

The stronger nudge to pensions guidance

Consultation Paper

CP21/11**

May 2021

How to respond

We are asking for comments on this Consultation Paper (CP) by **29 June 2021**.

You can send them to us using the form on our website at: www.fca.org.uk/cp21-11-response-form

Or in writing to:

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1 Summary

Why we are consulting

- 1.1** In 2015, the Government's pension freedoms gave consumers greater choice about how, and when they access their defined contribution (DC) pension pots. This greater choice created more complex decisions for consumers, however, and recognising this the Government set up Pension Wise. Pension Wise is one of several guidance services offered by the Money and Pension Service (MaPS). MaPS also provides support to consumers at all stages of their pensions journey.
- 1.2** During a Pension Wise appointment, consumers receive free and impartial guidance about the options available when they access their pension savings. This guidance enables consumers to make better informed decisions.
- 1.3** So far, only a small proportion of DC pension pots accessed for the first time have used the Pension Wise service. Several initiatives have been designed to increase take-up, including the provisions set out in the Financial Guidance and Claims Act 2018 (the Act).
- 1.4** Under our rules, pension providers are already required to signpost consumers to Pension Wise guidance, at various stages of the consumer journey, and to encourage that consumers seek appropriate pension guidance or advice to help them understand their options for accessing their pension savings.
- 1.5** We are now consulting on additional rules to implement the provisions of the Act. The provisions of the Act require that a consumer is given a final opportunity to take Pension Wise guidance at the point they wish to access their pensions savings. We refer to this as the stronger nudge in this paper. While this stronger nudge is useful, there is significant debate about what else can be done to increase consumer take-up of Pension Wise guidance, most recently during the passage of the Pension Schemes Act 2021.
- 1.6** We want to create an environment where consumers are encouraged to take the right guidance at the right time to support them to make informed decisions. While Pension Wise is frequently identified as an answer to consumers' guidance needs, these needs can be wider ranging than the guidance Pension Wise can offer. During the passage of the Act in 2018, Parliament debated mandatory (or default) guidance, but decided not to take this forward, having heard arguments that a compulsory appointment could be perceived by consumers as a barrier to accessing pensions or a tick box exercise, rather than a natural and beneficial part of the process of accessing pension savings. More recently, Parliament voted against an amendment to the Pension Schemes Bill, now the Pension Schemes Act 2021, which would have required pension scheme members to be offered a pre-booked Pension Wise appointment, 5 years before they are eligible to access their pension savings.

- 1.7** While several market participants have argued that earlier nudges are more effective, the best time to engage can depend on the specific consumer journey.
- 1.8** Against this backdrop, in Chapter 4 of this Paper we explore what more could be done to increase the take-up of Pension Wise guidance, beyond the options tested for implementing the provisions in the Act. We ask how the stronger nudge could be made more meaningful, including whether a decision to opt out of guidance should include a cooling off period before a consumer can access their pension, so that declining the offer of a Pension Wise appointment isn't the quickest way to access pension savings. Unlike the proposals in Chapter 3 of this paper, this idea is for discussion rather than a formal consultation at this stage. If we decide to progress any such additional measures, we would consult on detailed proposals at a later stage.
- 1.9** We also ask whether we should require providers to deliver an additional nudge to Pension Wise guidance earlier in the consumer journey than is required by the Act. Pension providers and other regulated firms can already do this, but we want to understand whether a regulatory impetus is required to make sure firms nudge their clients. Building on our existing work, we also invite discussion on whether there are other regulatory interventions we can use to support pension savers, to ensure they can access the right guidance at the right time.
- 1.10** Our proposed requirements apply to FCA regulated firms. The Department for Work and Pensions (DWP) is in the process of setting out regulations for pension schemes regulated by The Pension Regulator (TPR). We have been working closely with DWP, MaPS and TPR on implementing these requirements, because we want to see consistent outcomes for consumers regardless of the legal form of their pension. Where relevant, we intend to share our findings from the responses to our discussion questions with DWP. Equally, we have benefitted from the MaPS research commissioned by Government, which we have taken into account in our draft rules for consultation.

Who this applies to

- 1.11** This consultation primarily affects providers of pensions, including operators of self-invested personal pensions. It will also be relevant to stakeholders with an interest in the pensions and retirement income sector, including:
- individuals and firms providing advice and information in this area
 - distributors of financial products, in particular retirement income products
 - trade bodies representing financial services firms
 - consumer representative bodies
 - charities and other organisations with a particular interest in retirement and/or financial services more generally
 - individual consumers

The wider context of this consultation

- 1.12** Pension freedoms give consumers flexibility at the point they access their pension savings. However, it is widely recognised that making the right choice can be difficult for consumers, especially in a low interest rate environment. To help with their choices, consumers may take regulated financial advice before accessing their pension, where a regulated financial adviser gives a personal recommendation. Our retirement income data suggest that over a third (36%) of pots accessed for the first time in 2019-20 used regulated financial advice. Providers may also provide their own guidance service to consumers to help them make informed decisions when accessing their pension pot.
- 1.13** These decisions have long term implications. There are concerns about consumers being at risk of scams at the point they transfer their pension savings, something that was discussed extensively at the recent Work and Pensions Committee inquiry and in the parliamentary debate around the Pensions Schemes Act 2021.
- 1.14** Providing consumers with better information to equip them to make decisions is at the heart of our policy making. Since the introduction of the pension freedoms, we have placed several requirements on pension providers to help consumers make decisions about which option – or options – to choose when accessing their pension savings. These mean that before they access their pension savings, all consumers will receive:
- at least one 'wake-up' pack, setting out the different options available when accessing pension savings, such as purchasing an annuity or moving into drawdown
 - retirement risk warnings, to ensure the consumer understands the consequences of the decision they make
 - several prompts to access the free, impartial guidance from Pension Wise, or to take advice, so consumers get the help they need
 - a stronger nudge to shop around when purchasing an annuity
- 1.15** We also recognise the difficulties consumers face when making investment decisions that align with how they plan to use their pension savings when they go into drawdown and have taken steps to ensure that consumers are guided to reasonable decisions. We now require providers (since February 2021) to offer investment pathways to help non-advised consumers decide how to invest their money when they access their pension savings using drawdown.

