *COBS* 13 Annex 2 3.1R(6), where that *guaranteed annuity rate* provides higher rates of return.

…

R			
5	Projections: accompanying statements and presentation		
5.1	A *standard deterministic projection* must be accompanied by:		
	…		
	(2)	a statement:	
		…	
		(e)	of the sum of any actual *premiums* charged for any rider benefits or increased underwriting risks (where these have been charged); ~~and~~
		(f)	(for *personal pension schemes* and *stakeholder pension schemes*) of the assumptions used to calculate the regular income and that the *client* may choose when to take this income (if that is the case);
		(g)	that the projection takes account of the existence of contractual obligations to provide a minimum rate (if that is the case); and
		(h)	that the basis on which the projection has been calculated is that there is a *guaranteed annuity rate* (if that is the case).

...

13 Annex 3 Charges information for a packaged product

…

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

…

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

…

R			
Charges			
1	Appropriate charges information		
1.1	*Appropriate charges information* comprises:		
	(1)	(a)	a description of the nature and amount of the *charges* (including, where

			applicable, any retained interest under (4), below) a *client* will or may be expected to bear in relation to the product and, if applicable, any investments within the product;
	…		
	(4)	in relation to a *personal pension scheme*, the amounts (or if the amounts cannot be given, the formula by which the amounts can be calculated) of the *charges*, if any, which a personal pension scheme operator or pension scheme trustee will receive as retained interest in relation to money held within the personal pension scheme.	
	~~Exception~~ Exceptions		
…			
1.3	An effect of charges table and reduction in yield information are not required for a *personal pension scheme, stakeholder pension scheme* or *drawdown pension* where the *client* elects to withdraw their funds in full, reducing the value of their rights to zero.		
1.3 A	Where 1.3 applies, if a *client* subsequently does not withdraw the funds in full from their *personal pension scheme, stakeholder pension scheme* or *drawdown pension* reducing their rights to zero, the *firm* must provide the *client* with an 'effect of charges' table and 'reduction in yield' information.		

…

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

...

14.2 Providing product information to clients

14.2.1 R A *firm* that sells:

…

(3B) the variation of a *personal pension scheme* to a *retail client*, which involves the election by the client to make *income withdrawals* or a purchase of a *short term annuity* must provide that *client* with such information as is necessary for the client to understand the consequences of the variation, including where relevant, the information required by *COBS* 13 Annex 2.2.9R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments);

(3C) the variation of a *personal pension scheme* to a *retail client*, which involves one-off, ad-hoc or regular *uncrystallised funds pension lump sum* payments must provide that *client* with such information as is necessary for the *client* to understand the consequences of the variation, including (where relevant) the information required by *COBS* 13 Annex 2.2.9R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments).

…

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

…

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

(1) the information required by *COBS* 13 Annex 2 2.9R (Additional requirements: drawdown pensions and regular *uncrystallised funds pension lump sum* payments); or

(2) information about the sustainability of the *client's* income over time, which may refer to:

(a) the proportion of the fund remaining since outset;

(b) an indication of when the fund may cease to exist;

(c) the rate of withdrawals or payments relative to a sustainable rate; or

(d) the effect of any significant one-off withdrawals or payments since the previous information was provided.

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

Attachment (or earmarking) orders

19.2.4 G A *firm* should take into account the existence of any attachment (or earmarking) orders in respect of a *client's personal pension scheme* or *stakeholder pension scheme*.

19.2.5 G (1) An *operator* should ensure that it is aware of, and acts fully in accordance with, any attachment or earmarking orders made in respect of any members of that scheme by a court pursuant to the Matrimonial Causes Act 1973 and the Divorce etc (Pensions) Regulations 2000 (SI 1123/2000).

(2) In particular, an *operator* should be mindful of its obligations under an attachment order to give notices to other parties, including transferee *operators* and relevant former spouses, where relevant events occur, such as transfers and significant reductions in benefits.

(3) A *firm*, when advising a *client* in relation to a *personal pension scheme* or *stakeholder pension scheme*, should enquire as to whether an attachment order exists and take it into account accordingly.

COBS 19.4 is deleted in its entirety and replaced with the following text. The deleted text is not shown and the new text is not underlined. For the purposes of consultation we have indicated below each paragraph where the original text is new, amended or simplified.

