

Publishing and disclosing costs and charges to workplace pension scheme members and amendments to COBS 19.8

Consultation Paper

CP19/10**

February 2019

How to respond

We are asking for comments on this Consultation Paper (CP) by **28 May 2019**.

You can send them to us using the form on our website at: www.fca.org.uk/cp19-10-response-form

Or in writing to:

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Email:

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Contents

1	Summary	3
2	The wider context	7
3	Publishing and disclosing costs and charges information to scheme members	9
4	Amendments to COBS 19.8	12
Annex 1		
	Questions in this paper	15
Annex 2		
	Cost benefit analysis	16
Annex 3		
	Compatibility statement	23
Annex 4		
	Abbreviations in this document	27
Appendix 1		
	Draft Handbook text	29

1 Summary

Why we are consulting

Background

1.1 This consultation sets out our proposed Handbook rules and guidance on:

- the publishing and disclosing of information about administration charges and transaction costs – ‘costs and charges information’ – by scheme governance bodies to members of workplace pension schemes and
- some amendments to our Conduct of Business Sourcebook (COBS), based on feedback to our Call for Input: PRIPs Regulation – initial experiences with the new requirements

1.2 We are also publishing a Feedback Statement (FS) to our Call for Input (CFI) together with this Consultation Paper (CP).

Publishing and disclosing costs and charges information

1.3 The Pensions Act 2014 (the ‘Act’) has placed a duty on the FCA and the Department for Work and Pensions (DWP) to make rules for publishing and disclosing costs and charges information for ‘relevant schemes’. These include workplace pension schemes regulated by the FCA.¹

1.4 The Act requires us to consider DWP’s regulations when making our own rules. These regulations, for workplace occupational pension schemes regulated by the Pensions Regulator (TPR), came into force in April 2018.

1.5 Since 3 January 2018, our rules have required asset managers to report transaction costs and other charges to the operator, trustee or manager of workplace pension schemes.

1.6 This CP sets out our proposed rules to require scheme governance bodies² to disclose this information to scheme members on an ongoing basis, to meet the duty the Act places on us.

1 A money purchase scheme that is:
 (a) a personal pension scheme where direct payment arrangements (within the meaning of section 111A of the Pension Schemes Act 1993) exist in respect of one or more members of the scheme who are workers, or
 (b) a personal pension scheme which is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (stakeholder pension schemes).

2 References in this paper to ‘scheme governance bodies’ should be read, where appropriate, as including Independent Governance Committees (IGCs) and Governance Advisory Arrangements (GAAs). References to IGCs should be read as including GAAs.

Amendments to COBS

- 1.7** Our rules require firms³ that hold information about transaction costs and administration charges of certain workplace pension schemes to disclose that information, on request, to the operator, trustee or manager of workplace pension schemes. They prescribe a methodology that asset managers must use to calculate transaction costs. The methodology is similar to that required by the Packaged Retail and Insurance-based Investment Products (PRIIPs) legislation.⁴
- 1.8** Our CFI asked firms and consumers about their initial experiences of the PRIIPs requirements. Industry stakeholders told us their concerns about the PRIIPs methodology, arguing that it can lead to potentially misleading information (such as negative transaction costs). Our responses to their feedback can be found in the FS we are publishing at the same time as this CP.
- 1.9** Based on that feedback, this CP sets out proposed amendments to our COBS 19.8 requirements in 2 areas:
- how to treat anti-dilution and
 - calculating costs of over-the-counter (OTC) transactions in bonds

Who this applies to

- 1.10** This consultation affects those who are involved in FCA-regulated relevant schemes within the defined contribution (DC) workplace pensions market. This includes:
- pension providers and asset managers
 - the governance bodies of pension schemes, such as Independent Governance Committees (IGCs), and their advisers
 - scheme members and their advisers and
 - consumer representative groups

The wider context of this consultation

- 1.11** In 2013, the Office of Fair Trading's (OFT's) market study into defined contribution (DC) workplace pensions concluded that competition alone would not drive value for money for all savers in that market.
- 1.12** The OFT's final report made a series of recommendations aimed at:
- improving the governance of schemes
 - the quality of information available about schemes and

³ In the course of those firms providing services in connection with a relevant scheme, an arrangement or an investment in which an arrangement is directly or indirectly invested (COBS 19.8.2R(2)). Usually asset managers who manage funds on behalf of the scheme.

⁴ The rules are contained in Annex VI of the PRIIPs Delegated Regulation (EU) 2017/653

- addressing current and future risks of consumer detriment

1.13 In light of these recommendations, we have been working with DWP to design and implement a package of reform measures to help ensure that all workplace pension schemes are high quality and offer value for money.

1.14 The Act forms part of these measures and includes provisions to address the quality of information available about schemes, eg measures to improve the transparency of costs and charges.

1.15 We are putting in place several other measures to increase the transparency of costs and charges, including:

- implementing a package of remedies to address the concerns identified in our Asset Management Market Study. This includes setting up the independent Institutional Disclosure Working Group (IDWG) to agree templates for cost disclosure by asset managers to institutional investors. In November 2018, the Cost Transparency Initiative (CTI) was launched to take the recommendations of the IDWG forward.
- consulting on rules, following our Retirement Outcomes Review, requiring pensions providers to disclose to consumers in drawdown the charges they have actually paid annually

What we want to change

1.16 Section 137FA of the Financial Services and Markets Act 2000 ('FSMA') – which was brought into force by section 44 of the Act on 18 September 2017 – requires us to make:

1. general rules requiring information about some or all of the transaction costs of a relevant scheme to be given to some or all of members of the scheme, spouses or civil partners of members, and persons within the application of the scheme who qualify or prospectively qualify for its benefits and
2. general rules requiring the publication of information about:
 - a. some or all of the transaction costs of a relevant scheme and
 - b. some or all of the administration charges (as defined at COBS 19.8.1) imposed on members of a relevant scheme

1.17 Section 137FA also requires us to consult with DWP and HM Treasury before publishing our draft rules. We set out our proposed rules in Chapter 3.

