Instructions for Retirement Income Advice Assessment Tool (RIAAT)

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0. Definitions

0.1 In these instructions and in the **template** we use the following definitions:

ad hoc withdrawals only strategy	has the meaning in para 3.24 of these instructions
annual allowance	this is a limit set on how much can be contributed into an individual's pension in any one tax year as explained on the gov.uk website at (https://www.gov.uk/tax-on-your-private-pension/annual-allowance)
annuity	means a contract of insurance that provides the client with a guaranteed income. Pension annuities provide this guaranteed income for the life of the client. These are distinct from short/fixed term annuities which are defined below
bridging strategy	mas the meaning in para 3.24 of these instructions
capped drawdown	has the meaning defined in the Glossary to the FCA Handbook.
cash balance benefit	in relation to a member of a pension scheme or a survivor of a member, means a benefit calculated by reference to an amount available for the provision of benefits to or in respect of the member where there is a promise about that amount. In particular, this includes a promise about the change in the value of, or the return from, payments made by the member or any other person in respect of the member.
ceding scheme	(for **pension switches**) the **client's** existing DC pension scheme
CIS	means a "collective investment scheme", as defined in the Glossary of the FCA Handbook
client	a retail client as defined in the Glossary to the FCA Handbook
client file	a record of the oral and written communications relating to the **recommendation**
Consumer duty requirements	the requirements specified under in Section 5 and detailed in PRIN 2A
Cross-cutting obligations	the requirements specified in PRIN 2A.2
DB scheme	a pension that pays out a 'defined benefit' (DB) or 'guaranteed' specified amount to the **client** based on factors such as the number of years worked and the **client's** salary as described further on the FCA's website at https://www.fca.org.uk/consumers/pension-transfer-defined-benefit

DC scheme	a pension that pays out a non-guaranteed and unspecified amount depending on the 'defined contributions' (DC) made and the performance of investments as described further on the FCA's website at https://www.fca.org.uk/consumers/pension-transferdefined-benefithttps://www.fca.org.uk/consumers/pension-transfer-defined-benefit
disclosure requirements	the requirements specified under the heading "Disclosure requirements" in **Section 6**
drawdown pension (drawdown)	has the meaning as defined in the Glossary to the FCA Handbook at https://www.handbook.fca.org.uk/handbook/glossary/G2896.html?filter-title=drawdown
example	something that the firm did or did not do which may establish that advice or information provided to the **client** did not comply with the requirements specified in the RIAAT **instructions**
short-term annuity	has the meaning as defined in the Glossary to the FCA Handbook. May also be referred to as a 'fixed term annuity' in the RIAAT instructions.
Flexi-access drawdown (FAD)	has the meaning as defined in the Glossary to the FCA Handbook
flexible benefits	means: (a) a **money purchase benefit**; (b) a **cash balance benefit**; or (c) a benefit, other than a **money purchase benefit** or **cash balance benefit**, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor)
group personal pension plan (GPPP)	has the meaning of "group personal pension scheme" as defined in the Glossary to the FCA Handbook
income withdrawals	has the meaning as defined in the Glossary to the FCA Handbookand refers to capped or flexi drawdowns
information gathering	the information the firm is required to gather about the **client** and their circumstances to comply with the **information requirements**