What we want to change

Act implementation

- 1.16** Section 18 of the Act, which amends the Financial Services and Markets Act (FSMA), requires us to make rules for pension providers to ensure consumers have either received or opted out of receiving Pension Wise guidance when they apply to access or transfer their pension savings (see paragraphs 2.5 and 2.6).
- 1.17** To implement this requirement we propose that, when a consumer has decided, in principle, how they wish to access their pension savings, or transfer rights accrued under their existing pension to another pension provider for purposes of accessing their pension savings, pension providers must:

- refer the consumer to Pension Wise guidance
- explain the nature and purpose of Pension Wise guidance, and
- offer to book a Pension Wise guidance appointment.

1.18 We will also require providers to confirm and record whether the consumer:

- declined the offer to receive the Pension Wise guidance (opted out)
- received Pension Wise guidance or
- received regulated advice

1.19 When consumers contact their provider to access their pension savings (or transfer for the purpose of accessing their pension savings), the provider will be required to refer the customer to the availability of Pension Wise guidance, explain what Pension Wise guidance is (its nature and purpose), explain that the customer can seek regulated advice, and offer to book the customer a Pension Wise appointment. The stronger nudge to Pension Wise serves as a final nudge in the consumer journey.

1.20 Our proposed rules are based on evidence from behavioural trials conducted by MaPS (see paragraphs 2.8-2.13). Further details on our proposals are set out in Chapter 3.

1.21 DWP is working on proposals to implement the mirroring provisions in the Act. Section 19 of the Act, which amends the Pension Schemes Act 1993, requires DWP to make corresponding regulations for occupational DC schemes (which are regulated by TPR rather than the FCA).

Data collection

1.22 We intend to collect data from pension providers to support supervision of the proposed rules, and help both us and industry understand consumer behaviour, including the reasons why people might choose to opt out from Pension Wise guidance. To inform our thinking, we ask discussion questions in this Paper about the data we might collect, and the most effective and efficient way to collect this information on a regular basis.

Further steps

1.23 In Chapter 4 we ask what more can be done to increase take-up of Pension Wise guidance. This includes whether a nudge to Pension Wise guidance at an earlier point in the consumer journey might be effective at increasing take-up, and how that might work in practice. We also ask how we might support consumers more widely to ensure they can access the right pensions guidance at the right time, and whether there is anything else we should consider that could help pensions savers make informed decisions.

Outcome we are seeking

- 1.24** We want to protect consumers from poor outcomes in retirement by helping them make informed decisions when accessing their pension savings. The proposed rules and guidance aim to:
- encourage the use of the free, impartial guidance that is available to help consumers make informed decisions about the options available to them
 - make taking Pension Wise guidance a natural part of the consumer journey when consumers decide to access their pension savings
 - help protect consumers from poor outcomes (see Chapter 2)

Measuring success

- 1.25** Taken together with our previous work, the proposed rules and guidance should contribute to an increase in the take-up of Pension Wise guidance and support decision making when consumers access their pension benefits or transfer their pension in order to access their benefits.

Next steps

- 1.26** We welcome your feedback on our proposals, including the draft Handbook text in Appendix 1. Please send us your comments by 29 June 2021. We will consider the feedback we receive and seek to publish a final Policy Statement in Q4 2021.

2 Further background to the Act provisions

- 2.1** Pension Wise offers free and impartial pension guidance to help anyone over the age of 50 understand their options for accessing their DC pension savings from age 55 onwards. The service is provided face-to-face, or over the phone. However, only telephone appointments are available during the coronavirus pandemic.
- 2.2** Based on a survey of a sample of customers in the latest [Pension Wise service evaluation report](#) for 2019-20, satisfaction with the service remains high, with 94% of surveyed customers saying they were very or fairly satisfied with their overall experience, and 97% of surveyed customers saying they have already recommended the service or are likely to do so. 88% of surveyed customers say that Pension Wise helped improve their understanding of their pension options, although we do not have data to map this to improved retirement outcomes.
- 2.3** Not all eligible consumers will want or need pension guidance. The extent to which consumers consider taking Pension Wise guidance beneficial may vary depending on their specific personal circumstances, level of pension savings and wealth, and financial capability.
- 2.4** The number of Pension Wise appointments delivered has increased since the service launched in 2015, to just over 130,000 in 2019/20, the last full year for which data are available. During the passage of the Act through Parliament, members of both Houses expressed the view that Pension Wise guidance was highly beneficial, but not received by enough people.
- 2.5** As a result, to increase take-up of Pension Wise guidance, Section 18 of the Act requires us to make rules for pension providers. These rules must ensure that, as part of the application to access or transfer pension savings, providers refer consumers to appropriate pension guidance and explain the nature and purpose of that guidance.
- 2.6** Our rules must also require providers to ensure that the consumer either receives appropriate pensions guidance or opts out of receiving guidance before they can proceed with their application to access or transfer their pension savings.
- 2.7** Findings from the Ignition House consumer research [report](#), commissioned as part of our Retail Distribution Review and Financial Advice Market Review, show that most respondents (aged over 50) had a limited understanding of what Pension Wise does and how it can help. Once they heard more, many said they would be inclined to use the service.

Tested options for implementing the requirements of the Act

- 2.8** During the Act's passage through Parliament, the government committed to undertake consumer testing to ensure the effectiveness of the nudge. Behavioural trials were commissioned by MaPS and conducted by the Government's Behavioural Insights Team (BIT).
- 2.9** Three large DC providers participated in the trials, testing 2 distinct behaviourally informed treatments for delivering the nudge to consumers when they contact the provider by telephone to initiate or discuss accessing their pension savings.
- 2.10** In both treatments, the provider explained the nature and purpose of guidance and asked if the consumer wished to book a guidance appointment. The treatments differed only in terms of who booked the appointment. In treatment 1, the provider booked the appointment. In treatment 2, the provider transferred the consumer to MaPS for the appointment to be booked by MaPS staff.
- 2.11** The key components of the nudge trial were:
- giving greater prominence to the availability of Pension Wise guidance by explaining the nature and purpose of the guidance
 - presenting guidance as a natural part of the pension access journey
 - making it easier for consumers to book a Pension Wise appointment
- 2.12** MaPS published the trial results in July 2020. Both treatments produced a comparably significant increase in take-up of Pension Wise appointments compared with the status quo. More than 3 times as many appointments were booked and attended under each of the treatments tested, compared with take-up of around 3% under existing signposting requirements. There was no significant difference in take-up rates between the 2 treatments.
- 2.13** We have used the findings from the trials to inform our proposals in this Consultation Paper. We have also engaged with the participant providers in the trials and have taken on their feedback. This has helped shape our proposals to increase take-up and genuine engagement with Pension Wise guidance.