Outcome we are seeking

- 1.18** We seek to ensure that scheme members can find the information about costs and charges they require to establish that:
- they receive good value for money from their pension scheme and
 - their pension scheme will meet their needs for future retirement

Next steps

What do you need to do next?

- 1.19** We want to know what you think of our proposals. Please send us your comments by **28 May 2019**.

How?

- 1.20** Use the online response form on our website or write to us at the address on page 2.

What will we do?

- 1.21** We will consider your feedback and publish final rules in a Policy Statement (PS) later this year.

2 The wider context

The harm we are trying to address

- 2.1** In January 2013, the OFT launched a market study into the market for DC workplace pensions to examine whether, in the light of Automatic Enrolment (AE), competition was capable of driving value for money and good outcomes for scheme members.
- 2.2** The OFT's final report concluded that competition alone could not be relied upon to drive value for money for DC savers. This was due to 2 combined factors:
- Weaknesses on the buyer side of the market – Scheme members rely on their employers to make most of the key decisions about their pensions for them. Many employers lack the capability and/or the incentive to ensure that members of their schemes get value for money in the long term, and
 - The complexity of the product – DC workplace pension schemes are complicated products, it is difficult to assess their costs and quality, and outcomes may not be seen for some years.
- 2.3** The OFT made a series of recommendations to improve the governance of DC workplace schemes, improve the quality of information available about schemes, and address current and future risks of consumer detriment.
- 2.4** In light of these recommendations, and our statutory objectives (see below), we have been working with DWP and The Pensions Regulator (TPR) to design and implement a package of reform measures. These should help ensure that all workplace pension schemes are of high quality and offer value for money. Measures implemented to date include:
- new governance standards – eg the introduction of Independent Governance Committees (IGCs)
 - a charge cap on default funds and the banning of certain charging practices and
 - measures to improve how asset managers disclose costs and charges to scheme governance bodies.
- 2.5** This CP sets out proposed rules that require scheme governance bodies to disclose costs and charges information to scheme members. Our proposals are aimed at addressing the harm that some consumers may be in pension schemes which do not deliver value for money. Improving the quality of information available to scheme members may help lead to workplace pension schemes being better held to account by their members.
- 2.6** More generally, the FCA believes that transparency is an essential element of a healthy market.

How it links to our objectives

Competition

- 2.7** Our proposals are designed to ensure that scheme members can access better information about costs and charges, promoting more effective competition between firms in the interests of consumers.

Consumer protection

- 2.8** Better information about costs and charges in workplace pension schemes should help scheme members by enabling them to decide if their scheme is giving them value for money and if it will meet their future retirement needs.

Market integrity

- 2.9** Greater transparency about costs and charges could lead to workplace pension schemes being better held to account by their members, which would improve the orderly operation of the financial markets.

Wider effects of this consultation

- 2.10** The proposals set out in this CP are part of a package of reform measures intended to help ensure that all DC workplace pension schemes are of high quality and offer value for money.

What we are doing

- 2.11** This CP sets out our proposed rules requiring the governance bodies of workplace pension schemes to disclose costs and charges information to scheme members.
- 2.12** Please see Chapter 3 for more details.

Equality and diversity considerations

- 2.13** We have considered the equality and diversity issues that may arise from our proposals in this CP. Overall, we do not consider that the proposals in this CP adversely impact any of the groups with protected characteristics, ie age, disability, sex, marriage or civil partnership, pregnancy and maternity, race, religion and belief, sexual orientation and gender reassignment.
- 2.14** We will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.

3 Publishing and disclosing costs and charges information to scheme members

General approach

- 3.1** In March 2015, we published a 'Call for Evidence' with DWP to explore:
- how to improve transparency in reporting information about the transaction costs and charges for workplace pension schemes
 - what costs should be included
 - how these costs should be captured and reported
 - whether information about other factors that impact on investment return should also be provided
 - how IGCs and trustees will get costs information and whether additional disclosure requirements on other parties are necessary to enable this and
 - when, how and in what format members and/or other persons should be given transaction cost information
- 3.2** We explained that our purpose was to align any future disclosure rules and regulations to ensure equivalent expectations for occupational and personal pension schemes. Our proposals, as set out below, reflect that purpose.
- 3.3** In February 2018, DWP made their regulations for publishing and disclosing costs and charges information about the workplace pension schemes regulated by TPR to scheme members. Where appropriate, our proposals mirror the approach and definitions DWP used in making their regulations
- 3.4** However, differences in the structures of the underlying schemes and our respective regulatory regimes mean that it would not be appropriate or feasible simply to duplicate DWP's regulations. So, we explain below where our approach is different from DWP's, and why.

Q1: Do you agree that we should, where appropriate, mirror DWP's approach in making our rules?

Structure and scope

- 3.5** We previously set out our final rules on the way asset managers should disclose and publish costs and charges information to the operator, trustee or manager of

workplace pension schemes in PS17/20. These rules appear in our Conduct of Business Sourcebook (COBS) at Chapter 19.8.

- 3.6** This CP sets out our proposed rules requiring firms to ensure that scheme governance bodies, in turn, disclose costs and charges information to scheme members. The scope of our proposed rules may be slightly wider than that of section 137FA FSMA⁵ and is broadly aligned with that of our existing COBS 19.5 *Independent governance committees (IGCs)* rules. We propose adding these rules to COBS 19.5 which would consequently cover:

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

- 3.7** The new provisions will apply to those investment options within schemes that meet the definition of money purchase benefits set out in section 137FA FSMA.

- 3.8** To ensure that scheme governance bodies have all the information they require to make these disclosures, we also propose to introduce a requirement on providers of workplace pensions to provide costs and charges information to scheme governance bodies at COBS 19.5.7 'Duties of firms in relation to an IGC.'

- 3.9** Where a scheme is not required to have a scheme governance body – ie one worker schemes – our proposed rules will require the scheme operator to publish the costs and charges information and provide it to members.

Q2: Do you agree with the proposed structure and scope of our new provisions?

Information to be published

- 3.10** Section 137FA FSMA places a duty on the FCA to make rules requiring information to be published about some or all administration charges and some or all transaction costs about a relevant scheme.