19.4 Open market options

Definitions

19.4.1 R In this section:

(1) 'fact sheet' means the *Money Advice Service* fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a statement provided by a *firm* that gives materially the same information;

(2) 'intended retirement date' means:

(a) the date (according to the most recent recorded information available to the provider) when the scheme member intends to retire, or to bring the benefits in the scheme into payment, whichever is the earlier; or

(b) if there is no such date, the scheme member's state pension age;

(3) 'open market options' means the options available to a scheme member to access their pension savings on the open market;

(4) 'open market options statement' means the information specified in *COBS* 19.4.6R, provided in a *durable medium*, to assist the *retail client* to make an informed decision about their open market options;

(5) 'pension decumulation product' is a product used to access pension savings and includes a facility to enable a *retail client* to make an *uncrystallised funds pension lump sum* payment, a *drawdown pension* or *pension annuity*;

(6) 'pension savings' is the proceeds of the *retail client's personal pension scheme*, *stakeholder pension scheme, FSAVC, retirement annuity contract* or *pension buy-out contract*;

(7) 'reminder' is the requirement in *COBS* 19.4.9R to remind the *retail client* about the open market options statement;

(8) 'signpost' is the requirement in *COBS* 19.4.16R to provide a written or oral statement encouraging a *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement.

[Paragraphs (1), (5) to (8) new text; (2) and (3) original text (COBS 19.4.1R(1), (2)). Paragraph (4) minor amendments to original COBS 19.4.1R(3).]

Application

19.4.2 R This section applies to a *firm* which operates a *retail client's personal pension scheme, stakeholder pension scheme, FSAVC, retirement annuity contract* or *pension buy-out contract.*

19.4.3 G This section specifies the circumstances where a *firm* must:

(1) provide a *retail client* with an open market options statement;

(2) signpost *pensions guidance*;

(3) provide information to enable a *retail client* to make an informed decision about how to access their pension savings at their intended retirement date and beyond; and

(4) remind a *retail client* about their open market options.

[new text]

Purpose

19.4.4 G The purpose of this section is to ensure that *firms* provide *retail clients* with timely, relevant and adequate information:

(1) to enable them to make an informed decision about their options for accessing pension savings at their intended retirement date and beyond; and

(2) to encourage them to shop around.

[new text]

Open market options statement

When?

19.4.5 R (1) A *firm* must give a *retail client* an open market options statement:

(a) if the *client* asks a *firm* for a retirement quotation more than four *months* before the *client's* intended retirement date;

(b) if a *firm* does not receive such a request for a retirement quotation, between four and six *months* before the *client's* intended retirement date; or

(c) if a *retail client* with open market options tells a *firm* that he is considering, or has decided:

(i) to discontinue an *income withdrawal* arrangement; or

(ii) to take a further sum of money from his pension to exercise open market options;

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

(2) If after taking reasonable steps to comply with the requirement in *COBS* 19.4.5R(1)(b) a *firm* has been unable to provide a *retail client* with an open market options statement the *firm* must provide the statement in good time before it sells a pension decumulation product to the *client*.

[Paragraph (1) original text, simplified (COBS 19.4.2R and COBS 19.4.4R). Paragraph (2) new text.]

Contents

19.4.6 R An open market options statement must include:

(1) the *Money Advice Service* fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a statement provided by a *firm* that gives materially the same information;

(2) a summary of the *retail client's* open market options, which is sufficient for the *client* to be able to make an informed decision about whether to exercise, or to decline to exercise, open market

options;

(3) information about the *retail client's personal pension scheme*, *stakeholder pension scheme, FSAVC, retirement annuity contract* or *pension buy-out contract* provided by the *firm*, including:

(a) the sum of money that will be available to exercise open market options;

(b) whether any guarantees apply and, if so, information about how the guarantees work;

(c) any other relevant special features, restrictions, or conditions that apply, such as (for *with-profits funds*) any market value reduction conditions in place; and

(d) any other information relevant to the exercise of the *retail client's* open market options; and

(4) a clear and prominent statement about the availability of the *pensions guidance* including:

(a) how to access the *pensions guidance* and its contact details;

(b) that *pensions guidance* can be accessed on the internet, telephone, or face to face;

(c) that the *pensions guidance* is a free impartial service to help consumers to understand their options at retirement; and

(d) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

[original text (COBS 19.4.1AR), minor amendment to paragraph (1)]

19.4.7 G For the purpose of *COBS* 19.4.6(1) where a *firm* provides its own statement as the fact sheet, it should include materially the same information in the *Money Advice Service* fact sheet about:

(1) the following options for accessing pensions savings, even if they are not offered by the *firm:*

(a) *pension annuity*;

(b) *drawdown pension*; and

(c) *uncrystallised funds pension lump sum* payments;

(2) the main features, benefits and risk factors relevant to the options for accessing pensions savings, such as:

(a) tax implications;

(b) what happens in the event of the *client's* death;

(c) the loss of any guarantees;

(d) the *client's* state of health;

(e) the *client's* lifestyle choices;

(f) whether the *client* is married or has dependants; and

(g) sustainability of income over time;

(3) how to access financial advice and information about the different ways in which the *client* might be able to access their pension savings;

(4) the availability of free, impartial guidance from the *pensions guidance*; and

(5) the *client's* option to shop around, with an explanation of how they may do so.