The harm we are trying to reduce and prevent

- 2.14** People accessing their pension savings face complex decisions. They are at risk of experiencing poor financial outcomes if they make ill-informed decisions. This includes exposure to investment risk they are not well placed to bear, income sustainability in retirement and the impact of charges.
- 2.15** Our proposed rules will increase consumer awareness of the impartial guidance that is available to enable them to make informed choices and will also make it easier for consumers to book appointments for this guidance. We anticipate, based on the trial evidence, that the proposed rules will lead to more consumers accessing Pension Wise guidance. Receiving such guidance will help consumers make more informed pension access decisions.

How it links to our objectives

Consumer protection

2.16 By helping consumers understand the nature and purpose of Pension Wise guidance and offering them an easy way to book a Pension Wise appointment, we help protect them from poor outcomes. This is because our proposals make it easier and more likely that consumers will access the information they need to:

- understand the options they have and the associated risks
- make informed decisions about accessing their pension

Competition

2.17 Our proposed measures will promote the take-up of Pensions Wise guidance. Consumers who receive this guidance will be better placed to make informed decisions and may be more likely to:

- explore a range of options for accessing their pension savings
- shop around before deciding on the provider through which they will decumulate

2.18 In turn, this should help drive competition in the market.

Wider effects of this consultation

2.19 Our proposals sit alongside and support the changes we have already made to our rules since the introduction of the pension freedoms (see paragraph 1.14). These include changes to our 'wake-up' pack rules to ensure that consumers are signposted to Pension Wise earlier and more frequently in the consumer journey than previously, ie at age 50 and every 5 years thereafter until they have fully crystallised their pension pot.

2.20 The stronger nudge is distinct from, but should be viewed within the context of, a wider package of measures being introduced by the Government to support consumer decision making. This includes the provision in the Pensions Schemes Act 2021 that places conditions on the statutory right to transfer where there is an increased risk of a scam.

What we are doing

2.21 We want to encourage people to take Pension Wise guidance, where appropriate, without removing the element of personal choice that the pension freedoms introduced. We want guidance to be seen as a natural part of the journey when individuals seek to access their pensions savings, or transfer for the purposes of doing so.

- 2.22** The MaPS and BIT trials show the nudge is effective at increasing take-up of guidance, regardless of whether the provider or MaPS books the appointment. In fact, the impact of the trial nudge tested was significantly greater than most other nudge interventions identified in the academic research referenced in the MaPS and BIT evaluation [report](#).
- 2.23** Based on these findings, and notwithstanding the large proportion of consumers that still decide to opt out of Pension Wise guidance when presented with this option at the point the Act requires it to be presented, we consider it appropriate to implement one of the nudge options that was trialled in order to deliver on the requirements of the Act.
- 2.24** The trials also show that even after implementation of the Act provisions, take-up is likely to remain low. For this reason, in Chapter 4 explore what else can be done to encourage consumer take-up of guidance at the right time in their journey.

Equality and diversity considerations

- 2.25** We have considered the equality and diversity issues that may arise from the proposals in this Consultation Paper.
- 2.26** The proposed rules are expected to increase the number of consumers who receive appropriate pension guidance from Pension Wise before they access (or transfer for the purpose of accessing) their pension savings. Pension Wise guidance is only available to consumers from age 50. Consequently, only consumers aged 50 and over can benefit from the proposals in this paper.
- 2.27** Within this over age 50 population, guidance is available to all consumers, including those with protected characteristics under the Equality Act 2010. The proposed rules should have the effect of enhancing this population's awareness of, and opportunity to access, Pension Wise guidance.
- 2.28** We are proposing channel neutral rules that can be incorporated into existing processes. We expect providers to take account of the different preferences and needs of their consumers when they seek to access their pension savings.
- 2.29** We will continue to consider the equality and diversity implications of the proposals during the consultation period and invite you to provide input and evidence that will support our consideration.

3 Proposals for implementing the stronger nudge

- 3.1** This chapter sets out our proposals to introduce an obligation on the providers of personal and stakeholder pension schemes to ensure their customers receive a stronger nudge to Pension Wise guidance, as anticipated by the Act.
- 3.2** We propose that when a consumer decides, in principle, how to access their pension savings, or transfer for the purpose of accessing their pension savings, providers should:
- refer the consumer to Pension Wise guidance
 - explain the nature and purpose of Pension Wise guidance and encourage the consumer to take the guidance
 - offer to book a guidance appointment and where the consumer accepts that offer, take reasonable steps to book the guidance appointment at a suitable time for the consumer or provide the consumer with information to book their own appointment; or
 - explain that the consumer has the option of taking regulated financial advice at their own cost
 - confirm and record:
 - an opt-out if customer declines the offer to receive the Pension Wise guidance and confirms they do not want to take regulated advice
 - whether the consumer subsequently attended the appointment and received the guidance, where they accept the guidance offer
 - whether the consumer received regulated advice, where they seek regulated advice
- 3.3** Appropriate pensions guidance in this context is the guidance that helps consumers understand their options for accessing their pension savings which is provided by MaPS, under the Pension Wise brand. This guidance is distinct from the guidance that MaPS provides on other pension matters.

Our proposals

Trigger for the nudge

- 3.4** The Act requires firms to deliver the nudge to consumers as part of the application process. Considering the consumer journey for accessing pension savings and our rules which currently apply during that journey, we think the trigger for pension providers to deliver the nudge should be aligned with the trigger for our retirement risk warning rules (COBS 19.7). This is when a consumer indicates to the provider that they have decided, in principle, how they wish to access their pension savings. To meet the requirements of the Act, we propose to add the additional trigger of a consumer deciding to transfer rights accrued under their existing pension scheme to another scheme in order to access their pension savings (see paragraphs 3.6 to 3.8).

- 3.5** We consider the nudge should be delivered even if the consumer has previously received guidance from Pension Wise or received regulated financial advice about how to access their pension savings. The nudge could still be beneficial to these consumers, particularly if they had received the guidance or advice some time ago. For example, if their circumstances, including the value of their pension savings, have significantly changed in a way that may affect the relevance and significance of the options currently available to them. Our proposed rules require providers to explain that the consumer may benefit from receiving guidance again under these circumstances. However, if these consumers do not want to take the Pension Wise guidance or regulated advice again, they can proceed with their application.

Q1: Do you agree with our proposed approach on the trigger for the nudge?