- 3.11** We propose to achieve this by requiring firms to ensure that scheme governance bodies:

- set out information about the transaction costs and the administration charges (as defined at COBS 19.8.1) imposed on scheme members, for each default arrangement and each alternative fund option that the member is able to select, in the Chair's report
- include an illustration of the compounding effect of the aggregated costs and charges and
- publish all of this costs and charges information, free of charge, on a publicly available website

⁵ The rules would cover all schemes required to have a scheme governance body, as well as all 'relevant schemes' within section 137FA FSMA.

3.12 The publication should be at least yearly – within seven months of the end of each scheme year. We also propose offering Handbook guidance, similar to DWP's guidance, on how asset managers might set out the illustration of the compounding effect.

3.13 The publication may include other information – eg contribution details – provided this does not obscure the purpose of the required information. The published information should include a warning giving brief details of any unavailable information that the scheme governance body is aware of.

Q3: Do you agree with our proposed approach to requiring scheme governance bodies to publish costs and charges information about a relevant scheme?

Information to be given to scheme members

3.14 Section 137FA FSMA also places a duty on the FCA to make general rules requiring information about some or all of the transaction costs of a relevant scheme to be given to scheme members.

3.15 We propose to achieve this by introducing rules into COBS which, for relevant schemes, will require firms to ensure that scheme governance bodies ensure that all scheme members are provided with an annual communication which includes a brief description of the most recent costs and charges information available and how it can be accessed.

3.16 While the obligation under section 137FA is to provide transaction costs information, we propose that this costs and charges information should include all of the information set out in paragraphs 3.11 and 3.13 above.

3.17 We also propose that this information should be made available, on request, to members' spouses or civil partners and to persons within the application of the scheme and who qualify, or prospectively qualify, for its benefits.

3.18 We do not intend to be prescriptive about the format of the communication. Our proposed rules do not prevent scheme governance bodies from including appropriate contextual information or arranging for this communication to be combined with any other annual communication from the scheme operator, trustee or manager.

Q4: Do you agree with our proposed approach to giving members and certain others costs and charges information about a relevant scheme?

Implementation timetable

3.19 We intend to publish a Policy Statement later this year, setting out our final rules. It is our intention that these rules should come into force from April 2020.

Q5: Do you agree with our proposed implementation timetable?

4 Amendments to COBS 19.8

- 4.1** This chapter proposes amendments to clarify certain rules in COBS 19.8, which apply to defined contribution (DC) workplace pensions, about how transaction costs should be calculated.

Background

- 4.2** COBS 19.8 came into effect on 3 January 2018. These rules require firms⁶ that hold information about transaction costs and administration charges of certain workplace pension schemes to disclose that information, on request, to the operator, trustee or manager of the scheme.
- 4.3** The COBS 19.8 rules prescribe a methodology that must be used to calculate transaction costs. The methodology is similar to that required by the PRIIPs legislation.⁷
- 4.4** As noted above, our Call for Input (CFI) sought input from firms and consumers about their initial experiences of the PRIIPs requirements. Some industry stakeholders expressed concerns about the methodology, arguing that it can lead to potentially misleading information (such as negative transaction costs). Our responses to their feedback can be found in the FS we are publishing at the same time as this CP.
- 4.5** Based on that feedback, this section of the CP sets out some proposed amendments to our COBS 19.8 requirements.
- 4.6** The PRIIPs Regulation is directly applicable EU law. The transaction costs methodologies set out in the PRIIPs Delegated Regulation, therefore, continue to apply unchanged, where they are directly applicable. However, our rules in COBS 19.8 are outside the scope of PRIIPs. We can, therefore, clarify the methodology set out in COBS 19.8 and vary the approach set out in PRIIPs.

Proposed amendments

- 4.7** CFI respondents raised the issue that the calculation of transaction costs under the methodology required by COBS 19.8 can, in some circumstances, result in negative costs. This can be a legitimate result because of how the costs of a firm's trading strategy are calculated under the "slippage cost" methodology. But more commonly it appears to result either from data issues or from interpretations of the rules which we consider were not the policy intention.

⁶ Usually asset managers who manage funds on behalf of the scheme.

⁷ The PRIIPs legislation includes the PRIIPs Regulation (EU) No 1286/2014 and the Delegated Regulation (EU) 2017/653

4.8 There are two main areas where we propose to amend the COBS 19.8 rules:

- how to treat anti-dilution and
- calculating costs relating to OTC transactions in bonds

Anti-dilution

4.9 An open-ended fund may incur transaction costs when the fund buys (or sells) investments in response to flows into (or out of) the fund. Anti-dilution is the practice whereby the fund passes on those costs to the relevant incoming (or outgoing) investors. Without this, ongoing investors would bear the costs of these transactions.

4.10 The COBS 19.8 rules require firms to calculate the costs of all the transactions done by a fund. They permit, but do not require, firms to subtract from this total cost any benefit that the fund gets from anti-dilution. But we have seen examples where the benefit to a fund from anti-dilution is more than all the transaction costs that it has incurred over the same period. This leads it to report negative transaction costs.

4.11 We consider that, where the amount of anti-dilution benefit is more than all the transaction costs incurred, this should not be taken into account in the reported transaction costs.

4.12 We propose rule amendments to ensure that:

- firms using an anti-dilution mechanism disclose anti-dilution benefit separately, as part of the breakdown of identifiable costs required by COBS 19.8.5R(2)
- the anti-dilution benefit must not be taken into account if and to the extent that the benefit would take the total transaction costs below zero.

4.13 We consider that the first change will help governance bodies to understand better the impact of any anti-dilution mechanism, and the second change will prevent negative transaction costs being disclosed as a result of the inclusion of anti-dilution.

Calculation of transaction costs of bonds

4.14 In responses to the CFI, asset managers expressed concerns around how the costs of over-the-counter (OTC) transactions in bonds should be calculated for transaction cost disclosure. There are different interpretations of how the COBS 19.8 rules work, and concerns about a lack of availability of realistic prices. We are aware that many bonds trade infrequently, and so the prices available from data providers may not reflect the most recent market movements.⁸

4.15 We propose to clarify how we expect transaction costs to be calculated for OTC bond transactions. In this situation, the firm will have had to check the fairness of the price⁹ before transacting. We consider that the best evidence that will be available for the market mid-price of the bond will be the average of the best bid and best offer obtained when seeking quotes from multiple counterparties.