information requirements	the requirements specified under the heading "Information requirements" in **Section 2**
insistent client	a **client** who has been given **retirement income advice** by a firm, but who has decided to enter a transaction different from that which was recommended and wishes the firm to facilitate this, as described at paragraph 4.1 below
insistent client requirements	the requirements specified under the heading "**Insistent client requirements**" in Section 4
instructions	this document and its annex
Insurance Based Investment Product (IBIP)	has the meaning as defined in the Glossary to the FCA Handbook
investment advice	a personal recommendation relating to the **proposed arrangement**
Individual Savings Account (ISA)	a tax efficient savings vehicle for either cash or stocks and shares. The assets within an ISA are not subject to income or capital gains tax, either within the ISA or upon withdrawal.
key features documents (KFD)	as defined in the Glossary to the FCA Handbook, a document prepared by the firm in accordance with the rules on preparing product information in COBS 13.
key features illustration (KFI)	as defined in the Glossary to the FCA Handbook, information describing projected performance and the effect of charges prepared in accordance with COBS 13
lifetime allowance (LTA)	the statutory cap on the total value of pension benefits an individual can accrue across all their pension schemes, (see https://www.gov.uk/tax-on-your-private-pension/lifetime-allowance).
money purchase benefits	in relation to a member of a personal or occupational pension scheme or the widow, widower or surviving civil **partner** of a member of such a scheme, means benefits the rate or amount of which is calculated by reference to a payment or payments made by the member or by any other person in respect of the member and which fall within the rules under pensions legislation
Money Purchase Annual Allowance (MPAA)	is a reduction to the **annual allowance** once pensions are accessed flexibly. The effect of the MPAA is to reduce the amount that can be saved with tax relief in an individual's money purchase pension(s).
Multiple pots strategy	has the meaning in para 3.24 of these instructions
natural income or natural yield strategy	has the meaning in para 3.24 of these instructions

normal retirement date (NRD)	the date (typically linked to the **client's** age, for example 65) on which the pension scheme is due to pay the **client** their member benefits
Partner	means spouse or civil partner
pathway investment	an investment that corresponds to the investment pathway options in COBS 19.10.17
Personal pension scheme	as defined in the Glossary to the FCA Handbook
pension commencement lump sum (PCLS)	as defined in the glossary to the FCA Handbook
pension switch	a personal recommendation to switch from one defined contribution pension with another defined contribution pension
pension transfer	a transfer payment made in respect of any **safeguarded benefits** with a view to obtaining a right or entitlement to **flexible benefits** under another pension scheme
product	as defined in the Glossary to the FCA Handbook
proposed arrangement	as defined in the Glossary to the FCA Handbook
proposed scheme	(for **pension switches**) the arrangement to which the **client** would move to from the **ceding arrangement**
personal recommendation (recommendation)	as defined in the Glossary to the FCA Handbook
Retail customer outcomes	the outcomes at para 5.8 and specified in PRIN 2A.3 to 2A.6
retirement savings	all the **client's** assets (excluding their principal private residence) that are to be used to provide an income through-out retirement. This could include their pension, ISA, investment bond and other investments and assets.
retirement income advice	a **personal recommendation** in relation to the **client**'s retirement income
requirements	the information, suitability (**investment advice**) **insistent client, consumer duty** and **disclosure requirements** relating to the **retirement income advice**, as specified in these instructions
safeguarded benefits	means benefits other than **money purchase benefits** and **cash balance benefits**.

small pot	means a pot of £10,000 or less, paid under the small pension payments regime.
SRD	means the Selected Retirement Date of a plan
Stakeholder pension scheme	as defined in the Glossary to the FCA Handbook meaning, (in accordance with article 3 of the Regulated Activities Order) a scheme that meets the conditions in section 1 of the Welfare Reform and Pensions Act 1999 or article 3 of the Welfare Reform and Pensions (Northern Ireland) Order 1999.
suitability report	a report that a firm is required to provide to its client under certain provisions of COBS, including COBS 9.4, explaining (amongst other things) why the firm has concluded that a recommended transaction is suitable for the **client**
sustainable withdrawal rate strategy	has the meaning in para 3.24 of the instructions
suitability requirements	the COBS rules in effect during the relevant periods and set out in full in Annex B.
switch recommendation	a personal recommendation to switch the proceeds/assets held in one plan into another plan
template	the Excel spreadsheet provided to each assessor to be completed for each **pension transfer** within the scope of the review
uncrystallised funds pension lump sum (UFPLS)	a way of withdrawing from a **DC Scheme**, without moving to Flexi Access Drawdown or purchasing a pension **annuity**. 25% of the withdrawal is typically free of tax, using the members **pension commencement lump sum** entitlement, with the remaining 75% taxable at the individual's marginal rate as described furtheron the Government webpages.
Withdrawal minimisation strategy	has the meaning in para 3.24
Withdrawal strategy	the overall strategy that a firm puts in place to manage the **client**'s withdrawals from their **retirement savings** over their lifetime.
Withdrawal type	is the method(s) by which the **client** withdraws funds from their **retirement savings**. For example: - An **annuity** purchased on standard terms; - A withdrawal of the **pension commencement lump sum** and taxable income using **Flexi-access drawdown**. - A partial withdrawal from the pension using **uncrystallised funds pension lump sum**.
Workplace pension	a personal pension scheme or **stakeholder pension scheme**, which provides **money purchase benefits**, used by an

	employer(s) to comply with duties imposed in Part 1, Chapter 1 of the Pensions Act 2008.