Transfers

- 3.6** Consumers may also seek to transfer their pension savings to another DC pension scheme to access their money flexibly. For example, to access their pension savings using an option their existing pension scheme does not offer. They may also transfer for other reasons, such as to consolidate their pension savings or to move to a provider with lower charges.
- 3.7** The scope of the nudge in our rules is limited only to those consumers transferring for the purpose of accessing their pension savings, including those transferring to a different pension scheme with the same provider. This ensures that only those consumers who are eligible to receive guidance from Pension Wise will be nudged under our rules. As a proxy for this, the nudge should only be given to consumers over age 50 – the eligible age for Pension Wise guidance.
- 3.8** We know that, to initiate a transfer to a different provider, consumers may contact either their existing provider (the ceding provider) or the provider they want to transfer to (the receiving provider). So, we propose that the requirement to nudge will apply to whichever provider a consumer contacts to initiate the transfer, be that the ceding or receiving provider.

Building the nudge into the consumer journey

- 3.9** Our proposed nudge rules do not supersede the retirement risk warning rules. Rather they amplify, and extend, the existing requirement within those rules to signpost the availability of pensions guidance.
- 3.10** The retirement risk warnings reinforce the messages that Pension Wise delivers and, at the point of accessing their pension savings, help focus the consumer on the consequences of the action they intend to take.
- 3.11** The delivery of retirement risk warnings will remain the last step in our requirements before the provider can progress the consumer's application to access their pension savings, regardless of whether the consumer has received Pension Wise guidance or regulated advice.

- 3.12** The flowchart proposed in COBS 19 Annex 1G shows where the stronger nudge sits within our existing retirement risk warning rules, and sets out the steps that providers will be required to take when a consumer wishes to access their pension savings or transfer their pension to access their savings.

Q2: Do you agree with our proposals to incorporate the delivery of the nudge into step 1 of our existing retirement risk warning rules?

Explaining the nature and purpose of pensions guidance

- 3.13** The proposed rules require providers to explain to consumers the nature and purpose of the guidance that Pension Wise can deliver.
- 3.14** During the MaPS/BIT trial, call handlers were given a prescribed trial script. They reported this was challenging to incorporate, did not read naturally and lacked fluidity. Many adapted the script to better incorporate it into the natural flow of the conversation with the consumer.
- 3.15** Considering this finding, we are not proposing to script the content of how the nature and purpose is explained. Providers can determine how best to explain the nature and purpose of pensions guidance in a way that is clear, fair and not misleading, based on their knowledge of their customers. We have proposed guidance about what this should include.

Q3: Do you agree the explanation of the nature and purpose of guidance does not need to be prescribed?

Booking the guidance appointment

- 3.16** The trial results revealed no significant difference in guidance take-up rates between the 2 treatment options in the MaPS/BIT trial. So requiring MaPS, rather than the provider, to book the appointment would produce no additional benefit for the consumer. But it would break and extend the consumer journey, while attracting additional implementation costs for providers and for MaPS.
- 3.17** So, our proposed nudge rules require providers to offer to book an appointment on behalf of the customer. Where a customer accepts the offer of guidance, providers will be required to book the appointment at a convenient date and time for the customer. Providers will be unable to proceed to the next step of the retirement risk warning process until the customer confirms they have attended an appointment and received guidance, or communicates their decision to opt out.
- 3.18** Our proposals do not prescribe how a provider should book an appointment where a customer accepts the offer to do so. Providers can use MaPS' online booking system or appointment booking line, whichever fits best with their own processes.
- 3.19** Where a customer indicates that they wish to book the appointment themselves (out of personal preference or because the firm has been unable to find a convenient time and date for them despite taking reasonable steps to do so), the provider should give them all the information they need to book the appointment.

Recording the opt out

- 3.20** Where the customer explicitly declines the offer of guidance, and the provider obtains their confirmation that they do not want to receive guidance, this constitutes an opt out from guidance. We are proposing that the provider should record it as such. At this stage the provider will not be required to record the reasons the customer has provided for opting out (see paragraphs 3.28 to 3.32).
- 3.21** There are good reasons why consumers should be allowed to opt out at that stage. We want consumers to take-up the guidance offer willingly so that they are positively engaged in the process and get the full benefit of the guidance available. Allowing consumers to opt out from guidance at the point of offer means that those who book an appointment would be doing so willingly, rather than feeling forced into it. This also increases the chances they attend the appointment.
- 3.22** However, there has been some debate about how easy it should be for the consumer to opt out. This is not least because an immediate opt out could create a disincentive to take guidance, as it would allow a consumer faster access to their pension savings. We explore in Chapter 4 what additional measures could be put in place to discourage an opt out for the wrong reasons.
- 3.23** Some stakeholders have expressed concerns about giving administrative control of the opt-out process to providers, on the basis that they may not be impartial and may have commercial incentives to encourage opt outs. This may be so they can retain the customer for their decumulation product, rather than risk that they might shop around after receiving guidance.
- 3.24** Firms must already comply with Principles 6 and 7, and the proposals in this paper amplify these principles. However, to mitigate the potential conflict of interest when providers deliver the nudge, we are considering what data we may collect to help inform our supervisory approach (see paragraphs 3.28 to 3.32).

Q4: Do you agree with proposed approach to appointment bookings and opt-outs?

Confirming attendance at the Pension Wise appointment

- 3.25** Having been nudged and accepted the offer to take Pension Wise guidance or elected to take regulated advice, when a consumer returns to their provider to access or transfer their pension savings, we propose the provider should confirm whether they have attended the appointment and received the Pension Wise guidance. If confirmed, the provider should keep a record of this and proceed to step 2 of the proposed rules.
- 3.26** If the consumer did not attend, or book an appointment when they said they would, the provider should deliver the nudge again. Where the scheduled appointment date has not passed, the provider should also remind them of that date and that they cannot proceed with their application unless they attend a guidance appointment or opt out.
- 3.27** Under certain circumstances, consumers may benefit from receiving Pension Wise guidance again. For example, if a period of time has passed since the consumer received the guidance and when they recontact their provider to access their pension savings. The passage of time could impact on the options for accessing their pension savings. For example, their personal circumstances or market conditions may have changed. To ensure these consumers are given the opportunity to consider their

options in the context of their current circumstances, we propose that providers must repeat the nudge again where it appears on reasonable grounds that the consumer would benefit from receiving Pension Wise guidance again.

Q5: Do you agree that where a consumer has previously been nudged and has confirmed receiving Pension Wise guidance, they do not need to be nudged again, unless it appears on reasonable grounds that the consumer could benefit from receiving guidance again?