⁸ In other words, market movements that have happened since the previous price at which the bond has been valued

⁹ Which is required by the MiFID II Delegated Regulation Article 64(4) / COBS 11.2A.8 EU (4)

4.16 We consider that this is a reasonable interpretation of the existing requirement under COBS 19.8.10R to use the market mid-price at the time the order was transmitted to another person for execution. But since other interpretations may also be reasonable, we propose to make a rule which clarifies that this is how firms should calculate transaction costs in this situation. We consider that this should be more accurate and straightforward than alternative approaches and should remove the possibility of firms calculating negative transaction costs for these transactions.

Q6: Do you agree with our proposed amendments to COBS 19.8?

Annex 1

Questions in this paper

- Q1:** Do you agree that we should, where appropriate, mirror DWP's approach in making our rules?
- Q2:** Do you agree with the proposed structure and scope of our new provisions?
- Q3:** Do you agree with our proposed approach to requiring scheme governance bodies to publish costs and charges information about a relevant scheme?
- Q4:** Do you agree with our proposed approach to giving members and certain others costs and charges information about a relevant scheme?
- Q5:** Do you agree with our proposed implementation timetable?
- Q6:** Do you agree with our proposed amendments to COBS 19.8?
- Q7:** Do you have any comments on our cost benefit analysis?

Annex 2

Cost benefit analysis

Introduction

1. The Financial Services and Markets Act 2000 (FSMA), as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish 'an analysis of the costs together with an analysis of the benefits' that will arise if the proposed rules are made. It also requires us to quantify these costs and benefits, unless they cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.

Problem and rationale for the intervention

2. In its 2013 market study, the OFT concluded that the market for DC workplace pensions is not working well and that competition alone cannot be relied on to drive value for money for all scheme members. The buyer side of the market was one of the weakest that the OFT had analysed in recent years.
3. The OFT identified a number of features of the market that contribute to significant buyer side weaknesses:

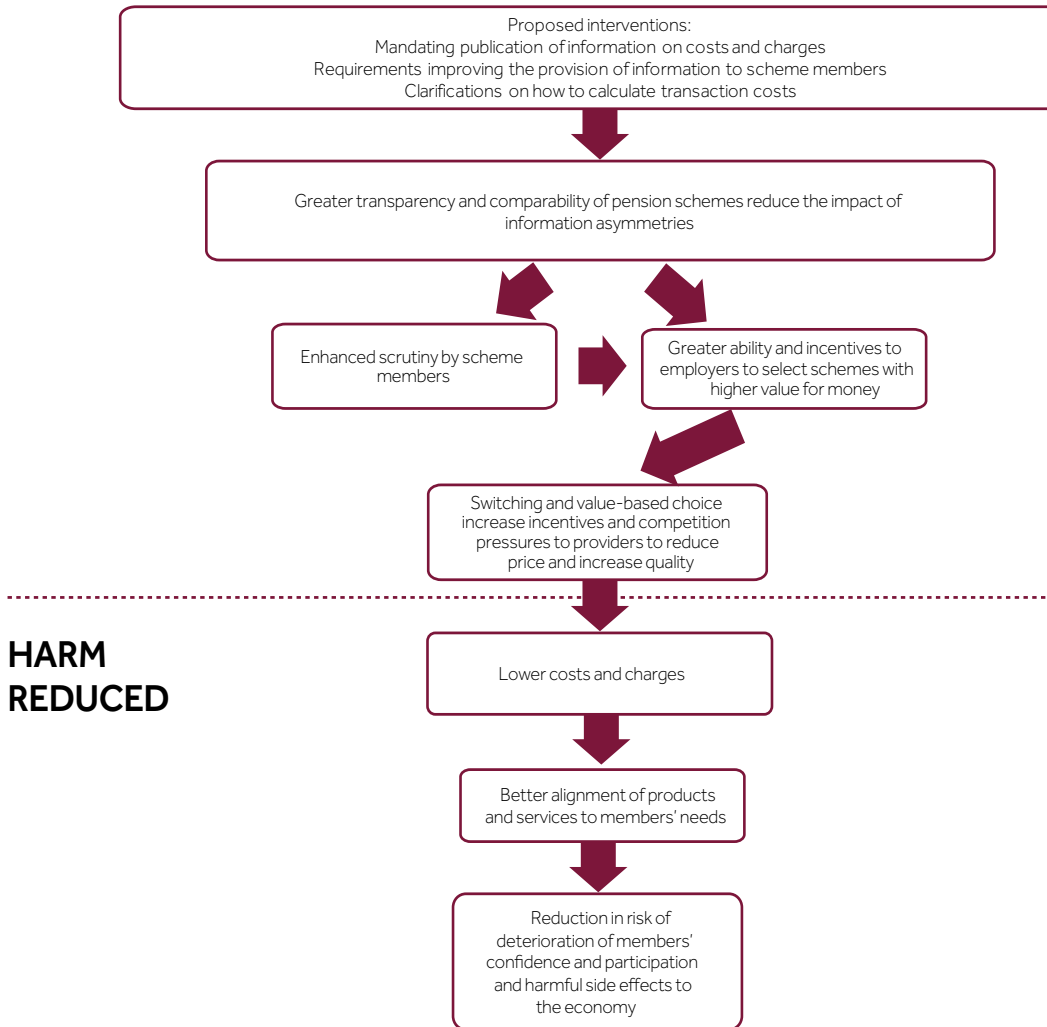
<p>Product complexity and information asymmetries</p>	<ul style="list-style-type: none"> • pensions are complicated products, both their costs and quality are hard to observe and outcomes may not be apparent for some years, making decision making on value for money very difficult, • the complexity of charging structures makes it challenging for employers/scheme members to compare offerings across pension providers effectively, • the lack of transparency of charges, and of transaction costs, makes it difficult for employers/scheme members to assess whether funds are good value for money, • scheme members may rely on the employer to ensure value for money, despite employer incentives often not being aligned with those of the individual scheme members, and • scheme members are unable to switch to another, better value provider without losing employer contributions.
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<p><i>A lack of alignment of incentives between employer and employee</i></p>	<ul style="list-style-type: none"> • employers do not have sufficient incentive to ensure that the ongoing charges falling on scheme members (both active and deferred members) are minimised, and • a lack of transparency of costs and charges means that scheme members may not be aware of the levels of charges and/or their impact on their future pension pot and may not sufficiently scrutinise decisions, made on their behalf by employers, that affect the charges incurred or returns achieved.
<p><i>Barriers to switching pension provider</i></p>	<ul style="list-style-type: none"> • employers face significant barriers to switching because of the costs of setting up a new scheme, • to the extent that employers bear set up costs, this will act as a disincentive to switching to a scheme offering better value for money for their employees, and • scheme members themselves are generally unable to switch to an alternative and better value pension scheme without losing their employer's contributions.