1. Background

1.1 The purpose of the **instructions** is to provide assessors with practical assistance when completing the **template** and to provide further information to which assessors should have regard when considering whether a firm giving **retirement income advice** has complied with:

(a) the **information requirements** to obtain the necessary information to give a suitable **recommendation**;

(b) the **suitability requirements** to give a suitable **personal recommendation**; and

(c) (where a **client** has become an **insistent client**) the **insistent client requirements** and acted in the **client's** best interests; and

(d) the relevant **disclosure requirements**.

1.2 The **template** and **instructions** consider what a reasonably competent firm (i.e. one that complied with the relevant regulatory rules at the time) should have known during the relevant period that it provided the advice, not what it should know now with the benefit of hindsight.

1.3 The instructions are focused on income taken from **retirement savings**, which includes pension schemes, MiFID financial instruments and **insurance based investment products (IBIPs)**. The instructions have been drafted with reference to the COBS 9 suitability rules which apply to pension savings held in pension schemes but not to MiFID financial instruments and **IBIPs**. Where advice is provided in relation to the latter instruments and IBIPs refer to the Annex for applicable **requirements**.

1.4 The outcomes from the completion of the **template** will be used to assist the FCA to meet our operational objective of protecting consumers from harm.

Limitation of scope

1.5 The **template** and **instructions** are specific to **retirement income advice** including where firms subsequently arrange investments for **insistent clients**. They are not and should not be regarded as guidance on how a firm may comply with the **requirements** more generally, or on how to assess whether non-compliance has caused a **client** to enter into a transaction generally.

1.6 In many cases, the recommendation given will relate to only a single investment or **withdrawal type**. However, in some circumstances the firm is making a series of **personal recommendations** in relation to multiple **investments** or **withdrawal types**. In both cases, a single **template** should be used. For the avoidance of doubt, where the **recommendations** given relate to multiple **investments** or **withdrawal types**, you should carry out a holistic assessment of the advice.

General instructions

How the template works

1.7 The **template** does not make an automatic decision on the suitability of the **retirement income advice**; it is there to support you. It will:

(a) help you to identify the key information on file and consider whether the **firm** obtained the necessary information to make a **recommendation**;

(b) help you to determine whether there is enough information on file to assess the suitability of the **recommendation**;

(c) where there is enough information, support you in making an assessment of whether the **recommendation** is suitable; and

(d) capture and reference the evidence on which you have based your assessment, and also give you space to record the reasons for your assessment.

1.8 When completing the **template**, ensure that the information entered is sufficiently detailed for a third-party assessor (or person conducting quality assurance or QA) to:

(a) gain an accurate and complete overview of the relevant evidence on the consumer file; and

(b) form a view without the need to refer to the relevant evidence as to whether the firm has collected the necessary information to give a suitable **recommendation** and, where applicable, complied with the **suitability requirements.**

1.9 The **template** itself is an Excel workbook with five tabs which require file review assessors to take six steps (outlined on the next page).

Definition of ratings

1.10 Whilst completing a file review, the **template** will make various suggestions on ratings and the assessor will be required to confirm whether this rating is appropriate. To assist assessors, below is a list of the various ratings provided by the **template** and the corresponding definition for each rating.

Information tab

Rating	**Definition / action**
Proceed to suitability assessment	There is enough information on file to assess the suitability of the **recommendation**. Proceed to the next section of the **template**.
Non-compliant – Halt assessment	This rating means that the **firm** has not collected the necessary information (COBS 9.2.1R(2))) to make a **recommendation**. This means that there is not enough information on file to assess the suitability of the **recommendation**; or for the firm to have made a **recommendation** (and so the assessor cannot, similarly, make a judgement).