Discussion areas

Record keeping and data collection

- 3.28** This section does not form part of the proposals we are consulting on. To inform our thinking, we seek views on the data we may collect.
- 3.29** Our rules and guidance on record-keeping are set out in the 'Senior Management Arrangements, Systems and Controls' (SYSC) section of our Handbook. In summary, firms must keep orderly records which are sufficient to enable us to monitor firms' compliance with our rules, and to work out whether they have met all their obligations to consumers.
- 3.30** We want to help providers meet these SYSC requirements and to ensure the information provides some indication of the impact of our proposed measures. Areas that might be helpful to collect data on to demonstrate compliance with our rules include the number of:
- opt-outs received
 - nudges delivered
 - appointments booked
- 3.31** Providers may have an interest in retaining customers for their decumulation product. We are considering what additional data would inform our supervisory approach and enable us to identify credible indicators of where there may be conflicts of interest. The list above indicates the areas where we may collect data. We also want to better understand consumer behaviour, including for example, reasons why consumers opt out of Pension Wise guidance. This will help give context to information on opt out volumes. We consider providers are also likely to find such information of interest and benefit. We may decide periodically to gather such data from providers.
- 3.32** We invite stakeholders to comment on:
- what data would provide us with the clearest insight on providers' behaviour and consumer trends; and
 - the most proportionate way to collect the data

Q6: We welcome views on what would be the most relevant data for us to gather, and the most effective and proportionate way for providers to gather and submit this information.

4 Further measures to help consumers make informed decisions

- 4.1** Our proposals in Chapter 3 implement the requirements of the Act and are based on evidence gathered from the trials. But we think there is more that could be done to help consumers. This chapter explores additional ways which might increase the take-up of Pension Wise guidance, and support consumers more widely to ensure they can access the right pensions guidance at the right time.
- 4.2** While increasing take-up of pensions guidance is important, we want to do this in an effective way that improves consumer engagement with their pension access decision, recognising that consumers have different guidance needs. With this in mind, we welcome stakeholder views on these additional approaches and invite discussion on whether there is anything else we should consider to help consumers make informed decisions.

The process of opting out – cooling off

- 4.3** Under the proposals set out in Chapter 3, consumers can opt out from Pension Wise guidance by declining the offer to book a guidance appointment. Consumers may focus on accessing their money rather than on the long-term implication of their decision.
- 4.4** To ensure that an opt out is not simply seen as the quickest way to access pension savings, and to incentivise the take-up of guidance, we could make it more difficult for consumers to opt out from guidance. This could give consumers time to reflect and consider whether guidance might help them to think about the long-term implications of their decision on their retirement outcomes. We would need to consider how any such reflection time would operate for those who have already received guidance.
- 4.5** On the other hand, there is a limit to what can be achieved by making it more difficult to opt out of guidance at the point of application. This is because consumers may have already made up their mind about how they wish to access their pension. So, making the opt-out process more difficult at the application stage may ultimately have little impact on their decision and instead could be seen as a barrier to accessing their pension savings. For this reason, we want to get feedback on the merits of different ways to increase take-up (see paragraphs 4.6 to 4.11) before deciding which, if any, of these to propose as rules.
- 4.6** There are different ways in which an opt-out could be made more meaningful. One approach could be to introduce a 'cooling-off' period to allow consumers time to consider the opportunity to take guidance before confirming their decision to opt out from that guidance. This could operate in a number of ways. For example, it could be:
- a **minimum time period** that consumers must wait before providers can accept confirmation of their decision to opt out of taking guidance. This could be a fixed duration or aligned to the date at which a Pension Wise appointment would

typically be available. This approach minimises the possibility of firms promoting the 'opt-out' as the quickest way to access pension savings. However, there is a risk that those who do take-up the guidance offer, may do so unwillingly without being engaged in the process. They may later cancel or simply not attend the appointment. This could have an operational and cost impact on MaPS. This may result in an increase in bookings but not an increase in the number of consumers receiving Pension Wise guidance. We also have no evidence at this point to confirm that making the opt-out process longer is effective at increasing the take-up of guidance.

- a **break in the consumer journey** at the point a consumer initially declines the guidance offer, requiring the consumer to confirm their decision to opt out through a separate communication. This would allow consumers the opportunity to reflect on their options, before proceeding with the application to access their pension. However, this approach may still not create a sufficient incentive for consumers to take-up the guidance offer. This is because consumers would be able to return to their provider to confirm a decision to opt out, without having to wait for a set period of time. So, there is a risk that consumers simply see it as a tick box exercise, or barrier to get through before they access their pension savings.

Q7: Taking into consideration the issues discussed in paragraphs 4.4 to 4.6, we would welcome views, and any supporting evidence, on whether allowing consumers additional time to consider the opportunity to take-up guidance could further increase/incentivise the take-up of guidance in a way that encourages them to engage with their pension access decision.

Q8: If you think it would increase the take-up of Pension Wise guidance, we would welcome views on how an opt-opt process could operate to further incentivise the take-up of Pension Wise guidance in a positive way.

Q9: What would be the implementation challenges or unintended consequences with this approach and how could they be overcome?

Earlier nudge

4.7 The proposals in Chapter 3 implement the legislative requirement for a nudge to guidance to be 'part of the application process', ie as a last call to action before a consumer commits to accessing or transferring for the purpose of accessing their pension. However, this intervention alone may not be enough to make taking Pension Wise guidance the norm. Consumers may have confirmation bias at the point of application. So, they may be less likely to engage with information that challenges their pre-formed view of how they wish to access their pension.

4.8 The trial evidence indicated that most participants had already decided how to access their pension by the time they contacted their provider to do so. So guidance at this point may, therefore, have limited influence on how the consumer wishes to proceed. This means there is a limit to what can be achieved by nudging them at that point in the journey.

4.9 We have heard from stakeholders that providing a nudge to guidance at an earlier point in the consumer journey, for example, when consumers are still considering their options for accessing their pension, might be more effective at increasing take-up of Pensions Wise guidance. This is supported by findings from the MaPS trials, which found that take-up of guidance was significantly greater amongst those still exploring their options, compared with those that called to ask for a specific decumulation option. This aligns with our revised 'wake-up' pack rules, which require firms to make consumers aware of Pension Wise, earlier and more frequently than before, and encourage consumers to think earlier about their retirement income needs.

4.10 It is important to note that providers can already provide an earlier nudge, but an explicit requirement in our Handbook would ensure an earlier nudge was delivered to a greater number of consumers.