4. The analysis above indicates that both members and employers acting on their behalf find it difficult to access and analyse information on cost and quality. They have, therefore, a limited ability to select the most suitable scheme.
5. Furthermore, employers who find it time-consuming and costly to assess schemes have limited incentives to engage with choices in a way that maximise employees' benefits, particularly if this would entail switching providers. Consequently, the operators of workplace pension schemes (both trust and contract based) are not under sufficient competitive pressure to ensure that the costs and charges to scheme members provide value for money.
6. To illustrate the potential for poor value for money, the OFT noted that around £30bn of contract and bundled trust-based assets (approximately one quarter of total assets in workplace pension schemes) remain in schemes with charges at risk of being poor value for money. The average annual management charge (AMC) on schemes sold before 2001 (so-called "legacy schemes") was around one-quarter to one-third higher than on those sold after April 2001.
7. Further harm is likely to arise because of limited alignment of products' type and quality with members' needs. Lack of clarity and poor outcomes may also damage confidence and participation in the long-term, with potential adverse side-effects to individuals and the wider economy from inadequate savings levels among working-age cohorts.
8. Different measures have been introduced to tackle the drivers of harm described above, including the requirements to establish Independent Governance Committee (IGCs). As discussed below, our proposed intervention aims to further reinforce the benefits of these measures by enhancing the scrutiny of costs and charges.

Our intervention

9. From 18 September 2017, s137FA FSMA has placed a duty on the FCA to make rules regarding the publication and disclosure of costs and charges information in respect of the workplace pension schemes we regulate. This CP sets out our proposed rules.
10. The following diagram illustrates how we expect our proposed measures will reduce harm to scheme members:



11. Following FSMA 138I (8)(a), we consider that not all the costs and benefits of our proposed measures can reasonably be estimated in this CBA. Where the costs and benefits of our proposed measures cannot reasonably be estimated we provide a qualitative analysis.

Baseline and key assumptions

12. Our existing rules requiring the establishment of Independent Governance Committees (IGCs) came into force on 6 April 2015 and these include a requirement¹⁰

¹⁰ See COBS 19.5.5R 2(e)

that IGCs assess the value for money of costs, including transaction costs. Furthermore, the rules presented in PS17/20 require firms managing money on behalf of defined contribution (DC) workplace pension schemes to disclose administration charges and transaction costs to the operator, trustee or manager of those schemes, using a standard approach.¹¹

13. Our proposed rules (together with our existing rules) should strengthen transparency and hence scrutiny on costs, which in turn should result in efforts to reduce costs by pension providers. We note that it is not reasonably practicable to separate out and estimate benefits resulting from the actual shift in behaviours arising from our current proposed measures from those of our existing rules. In particular, we do not possess data that would allow us to isolate the impact on transaction costs from our PS17/20 interventions.
14. Where appropriate, our analysis adopts the approach and assumptions used by DWP in the *Impact Assessment* they completed in relation to their occupational pension schemes regulations, which came into force in April 2018.
15. We assume that the schemes within the scope of our proposed rules will have a scheme governance body. In the event that a scheme does not have a scheme governance body – eg one worker schemes – our proposed rules will require the scheme operator to publish the costs and charges information and provide it to members.
16. We think it is unlikely that there will be many instances where, in the absence of a scheme governance body, the responsibility for publishing and providing the information will fall on the scheme operator, as options like Master Trusts can offer employers the benefit of a scheme governance body and the likelihood of lower operating costs than a single worker scheme.
17. It is not reasonably practicable to estimate any additional costs to scheme operators, arising from those single worker schemes that fall within the scope of our proposed rules. However, we consider that these costs are likely to be small as scheme operators will already have the access to:
 - the costs and charges information
 - a publicly accessible website and
 - existing annual communications that can include the required information
18. We consider that the amendments we propose to our existing COBS 19.8 rules in Chapter 4 are minor clarifications of the rules and should not materially affect the costs of producing the information required.

Consumer costs

19. We do not expect our proposed measures to lead to any significant direct costs to consumers as they marginally expand on the existing disclosure requirements on operators of relevant schemes and IGCs. We note that consumers who wish to be

11 <https://www.fca.org.uk/publication/policy/ps17-20.pdf>

fully informed about costs and charges should find it easier and less time consuming, following the proposed intervention.

Compliance costs to IGCs

20. Adopting the approach used by the DWP, we expect the overall costs of compliance to consist mainly of one-off costs, below £15,000, while ongoing costs should be slightly above £2,000 per year.

Familiarisation and gap analysis¹²

21. We assume that up to sixty scheme governance bodies will need to familiarise themselves with new rules and engage in a gap analysis to identify what they need to do to comply.
22. We base our estimates on familiarisation and gap analysis costs on the length of the Consultation Paper (30 pages) and the legal instrument (8 pages), respectively.
23. Using our standard assumptions, we estimate these costs to be approximately £103 for each of the sixty bodies affected, so that familiarisation and gap analysis costs are £6,160.