19.4.8 R An open market options statement must not include an application form for a pension decumulation product.

[new text]

Reminder

19.4.9 R At least six weeks before the *retail client's* intended retirement date the *firm* must:

(1) remind the *client* about the open market options statement;

(2) tell the *client* what sum of money will be available to exercise open market options;

(3) remind the *client* about the availability of the *pensions guidance*; and

(4) recommend that the *client* seeks appropriate guidance or advice to understand their options at retirement.

[original text (COBS 19.4.3R), simplified]

19.4.10 R The reminder must not include an application form for a pension decumulation product.

[new text]

Key features illustrations

19.4.11 R A *firm* must not provide a *key features illustration* to a *retail client* for a

pension decumulation product unless:

(1) it is required to provide the *client* with the *key features illustration* in accordance with the *rules* on providing product information to clients (*COBS* 14.2.1R);

(2) without prompting by the *firm,* the *client* requests the *key features illustration*;

(3) it includes a *key features illustration* for each of the pension decumulation product options that it offers; or

(4) it includes multiple *key features illustrations* as indicative representations of each of the pension decumulation product options that it offers.

[new text]

Communications about annuity options

19.4.12 R When a *firm* communicates with a *retail client* about their *pension annuity* options the *firm* must provide the *client* with information about how their circumstances can affect retirement income calculations and payments for *pension annuities* offered by the *firm* and on the open market.

19.4.13 G Examples of the circumstances which can affect retirement income calculations and payments include:

(1) the *client's* marital status;

(2) whether the *client* has dependants;

(3) whether the *pension annuity* provides a fixed, increasing or decreasing income;

(4) the certainty of income associated with an annuity;

(5) the *client's* state of health; and

(6) the *client's* lifestyle choices.

Communications about drawdown and UFPLS options

19.4.14 R When a *firm* communicates with a *retail client* about their *drawdown pension* and *uncrystallised funds pension lump sum* options, the *firm* must provide the *client* with such information as is necessary for the *client* to make an informed decision including, where relevant, information about:

(1) how the remaining fund is invested;

(2) sustainability of income over time including;

(a) the extent to which any income is guaranteed; and

(b) implications of full encashment on the *client's* retirement income;

(3) the need to review, make further decisions about, or take further actions during the life of the pension decumulation product;

(4) impact on means-tested benefits; and

(5) tax implications.

[new text]

Communications about options to access pension savings

19.4.15 G A *firm* should ensure that when it makes any communication with a *retail client* concerned with the *client's* options to access their pension savings it has regard to the *fair, clear and not misleading rule*, the *client's best interests rule* and *Principles* 6 and 7. In particular a firm should:

(1) refer to the contents of the *Money Advice Service* fact sheet to identify what information might assist the *client* to understand their options;

(2) consider whether it needs to include or refer to any information contained in the *Money Advice Service* fact sheet;

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

(4) prominently highlight the ability to shop around and state clearly that other providers might offer pension decumulation products that are more appropriate for the *client's* needs and circumstances and may offer a higher level of retirement income;

(5) present information in a logical order, using clear and descriptive headings and where appropriate cross-references and sub-headings to aid navigation; and

(6) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language (or, where this is not possible) provide easily accessible accompanying explanations in plain language.

[new text]

Signposting pensions guidance

19.4.16 R (1) When a *firm* communicates with a *retail client* about the *retail client's personal pension scheme*, *stakeholder pension scheme, FSAVC, retirement annuity contract* or *pension buy-out contract* which is provided by the *firm*, unless the circumstances in (2) apply, the *firm* must:

(a) refer to the availability of the *pensions guidance*;

(b) offer to provide the *client* with information about how to access the *pensions guidance*; and

(c) include a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

(2) A *firm* is not required to provide the *client* with the statement required in (1) where:

(a) the *firm* communicates with the *client* for a purpose other than:

(i) encouraging the *client* to think about their open market options; or

(ii) facilitating access to the *client's* pension savings; or

(b) the *client* has already accessed the *pensions guidance*; or

(c) the *client* has already received advice from a *firm* on their open market options, for example from an independent financial adviser; or

(d) the *firm* is providing the *client* with an open market options statement or six-week reminder in accordance with *COBS* 19.4.6R or *COBS* 19.4.9R.

[original text (COBS 19.4.5R), minor amendment to (2)(a),(c)]

19.4.17 G An example of behaviour by or on behalf of a *firm* that is likely to contravene the *client's best interests rule* or *Principle* 6 and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from using the *pensions guidance*, for example by:

(1) leading the *client* to believe that using the *pensions guidance* is unnecessary or would not be beneficial; or

(2) obscuring the statement about the availability of the *pensions guidance* or any other information relevant to the exercise of open market options.