	Notwithstanding that the assessor cannot make an assessment of suitability in these cases, if you consider that there is a low risk of a poor outcome from this **recommendation**, you should flag this in the box provided.
Non-compliant proceed to suitability assessment	Check this box where: • the firm has not collected the necessary information (so your answer to any of questions 1 to 8 in the information tab is 'no') **but** • you nonetheless consider that you can assess the suitability of the **recommendation**. • See the note at paragraph 3.126 about your conclusion on suitability for these cases.

Suitability tabs

Rating	Definition
Suitable	The firm has complied with the **suitability requirements**.
Unsuitable	The firm has not complied with the **suitability requirements**.

Insistent Client tab

Rating	Definition
Compliant	The firm has complied with our **insistent client requirements**.
Non-compliant	The firm has not complied with our **insistent client requirements**.

Consumer Duty tab

Rating	Definition
Compliant	The firm have complied with our **Consumer Duty requirements**
Unclear	It is unclear whether the firm has complied with our **Consumer Duty requirements**
Non-compliant	The firm has not complied with our **Consumer Duty requirements**.

Disclosure tab

Rating	Definition

Compliant	The firm has complied with our **disclosure requirements**.
Non-compliant	The firm has not complied with our **disclosure requirements**.

2. Information Requirements

2.1 This section records the information collected by the firm and held on the **client file** as part of the **information gathering** process.

2.2 Fill in each part of the Information tab using the information on the **client file**. Where there is no information on the **client file**, you should leave the section blank. All answers should be based on information recorded up until the firm gave the advice or arranged the transaction, unless otherwise stated.

2.3 Where you are asked to comment or record information in response to a question, the comment should be no longer in length than the number of characters indicated on the **template**.

2.4 You must carry out five key actions to complete this tab. The purpose of each action is explained in the right-hand column of this table:

Action	Purpose
Action 1 "Case details" Record case details on the file review template, alongside details on the firm, adviser and charging basis for the advice.	This information is important to capture but is unlikely to have any impact on the consideration as to whether the firm has collected the necessary information to give a suitable **recommendation**.
Action 2 If the firm has given a **switch recommendation**, answer all of the question areas on the **template** about whether the firm has obtained the necessary information to assess suitability. If the firm has not given a **switch recommendation** answer only questions areas 1 to 6 and 8.	For each of the questions, where you consider the necessary information has been obtained, you should answer "Yes". Where, for any of the questions, you do not consider the information has been obtained, you should answer "No".
Action 3 Record the necessary information on the file (or that can be inferred from the file) in the subsections under each of the eight questions. Where information is inferred, explain the basis for the inference.	This provides a record of the **client** information that is held on file and will assist if the case is subject to either QA or challenge.

There are compulsory "Page Ref" boxes for you to indicate where you have found certain information. Note that there are many boxes that assessors can complete and it is not always the case that all boxes must be completed for the assessor to consider that the necessary information has been captured.	
Action 4 Determine (by selecting "yes" or "no") whether the **template** has rated the information obtained correctly. For example, the **template** may be suggesting that there is information missing; however, the assessor should still consider whether this is the case or whether, given the **client's** circumstances, the necessary information is on the file for the assessor to make an assessment on suitability.	This is where you assess whether you agree with the **template**'s rating. Consider whether there are any particular circumstances of this case which lead you to disagree with the **template**'s rating. If the **template** rating box is purple this means that you have not completed the answers for each area.
Action 5 Explain, with reference to the **client file**, why the rating that the file does not demonstrate compliance is correct.	If you have rated a file as "not compliant" you must record what information is missing and identify which information requirement the firm does not comply with, including reference to the relevant COBS rules.

"Case details" section

2.5 This section captures general information regarding the case review. It must be completed for all cases as it forms the basis of the file review, including the name of the firm and adviser we are reviewing and who undertook the review.

2.6 You should record the following information in the relevant boxes:

(a) **Review details:** Your name and date of the file review.