Interpreting and presenting information

24. We took the first step in making this costs and charges information available to scheme members by making rules that, with effect from 3 January 2018, require asset managers to report transaction costs and other charges to the operator, trustee or manager of workplace schemes.
25. Scheme governance bodies already have a duty to request and report on charges and transaction costs as far as they are able for the default arrangement and the range of charges and transaction costs for other arrangements. This information must be included in the Chair's statement and is available to members upon request. They should, therefore, already be familiar with the charges their members face.
26. While our proposals include detailed guidance as to how the illustration of the compounding effect may be completed, they are not prescriptive as to how the rest of the information should be presented. Scheme governance bodies can decide what approach to use, subject to it being presented clearly to members.
27. We therefore adopt DWP's approach to estimating the compliance costs, i.e. a suitably qualified professional, per IGC, would have to spend some time understanding how to interpret and present cost information in order to with our rules. This will involve collating the information they already have access to on charges, interpreting the transaction cost information they receive from the fund manager and deciding what is the best way to present it so that it is clear to members.
28. We believe that it is reasonable to adopt DWP's estimate that this will require three hours and twenty minutes of a professional's time in the first year. We note that our proposed rules are significantly shorter than DWP's regulations, however we believe

12 The assumptions used to estimate these costs are based on a review of previous CBAs, internal consultation, and desk-based research, combined with consultation with firms and trade bodies, and discussions with software vendors. Here we combine our assumptions with the salary estimates used by DWP in their Impact Assessment. We add an allowance for overheads of 30% to all time costs to account for non-wage labour costs, as advocated by the HM Treasury Green Book. See FCA, How we analyse the costs and benefits of our policies, July 2018.

that any time saving in reading them is likely to be offset by the collation of the relevant changes, e.g. the completion of the illustration of the compounding effect taking longer as additional wrapper charges need to be collated.

29. We think it is reasonable to expect compliance costs to fall after the first year as scheme governance bodies should have settled on an agreed presentation format and would only need to update information, where relevant. We therefore adopt DWP's estimate that the time required will fall to one hour after the first year.

Publishing

30. Our proposed measures require that the costs and charges information published be available for free on a publicly accessible website. We expect that schemes will already operate or have access to a suitable website.
31. We think it is reasonable to assume that it will take slightly longer in the first year to upload the document, as scheme governance bodies will need to establish how they can best ensure that the relevant information is publicly available.
32. We therefore agree with DWP's estimate that this will require forty minutes of a pension administrator's time in the first year, and twenty minutes in subsequent years. This assumption is based on DWP's Simplifying of advice requirement Impact Assessment – i.e. that it takes ten minutes to copy and paste a standard piece of text into existing communications – adding an additional ten minutes for the upload itself to be completed.

Disclosure

33. We have also not been prescriptive as to how the information is given to members. IGCs may choose to arrange to have the information sent out with the Annual Benefit Statement, or any other existing annual communication from the firm to members and include appropriate contextual information, provided it is done in a way that does not obscure the purpose of either communication.
34. We expect that most IGCs will choose to arrange to have the information included with the Annual Benefit Statement. The text that will have to be included to meet our proposed measures will be standardised – although scheme governing bodies may choose to personalise it – and should not need to be updated in subsequent years.
35. We adopt DWP's assumption here, that complying will require ten minutes of a pension administrator's time in the first year, and none thereafter.
36. The following table summarises the time and cost estimates, per IGC, set out above:

Activity	Time taken		Wage costs (hourly)
	One-off	Ongoing	
Familiarisation and gap analysis	4 hours	Nil	£25.67 ¹³
Interpreting and presenting information	3 hours and 20 minutes	1 hour	£25.67
Publication	80 minutes	40 minutes	£19.50 ¹⁴
Disclosure	10 minutes	Nil	

13 Based on a professional's wage: ASHE 2016, Table 2.5, uplifted by 30% for overheads, in line with Green Book guidance.

14 Based on an administrator's wage: ASHE 2016, Table 2.5, uplifted by 30% for overheads, in line with Green Book Guidance.

Direct costs to the FCA

37. We do not expect our proposed measures to lead to any significant direct costs to the FCA, as supervision of the proposed rules will be undertaken using existing resources.

Summary of estimated direct costs

38. As mentioned above, we estimate that up to sixty scheme governance bodies may be in place by April 2020, the date we propose that these measures should come into force. On that basis, the table below summarises the estimated direct costs of our proposed measures:

	Estimated direct costs	
	One-off (£)	Ongoing (£)
Direct costs (£)		
<i>Familiarisation and gap analysis</i>	6,161	0
<i>Interpreting and presenting information</i>	5,134	1,540
<i>Publication</i>	1,560	780
<i>Disclosure</i>	195	0
Total	13,050	2,320

Consumer benefits of our proposals

39. We expect our proposed measures to mitigate the negative impact on the market of the buyer side weaknesses and market failures summarised above. However, we do not believe that these benefits can reasonably be estimated in this CBA and, under FSMA 138I (8)(a), we provide a qualitative analysis here.
40. Our proposed measures make costs and charges more transparent to employers and enable them to compare offerings across providers more effectively.
41. Clearer information will also enable scheme members to scrutinise decisions, made on their behalf by employers, that affect the charges incurred and returns achieved.
42. Employers will then have stronger incentives to shift choices of pension schemes in favour of those providing better value for money. This, in turn, should foster competition among providers which would enhance cost containment efforts.
43. The combination of stronger incentives and ability of employers to assess value for money of pension schemes and ensuing competition among providers should result in improvement in terms of quality of pension schemes.
44. In particular, we expect that the proposed intervention will contribute to reduced costs and charges, thereby allowing scheme members to enjoy higher net returns on their pots with significant, positive impacts on their future retirement incomes.
45. Lower charges and higher net returns also entail better alignment to members' long-term needs, and contribute to preventing a decrease in confidence and participation in pension schemes.

Q7: Do you have any comments on our cost benefit analysis?

Annex 3

Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. This Annex includes our assessment of the equality and diversity implications of these proposals.
5. Under the Legislative and Regulatory Reform Act 2006 (LRRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRRA.

The FCA's objectives and regulatory principles: Compatibility statement

6. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of consumer protection. Better information about costs and charges in workplace pension schemes should protect the interests of scheme members by enabling them to determine if they are receiving value for money from their scheme and if it will meet their needs for future retirement.