4.11 To determine whether an early nudge would be appropriate and proportionate, we would like to better understand:

- what would be the best point in the consumer journey where an earlier nudge could be delivered and how providers could incorporate this into their processes, given that the consumer journey can vary from one provider to another
- the most appropriate trigger for an earlier nudge
- the challenges providers might face in implementing an additional early nudge, including operational, resource and IT and systems challenges
- the extent to which an earlier nudge could further increase take-up of Pension Wise guidance, beyond any increase attributable to our changes to 'wake up' packs, which ensures consumers are signposted to Pension Wise guidance earlier and more frequently in the consumer journey than before.

Q10: We would welcome views on whether and how an additional earlier nudge to guidance could be introduced. Please include comments and evidence relevant to the factors listed in paragraph 4.11, as well as an indication of the likely costs and benefits.

Q11: We would welcome views and any supporting evidence on what else we might do to increase the take-up of Pension Wise.

Right guidance at the right time

4.12 Pension Wise provides impartial guidance for those aged 50 and over, on the options available when accessing pension savings. We know that consumers have wider pensions guidance needs at other points in the consumer journey. These vary according to many factors, including age and proximity to retirement, size of pension pot(s) and perceived financial capability.

- 4.13** For example, those over the normal minimum pension age (currently 55) who wish to access their pension but are still some way off from retirement, may benefit from more general guidance that MaPS provides (rather than through Pension Wise specifically). This service supports consumers at all stages of their pensions journey. On the other hand, those over their normal retirement date who are about to retire may benefit from Pension Wise guidance.
- 4.14** There is other ongoing work looking at ways to support and engage with consumers to help them make informed decisions. As part of our joint work on the consumer's pension journey, we are working with The Pensions Regulator (TPR) to explore what more we can do to help engage consumers as they build up their pension savings, so that they can make informed decisions that lead to better savings outcomes.
- 4.15** Also, recognising the risks posed by scammers, the Government is introducing conditions that would need to be met to have a statutory right to transfer pension savings into another scheme. In some cases where concerns are identified in the transfer process, trustees and providers would be required to ensure the member has taken scams specific pensions guidance from MaPS before the transfer can continue. This is distinct from the guidance offered by Pension Wise.
- 4.16** We will continue working closely with MaPS as they further develop their guidance offering, and with DWP and TPR to ensure our interventions support consumers to access the right guidance they need at the right stage in their pension access journey.

Q12: In this context, we would welcome views and any supporting evidence on what more we can do to support consumers to access the right information and guidance they need to help them make well informed decisions about accessing their pensions.

- 4.17** Your thoughts will help shape the ideas we may take forward to create a more effective regulatory framework to support consumers to make informed pension access decisions.

Annex 1

Questions in this paper

- Q1:** Do you agree with our proposed approach on the trigger for the nudge?
- Q2:** Do you agree with our proposals to incorporate the delivery of the nudge into step 1 of our existing retirement risk warning rules?
- Q3:** Do you agree the explanation of the nature and purpose of guidance does not need to be prescribed?
- Q4:** Do you agree with proposed approach to appointment bookings and opt-outs?
- Q5:** Do you agree that where a consumer has previously been nudged and has confirmed receiving Pension Wise guidance, they do not need to be nudged again, unless the provider has reasonable grounds to believe that the consumer could benefit from receiving guidance again?
- Q6:** We welcome views on what would be the most relevant data for us to gather, and the most effective and proportionate way for providers to gather and submit this information.
- Q7:** Taking into consideration the issues discussed in paragraphs 4.4 to 4.6, we would welcome views and any supporting evidence on whether allowing consumers additional time to consider the opportunity to take-up guidance could further increase/incentivise the take-up of guidance in a way that encourages them to engage with their pension access decision?
- Q8:** If you think it would increase the take-up of Pension Wise guidance, we would welcome views on how an opt-opt process could operate to further incentivise the take-up of Pension Wise guidance in a positive way?
- Q9:** What would be the implementation challenges or unintended consequences with this approach and how could they be overcome?
- Q10:** We would welcome views on whether and how an additional earlier nudge to guidance could be introduced. Please include comments and evidence relevant to the factors listed in paragraph 4.11, as well as an indication of the likely costs and benefits.

- Q11:** We would welcome views and any supporting evidence on how else we might do to increase the take-up of Pension Wise.
- Q12:** In this context, we would welcome views and any supporting evidence on what more we can do to support consumers to access the right information and guidance they need to help them make well informed decisions about accessing their pensions.

Annex 2

Cost benefit analysis

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 a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.
2. Section 18 of the Financial Guidance and Claims Act 2018 ('the Act'), which amends FSMA, requires us to make rules for providers to 'nudge' consumers to Pension Wise when they apply to access or transfer their pension savings. The Treasury and DWP have undertaken a high-level impact assessment of the Act. In their impact assessment of establishing a single financial guidance body it was recognised that the requirement on the FCA may lead to additional costs on industry. In this instance section 18 of the Act amends FSMA so that the requirement to carry out a CBA (under section 138I) does not apply in relation to these rules made under section 137FB of FSMA.
3. If feedback to this consultation indicates that we should go further than the requirements of the Act, for example regarding the proposed data collection and reporting requirement, we will consider the costs and benefits associated with any further proposals.

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 section 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 section 1B(5)(a) FSMA to have regard to the regulatory principles in section 3B FSMA. The FCA is also required by section 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 (section 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. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
5. This Annex includes our assessment of the equality and diversity implications of these proposals.
6. 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

7. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of protecting consumers. Our proposals have to comply with the requirements of the Act. Beyond this, in considering what degree of protection for consumers is appropriate, we have had regard to a number of factors. These include the consumer journey when accessing or transferring pension savings, other remedies we have already put in place to signpost consumers to Pension Wise and the behavioural impact we are trying to achieve – to make taking guidance from Pension Wise, a 'natural' part of accessing pension savings, rather than a barrier. A key element of our proposals is ensuring that consumers have easy access to the information they need to understand the risks involved, and the choices open to them, in order to make informed decisions regarding their pension savings. The proposals are also relevant to the FCA's market integrity objective.
8. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they facilitate greater consumer access to, and explanation of the nature of, Pension Wise guidance while ensuring that the consumer either receives appropriate pensions guidance or opts out of receiving such guidance. For the purposes of the FCA's strategic objective, "relevant markets" are defined by section 1F FSMA.
9. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in section 3B FSMA. We cover the most relevant of these below.