[original text (COBS 19.4.6G)]

Tax implications

19.4.18 R If a *firm* receives an application from a *retail client* to access some or all of their pension savings, the *firm* must provide the *client* with a description of the tax implications before the *client* accesses their pension savings.

19.4.19 R A *firm* is not required to provide the information in *COBS* 19.4.18R where it is provided in accordance with *COBS* 14.2.1R.

[original text (COBS 19.4.7R and 19.4.8R) minor amendment to COBS 19.4.19R]

Insert the following new table. The text is all new and is not underlined.

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

This annex belongs to COBS 19.4

The definitions in COBS 19.1R are applied to these tables.

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

Handbook reference	Matters to be communicated	Contents of communication	When
19.4.5R	Open market option statement	A statement satisfying the requirements of *COBS* 19.4.6R, *COBS* 19.4.8R and *COBS* 19.4.11R	Trigger events specified at *COBS* 19.4.5R
19.4.9R	Reminder	A statement satisfying the requirements of *COBS* 19.4.6R, *COBS* 19.4.8R and *COBS* 19.4.11R	At least six *weeks* before the *client's* intended retirement date

Table 2: Requirements for other communications

Handbook reference	Subject of communication	Contents of communication	Trigger
19.4.12R	*Pension annuity* options	Information about how the *client's* circumstances can affect *pension*	Any communication with a *client* about their *pension annuity* options

		annuity retirement income calculations and payments. *Firms* may also be required to provide a *key features illustration* (*COBS* 14.2.1R) or signpost *pensions guidance* (*COBS* 19.4.16R).	
19.4.14R	*Drawdown pension*	Relevant information about *drawdown pension* option. *Firm* may also be required to provide a *key features illustration* (*COBS* 14.2.1R) or signpost *pensions guidance* (*COBS* 19.4.16R).	Any communication with a *client* about their *drawdown pension* options
19.4.14R	*Uncrystallised funds pension lump sum*	Relevant information about *uncrystallised funds pension lump sum* option. *Firms* may also be required to provide a *key features illustration* (*COBS* 14.2.1R) or signpost *pensions guidance* (*COBS* 19.4.16R).	Any communication with a *client* about their *uncrystallised funds pension lump sum* options
19.4.15G	Communications about options to access pension savings	*Firm* should refer to the guidance in *COBS* 19.4.15G when communicating with a *client* about their options to access pension savings. *Firms* may also be required to signpost *pensions guidance* (*COBS* 19.4.16R).	Any communication with a *client* about their options to access their pension savings

19.4.18R	*Client* applies to access pension savings	*Firm* must provide a description of the tax implications unless it is provided in accordance with *COBS* 14.2.1R. *Firms* may be required to provide retirement risk warnings (*COBS* 19.7.7R). *Firms* may also be required to signpost *pensions guidance* (*COBS* 19.4.16R).	*Firm* receives an application from a *client* to access pension savings

…

22.2 Requirements on the retail distribution of mutual society shares

22.2.3 R …

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

"… Net assets for these purpose mean my financial assets after deduction of any debts I have, and do not include:

…

(b) any rights of mine under a qualifying contract of insurance (for example, a life assurance or critical illness policy); ~~or~~

(c) any benefits (in the form of pensions or otherwise) which are payable on the termination of my service or on my death or retirement and to which I am (or my dependants are) or may be ~~entitled.~~ entitled; or

(d) any withdrawal from my pension savings (except where the withdrawals are intended to serve as income in retirement).

…"

Part 3: Comes into force on [*date 3*]

13 Annex 2 Projections

…

R			
3	How to calculate a projection for a future annuity		
3.1	A *projection* for a future annuity must:		
	…		
	(2)		use a mortality rate based on the year of birth rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables ~~PCMA00~~ PMA08 and ~~PCFA00~~ PFA08 and including mortality improvements derived from each of the male and female annual mortality projection models, in equal parts;
	…		
…			
E			
3.1A			For any year commencing 6 April, the use of the male and female annual CMI Mortality Projections Models in the series CMI(20YY~~-1~~-2)_M_[1.25%] and CMI(20YY~~-1~~ -2)_F_[1.25%], where YY~~-1~~ -2 is the year of the Model used, will tend to show compliance with *COBS* 13 Annex 2 3.1R(2).

…

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

(1) assume that:

…

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

…

…

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

…

Annex C

Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text.

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

Forbearance and due consideration

…

7.3.10 R …

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

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

…

8.3 Pre contract information and advice requirements

…

8.3.2 R …

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

Financial Conduct Authority

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