7. Our proposals are also relevant to our operational objective of promoting market integrity. More transparency in relation to these costs and charges could lead to workplace pension schemes being better held to account by their members. This could in turn improve the orderly operation of the financial markets.
8. Finally, our proposals for costs and charges disclosure are designed to ensure that those scheme members can access this information, promoting more effective competition between firms in the interests of consumers.

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

9. We have considered this principle and do not believe that our proposals will have a significant impact on our resources or the way we use them.

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

10. Where required, in Annex 2, we have set out our analysis of the costs and benefits of our proposals. We believe that our proposals are a proportionate response to the duty placed upon us by the Act.

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

11. Our proposals support the government's policy objective of people saving more for their retirement and thereby relieving the tax burden on future generations.
12. Automatic Enrolment is likely to drive significant growth in pension assets under management in the medium to long term, which will be available to invest in the UK economy.
13. The success of Automatic Enrolment depends on consumers being confident in saving for their pension which, in turn, depends on the ongoing value for money delivered by the pension scheme into which they invest.

The general principle that consumers should take responsibility for their decisions

14. While we believe that consumers should take responsibility for their decisions, in this instance consumers may be automatically enrolled into the default fund of their employer's scheme without making any decision. In addition, information asymmetries and the complexity of assessing value for money may deter consumers from making choices about how their pension assets are invested.
15. Many scheme members are unlikely to be able to take decisions about how their pension assets are managed and invested. Our proposals enable scheme members who are engaged with their pension savings to have the information they need to determine if their scheme is providing value for money.

The responsibilities of senior management

16. Our proposals place obligations on the governing bodies of relevant schemes to ensure that information about transaction costs is passed to those who need it. We

consider these obligations necessary to ensure that the interests of policyholders are properly represented within such firms.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

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

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

18. We believe that our proposals do not undermine this principle. Our proposed rules would promote greater transparency of information about administration charges and transaction costs.
19. Our proposals do not require scheme governance bodies to publish, or make publicly available, confidential or commercially sensitive information.

The principle that we should exercise of our functions as transparently as possible

20. Transaction cost disclosure has been widely discussed. Jointly with DWP, we published a Call for Evidence in March 2015.
21. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA).
22. The intention of disclosing transaction costs is not to address the risk of financial crime, but we do not consider that it creates any greater risk of financial crime.

Expected effect on mutual societies

23. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies.
24. We see no reason why our proposed rules would impact a firm differently based on the structure of the provider.

Compatibility with the duty to promote effective competition in the interests of consumers

25. In preparing the proposals set out in this consultation, we have had regard to our duty to promote effective competition in the interests of consumers under section 1B(4)

of the FSMA. This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives.

26. The OFT market study concluded that the buyer side of the workplace pensions market was one of the weakest that they have encountered in recent years. Further, the OFT saw that Automatic Enrolment would bring disengaged and potentially vulnerable consumers into pension saving for the first time. Many of these consumers will not express any choice in how their pension savings are managed and invested.
27. Our proposals for costs and charges disclosure are designed to ensure that engaged scheme members can access information about costs and charges, promoting more effective competition between firms in the interests of consumers.

Equality and diversity

28. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.
29. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraph 2.13.

Legislative and Regulatory Reform Act 2006 (LRRRA)

30. We have had regard to the principles in the LRRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals reflect these. We set out elsewhere in this annex how we consider these proposals to be transparent and proportionate.
31. We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance.
32. We consider that our proposals are relatively straightforward and not overly prescriptive. They address an area that, as explained in Chapter 1, has been highlighted by the OFT as being a risk.

Annex 4

Abbreviations in this document

CBA	Cost Benefit Analysis
CFI	Call for Input
COBS	Conduct of Business Sourcebook
CP	Consultation Paper
DC	Defined Contribution
DWP	Department for Work and Pensions
FS	Feedback Statement
FSMA	Financial Services and Markets Act 2000
GAA	Governance Advisory Arrangement
IGC	Independent Governance Committee
LRRA	Legislative and Regulatory Reform Act 2006
OFT	Office of Fair Trading
PRIIPs	Packaged Retail and Insurance-based Investment Products
PS	Policy Statement
TPR	The Pensions Regulator

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

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 7066 7948 or email: publications_graphics@fca.org.uk or write to: Editorial and Digital team, Financial Conduct Authority, 12 Endeavour Square, London E20 1JN

Appendix 1

Draft Handbook text

PENSION SCHEMES (PUBLICATION AND DISCLOSURE OF COSTS AND CHARGES) INSTRUMENT 2019

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137FA (FCA general rules: disclosure of information about pension scheme transaction costs etc);
 - (3) section 137T (General supplementary powers); and
 - (4) section 139A (Power of the FCA to give guidance).
- B. The rule-making powers listed above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [*date*].

Amendments to the Handbook

- D. The Conduct of Business sourcebook (COBS) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Pension Schemes (Publication and Disclosure of Costs and Charges) Instrument 2019.

By order of the Board
[*date*]

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

19 Pensions supplementary provisions

...

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

Application

- 19.5.1 R This section applies to a *firm* which operates a *relevant scheme* in which there are at least two *relevant policyholders*, except COBS 19.5.19R, which applies as set out in that rule.

Interpretation

- 19.5.1A R In this section “administration charges” and “transaction costs” have the same meaning as in COBS 19.8.1R.

...

Terms of reference for an IGC

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

...

- (6) the Chair of the *IGC* will be responsible for the production of an annual report setting out:

...

- (f) the arrangements put in place by the *firm* to ensure that the views of *relevant policyholders* are directly represented to the *IGC*; and

- (g) administration charges and transaction costs information, which must comply with the requirements in COBS 19.5.13R;

- (7) the *IGC* will ensure that all members of each *relevant scheme* are provided with an annual communication complying with the requirements in COBS 19.5.16R.

(8) the IGC will make available the annual communication referred to in (7), on request, to:

(a) relevant scheme members' spouses or civil partners; and

(b) persons within the application of the relevant scheme and qualifying or prospectively qualifying for benefits under the relevant scheme.

...

Duties of firms in relation to an IGC

19.5.7 R A firm must:

...