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

10. 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

11. Section 18 of the Act amends FSMA so that the requirement to carry out a CBA (under section 138I) does not apply in relation to these rules made under section 137FB of FSMA.

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

12. Our proposals support the government's policy objective of people saving more for their retirement and thereby relieving the tax burden on future generations, also the government's commitment to ensuring that when preparing for retirement, savers are encouraged to access appropriate pensions guidance.

The general principle that consumers should take responsibility for their decisions

- 13.** Our proposals do not remove consumers' final responsibility for their decisions. They improve the ability to access information to help the consumer make their decision, in this case, free and impartial guidance from Pension Wise. We are proposing obligations on providers to ensure that, as part of the application process to start receiving their pension benefits, the consumer is referred to appropriate pension guidance and that the nature and purpose of pensions guidance is explained to the consumer, also for providers to ensure that before a consumer can proceed with the application, the consumer either receives appropriate pensions guidance or opts out of receiving guidance. We expect the proposals to enable consumers access to information that will help them make informed decisions about accessing their pension savings. However, the final responsibility for their decisions remains with the consumer.

The responsibilities of senior management

- 14.** We have had regard to this principle and do not believe that our proposals undermine it.

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

- 15.** We have had regard to this principle and do not believe that our proposals undermine it.

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

- 16.** We believe that our proposals do not undermine this principle.

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

- 17.** We will continue to engage with stakeholders throughout the consultation process before making final rules and guidance.
- 18.** 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 section 1B(5)(b) FSMA).

Expected effect on mutual societies

- 19.** The FCA does 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 burden than other authorised persons.

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

- 20.** In preparing the proposals as set out in this consultation, we have had regard to the FCA's 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.
- 21.** By requiring providers to explain the nature and purpose of Pension Wise guidance and by offering them an easy way to book a Pension Wise appointment, we are providing consumers with an appropriate level of protection without substantially affecting the level of competition within the market. Indeed, to the extent that our proposals enable consumers to make informed decisions about accessing their pension savings, our measures will promote more effective competition and improve outcomes for consumers. For example, by enabling access to guidance that could help them explore the full range of options for accessing their pension savings and shop around before choosing a provider through which to decumulate.

Equality and diversity

- 22.** 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.
- 23.** 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 2.25 to 2.29 of this Consultation Paper.

Legislative and Regulatory Reform Act 2006 (LRR)

- 24.** We have had regard to the principles in the LRR for the parts consisting of general policies, principles or guidance. We consider that they are proportionate and promote our statutory objectives of consumer protection and effective competition and our strategic objective to ensure that markets function well without creating undue burdens on the industry, nor adversely affecting competition.
- 25.** We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals are proportionate to the potential harm to consumers or risks to our statutory objectives identified.

Annex 4

Abbreviations in this document

Abbreviation	Description
BIT	The Behavioural Insights Team
CBA	Cost Benefit Analysis
COBS	Conduct of Business
CP	Consultation Paper
DC	Defined contribution
DWP	The Department for Work and Pensions
FSMA	Financial Services and Markets Act 2000
LRRA	Legislative and Regulatory Reform Act 2006
MaPS	The Money and Pensions Service
SYSC	Senior Management Arrangements, Systems and Controls
TPR	The Pensions Regulator

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.

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Appendix 1

Draft Handbook text

CONDUCT OF BUSINESS SOURCEBOOK (FINAL NUDGE TO PENSIONS GUIDANCE) INSTRUMENT 2021

Powers exercised

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

Commencement

- C. This instrument comes into force on [*6 months after the 1st of the month following the date on which the FCA Board makes this instrument*].

Amendments to the Handbook

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

- F. This instrument may be cited as the Conduct of Business Sourcebook (Final Nudge to Pensions Guidance) Instrument 2021.

By order of the Board
[*date*]

Annex A**Amendments to the Glossary of definitions**

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

Amend the following definition as shown.

- pensions
guidance*
- (1) as defined in section 137FB (4) of the *Act*, information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes);
- (2) (in COBS 19.7) is when a retail client receives pensions guidance in (1) during an appointment with the provider of the guidance in a way that enables real time human interaction (whether face to face, telephone or through another electronic medium).

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

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

19 Pensions supplementary provisions

...

19.7 Pensions nudge and retirement ~~Retirement risk warnings~~

Definitions

19.7.1 R In this section:

...

(6) “signpost” is the written or oral statement encouraging a *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement which is at step 1 of the process specified in this section-;

(7) “opt out” is the *retail client*’s confirmation that they do not want to receive *pensions guidance*.

Application

19.7.2 R This section applies to a *firm* communicating with a *retail client* in relation to:

(1) accessing their pension savings using a pension decumulation product; or

(2) transferring rights accrued under their existing *pension scheme* to another *pension scheme* for the purpose of accessing their pension savings using a decumulation product.

...

Purpose

19.7.4 G (1) The purpose of this section is to ensure that a *firm*, which is communicating with a *retail client* about a pension decumulation product:

(a) explains the nature and purpose of *pensions guidance* to the *retail client*;

(b) encourages the *retail client* to receive *pensions guidance*; and

(c) gives appropriate retirement risk warnings,

at the point when the *retail client* has decided how to access their pension savings.

...

- 19.7.5 G (1) This section amplifies *Principles 6* and *7*, but does not exhaust or restrict what they require. A *firm* will, in any event, need to ensure that its sales processes are consistent with the *Principles* and other *rules*.
- (2) An example of a behaviour by or on behalf of a *firm* that is likely to contravene *Principle 6* and may contravene other *principles* is for a *firm* to actively discourage a *retail client* from receiving *pensions guidance* for example by:
- (a) indicating in any way that receiving *pensions guidance* is unnecessary, would not be beneficial, or might result in unnecessary delays in accessing their pension savings; or
- (b) obscuring, de-emphasising or underplaying in any way the explanation about *pensions guidance* or any other information relevant to assisting the *retail client* to decide how best to access their pension savings.

...

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):
- ...
- (4) access their pension savings using a *drawdown pension*; ~~or~~
- (5) withdraw the funds in full from their pension savings, reducing the value of their rights to zero; ~~or~~
- (6) transfer rights accrued under their existing *pension scheme* to another *pension scheme* for the purpose of taking one of the actions in (1) to (5).
- 19.7.7A G A *firm* may assume that a *retail client* who is 50 years of age or over who decides to transfer rights accrued under their existing *pension scheme* to another *pension scheme* is doing so for the purpose of taking one of the actions in COBS 19.7.7R(1) to (5).