(7) take all necessary steps to facilitate the escalation of concerns by the IGC under COBS 19.5.5R(4) and COBS 19.5.6G(5); ~~and~~

(8) make the terms of reference and the annual report of the IGC publicly available; and

(9) provide each relevant scheme's IGC with administration charges and transaction costs information, setting out the costs and charges for each default arrangement and each alternative fund option that the member is able to select.

...

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

Publication and disclosure of costs and charges by IGCs

19.5.13 R The requirements referred to in COBS 19.5.5R(6)(g) are that the administration charges and transactions costs information must, in relation to each *relevant scheme*:

(1) be published annually;

(2) be published within seven *months* of the end of each scheme year;

(3) be published alongside any information in the IGC's annual report relating to the *relevant scheme's* default investment strategy and value for members;

(4) be available for free on a publicly accessible website;

(5) include the costs and charges for each default arrangement and each alternative fund option that a member is able to select; and

- (6) include an illustration of the compounding effect of the administration charges and transaction costs, based on either the assumptions contained in *COBS* 13 Annex 2 or those in Version 4.2 of the Actuarial Standard Technical Memorandum (AS TM1) produced by the Financial Reporting Council.

19.5.14 R Regarding transaction costs:

- (1) the requirement in *COBS* 19.5.13R(5) applies to the extent that such information is available to the *IGC*;
- (2) the published information should include a warning giving brief details of any unavailable information that the *IGC* is aware of.

19.5.15 G An example of the type of illustration referred to in *COBS* 19.5.13R(6) and *COBS* 19.5.19R(3)(d) is shown below. The assumptions in the notes should reflect the actual assumptions used.

Projected pension pot in today's money								
Fund choice								
	Default Arrangement		Fund A		Fund B		Fund C	
Years	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted	Before charges + costs deducted	After all charges + costs deducted
1								
3								
5								
10								
15								
20								
25								
30								
35								
40								

Example notes:

1. Projected pension pot values are shown in today's terms, and do not need to be reduced further for the effect of future inflation.
2. The starting pot size is assumed to be £10,000.
3. Inflation is assumed to be 2.5% each year.
4. Contributions are assumed from age 22 to 68 and increase in line with assumed earnings inflation of 2.5% to 4% each year.
5. Values shown are estimates and are not guaranteed.
6. The projected growth rates for each fund are as follows:
 - Default fund: 2.5% above inflation
 - Fund A: 2% above inflation
 - Fund B: 1% above inflation
 - Fund C: 1% below inflation

- 19.5.16 R The annual communication referred to in *COBS 19.5.5R(7)* must:
- (1) include a brief description of the most recent transaction costs and administration charges information that has been published in accordance with *COBS 19.5.13R*, and an explanation of how that information is relevant to the *relevant scheme* member; and
 - (2) explain how a *relevant scheme* member can access the information referred to in (1), including providing a link to the website required by *COBS 19.5.13R(4)*.
- 19.5.17 G The annual communication may be included with any other annual communication from the *operator* to the member of the *relevant scheme*.
- 19.5.18 G The annual communication provided to a *relevant scheme* member may also include the particular transaction costs and administration charges that have been incurred by that member.

Publication and disclosure of costs and charges by certain schemes that do not have IGCs

- 19.5.19 R
- (1) This *rule* applies to a *firm* that operates a scheme that is a relevant scheme within the meaning of section 137FA of the *Act*.
 - (2) This *rule* applies in relation to a scheme that:
 - (a) is not a *relevant scheme* in which there are at least two *relevant policyholders*; but
 - (b) is a relevant scheme within the meaning of section 137FA of the *Act*.

- (3) For each scheme, a *firm* must publish the transaction costs and administration charges for each default arrangement and each alternative fund option that a member is able to select:
- (a) annually;
 - (b) within seven *months* of the end of each scheme year;
 - (c) so that it is available for free on a publicly accessible website; and
 - (d) with an illustration of the compounding effect of the administration charges and transaction costs, based on either the assumptions contained in *COBS* 13 Annex 2 or those in Version 4.2 of the Actuarial Standard Technical Memorandum (AS TM1) produced by the Financial Reporting Council.
- (4) A *firm* must send all members of each scheme an annual communication, which must:
- (a) include a brief description of the transaction costs and administration charges information that has been published in accordance with (3), and an explanation of how that information is relevant to the scheme member; and
 - (b) explain how a scheme member can access the information referred to in (a), and provide a link to the website required by (3)(c).
- (5) A *firm* must make available the annual communication referred to in (4), on request, to:
- (a) scheme members' spouses or civil partners; and
 - (b) persons within the application of the scheme and qualifying or prospectively qualifying for benefits under the scheme.

19.5.20 R As regards transaction costs:

- (1) the requirement in *COBS* 19.5.19R(3) applies to the extent that such information is available to the *firm*;
- (2) the published information should include a warning giving brief details of any unavailable information that the *firm* is aware of.

19.5.21 G The annual communication may be included with any other annual communication from the *firm* to the member of the scheme.

19.5.22 G The annual communication provided to a scheme member may also include the particular transaction costs and administration charges that have been incurred by that member.

Amend the following provisions as shown.

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

...

19.8.6 G (1) The breakdown of identifiable transaction costs should include at least taxes, explicit fees and charges, ~~and~~ costs in connection with securities lending and borrowing, and the benefit from anti-dilution mechanisms.

...

...

Arrival Price (AP): supplemental provision for over the counter bond transactions

19.8.15 R Where a bond *transaction* is *executed on an over the counter* basis after *bid prices* and *offer prices* have been obtained from more than one potential counterparty, the arrival price must be taken to be:

A

(1) if the best *bid price* is below the best *offer price*, the mid-point between the best *bid price* and the best *offer price*;

(2) if the best *bid price* is higher than the best *offer price*, the best *bid price* in the case of a sale or the best *offer price* in the case of a purchase.

...

Treatment of anti-dilution mechanisms

19.8.21 R Subject to COBS 19.8.22R, a ~~A~~ firm using an anti-dilution mechanism in connection with an arrangement or *investment* may factor this into the aggregate transaction costs as follows:

...

19.8.22 R When aggregating transaction costs, a *firm* must not subtract any portion of a benefit derived from an anti-dilution mechanism that would reduce the aggregate transaction cost below zero.