Pension transfer to access pension savings

- 19.7.7B R Where the *retail client* is communicating with a *firm* in relation to transferring rights accrued under their existing *pension scheme* to another *pension scheme*, the first *firm* the *retail client* contacts (whether the *retail client's* existing *pension scheme* provider or the *firm* to whom they intend to transfer their rights) must take the actions in step 1.

~~Step 1: determine whether the client has received guidance or regulated advice~~

- 19.7.8 R ~~(1) The first step is to ask the *retail client* whether they have received *pensions guidance* or regulated advice:~~
- ~~(a) if the *client* says that they have, the *firm* must proceed to step 2; or~~
 - ~~(b) if the *client* says that they have not or is unsure, the *firm* must explain that the decision to access pension savings is an important one and encourage the *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement.~~
- ~~(2) If, after giving the explanation in COBS 19.7.8R(1)(b), the *retail client* does not want to access *pensions guidance* or take regulated advice, the *firm* must proceed to step 2. [deleted]~~

Step 1: encourage the retail client to take pensions guidance

First part of step 1: explain pensions guidance and offer to book the appointment

- 19.7.8A R The first part of step 1 is:
- (1) for the *firm* to:
 - (a) explain to the *retail client* the nature and purpose of *pensions guidance*, and that they can access the guidance for free;
 - (b) explain to the *retail client* that they can take regulated advice at their own cost; and
 - (c) offer to book an appointment for them to receive *pensions guidance*;
 - (2) if the *retail client* accepts the *firm's* offer to book an appointment, the *firm* must take reasonable steps to book an appointment at a suitable time for the *retail client*;
 - (3) if the *firm* is unable to book an appointment at a suitable time despite taking reasonable steps, or the *retail client* prefers to book the appointment themselves, the *firm* must provide the *retail client* with sufficient information about how to book an appointment themselves;

- (4) if the *firm* books the appointment for the *retail client*, it must send a written confirmation of all the relevant details necessary to enable the *retail client* to attend the appointment;
- (5) if the *retail client* elects to take regulated advice, the *firm* must not proceed to step 2 until the *retail client* confirms they subsequently received the advice;
- (6) the *firm* must proceed to step 2 at any point during the process in (1) to (5) if the *retail client*:
 - (a) confirms that they have already received regulated advice; or
 - (b) opts out, and confirms they do not want to take regulated advice;
- (7) if the *retail client* states that the reason for opting out in (6)(b) is because they already received *pensions guidance* prior to approaching the *firm*, the *firm* must explain to the *retail client* that they may still benefit from receiving the guidance again if their personal circumstances, or the value of their pensions savings, have significantly changed such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance.

19.7.8B G For the purpose of COBS 19.7.8AR(1)(a), where a *firm* explains the nature and purpose of *pensions guidance*, the explanation should include that:

- (1) the purpose of the guidance is to help the *retail client* make an informed decision about what to do with their pension savings including the different options available to the *retail client* to access their pension savings; and
- (2) *pensions guidance* is delivered at an appointment with an independent pensions specialist.

19.7.8C G Taking reasonable steps to finding a time that is suitable (in COBS 19.7.8AR(2)) may include the *retail client* being given adequate opportunity to revert back to the *firm* with dates and times that are suitable for them to attend an appointment.

Second part of Step1: confirming whether the retail client received pensions guidance or regulated advice

19.7.8D R (1) (Where the *firm* has completed the actions in COBS 19.7.8AR, and either booked an appointment for the *retail client* or the *retail client* stated they would book it themselves) the second part of step 1 is for the *firm* to check whether the *retail client* subsequently received *pensions guidance* by:

- (a) if booked by the *firm*, checking that the scheduled appointment date has passed; and only if so, asking the *retail client* to confirm that they attended the appointment and received the guidance; or
 - (b) where the *retail client* stated they would book the appointment themselves, asking the *retail client* to confirm that they subsequently booked the appointment and received the guidance.
- (2) If the date of the scheduled appointment has not passed, the *firm* must explain the nature and purpose of *pensions guidance* again in COBS 19.7.8AR(1)(a), and remind the *retail client* of their scheduled appointment.
- (3) If the *retail client* failed to attend the appointment (booked by the *firm* or themselves), or failed to book their own appointment, the *firm* must repeat the process in COBS 19.7.8AR, and explain to the *retail client* at this point that the *firm* cannot proceed unless the *retail client* confirms that they have received the guidance or taken regulated advice, or opts out.
- (4) If the *retail client* confirms that they attended the appointment and received *pensions guidance*, the *firm* must proceed to step 2, unless the *retail client*'s circumstances have changed significantly, and it appears to the *firm* on reasonable grounds that the *retail client* may benefit from a repeat of the guidance in order to consider the different options available to them in the context of their current circumstances. In that case, the *firm* must repeat the process in COBS 19.7.8AR.
- (5) (Where the *firm* has completed the actions in COBS 19.7.8AR and the *retail client* elected to take regulated advice), the *firm* must proceed to step 2 if the *retail client* confirms that they subsequently received the advice.

19.7.8E G Circumstances where the *retail client* may benefit from a repeat of *pensions guidance*, for the purposes of COBS 19.7.8DR(4)), include where, since the date of the appointment:

- (1) the *retail client*'s personal circumstances have changed; or
- (2) the value of the *retail client*'s pension savings may have significantly changed,

such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance in light of the change in circumstances.

...

Record keeping

- 19.7.19 R *Firms* must record whether the *retail client* has ~~received~~:
- (1) received the retirement risk warnings at step 3 of the process specified in this section;
 - (2) received regulated advice; ~~and~~
 - (3) received *pensions guidance*; ~~or~~
 - (4) opted out (and did not receive regulated advice).
- 19.7.20 G If the *firm* was told by the *retail client* that they already received *pensions guidance* or regulated advice prior to approaching the *firm*, and therefore did not need to receive it again, the *firm* should not record this as an opt out. Instead, they should record this as the *retail client* having received *pensions guidance* under COBS 19.7.19R(3), or under (2) for regulated advice.

...

19 **Pensions nudge and retirement Retirement risk warnings - steps to take**
Annex
1G

This annex belongs to COBS 19.7

[*Editor's note*: The existing diagram in COBS 19 Annex 1G is deleted in its entirety. The deleted diagram is not shown. The following diagram is inserted to replace the deleted diagram.]

COBS 19 Annex 1G

Retirement risk warnings-steps to take