(b) **Advice details:** details of the **retirement income advice** given including:

(i) the date of the advice;

(ii) Whether this advice is the initial **retirement income advice**, or is ongoing advice as part of a regular review;

(iii) the date of the relevant **information gathering** (KYC) at the time of the advice;

(iv) whether there was a **switch recommendation** (a recommendation was to **switch** pension schemes). This section is important as it turns on/off information area 7, depending on how it is answered;

(v) whether the **client** was treated as an **insistent client**; and

(vi) details of the charges, including (where relevant) both initial and ongoing charges (in £ and % terms).

(c) **Firm details:** details of the firm giving the advice, including name, FCA reference number (FRN), whether it is an appointed representative (AR) and (for advice status) whether it gave independent or restricted advice.

(d) **Adviser details:** details of the adviser, including name and individual reference number (IRN).

The eight information areas

2.7 The **template** asks up to eight questions to assist you in assessing whether the firm has complied with the **information requirements**:

1.	Has the firm obtained the essential facts about the **client**?
2.	Has the firm obtained the necessary information regarding the **client's** investment and retirement objectives?
3.	Has the firm obtained the necessary information regarding the **client's** investment risk profile?
4.	Has the firm obtained the necessary information regarding the **client's** knowledge and experience?
5.	Has the firm obtained the necessary information regarding the **client's** estimated expenditure throughout retirement?
6.	Has the firm obtained the necessary information regarding the **client's** financial situation?
7.	(For **switch recommendations** only) Has the firm obtained the necessary information regarding the **ceding scheme(s)**?
8.	Has the firm obtained the necessary information regarding the **proposed scheme(s) or solution(s)**?

2.8 The basic **information requirements** are, from 1 November 2007 to the present:

(a) COBS 9.2.1R(2), which require a firm, when making a **recommendation**, to obtain the necessary information regarding the **client's**:

(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;

(b) financial situation; and

(c) investment objectives;

so as to enable the firm to make the recommendation which is suitable for the **client**.

(b) COBS 9.2.6R which provides that, if a firm does not obtain the necessary information to assess suitability, it must not make a **recommendation**.

2.9 Further details are set out below reflecting the detailed COBS provisions about obtaining information.

Area 1. Has the firm obtained the essential facts about the client?

2.10 This section captures whether the firm has complied with the requirement to obtain information about the **client** and their circumstances at the time the advice was given (COBS 9.2.1R(2)).

2.11 It relates to the requirement under COBS 9.2.2R, which applied from 1 November 2007 to present, to obtain such information as is necessary for the firm:

(a) to understand the essential facts about the **client**; and

(b) to have a reasonable basis for believing, giving due consideration to the nature and extent of the service provided, that the transaction to be recommended:

(i) meets the **client's** investment objectives;

(ii) is such that the **client** is able financially to bear any related investment risks consistent with their investment objectives; and

(iii) is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of their portfolio.

Steps to take

2.12 The **template** requires you to record the following information and select "yes" or "no" whether the firm has collected the following information:

(a) **Is the advice treated on a single or joint life basis?** This information is essential for understanding the **client's** financial situation. For example, the **client** may not be the only individual reliant upon this pension. It may be the **client's** intention that this pension is also used to support a married or unmarried **partner**. Information should also be collected about the **partner's** contribution to the household finances throughout retirement. The rest of the information tab needs to be completed and considered with the answer to this point in mind.

It is our starting position that where **clients** are dependent on each other information on the source of one **partner's** regular income should include any income from the other **partner** or their regular financial commitments.

Even when **clients** have independent finances it is reasonable to assume that there is some degree of financial interdependence. For example if they co-habit some costs may be split (such as council tax and utilities). In the absence of information to the contrary we consider that some allowance should be made for shared provision in these cases.

(b) **Client's basic details:** (and **partner's** and dependents' where relevant) including name and date(s) of birth.

(c) **Marital status, employment status and current tax rate**. Where we have salary details, we can infer the current tax rate, even if it is not explicitly stated. More detail on tax rates can be found here.

(d) **Actual or proposed non-UK residency**. This may affect other information points if information relates to funds in a different currency and potentially subject to different tax rates and currency fluctuate.

(e) **Health status and notes** (where the **client** has identified health issues). Where this is not recorded, absent any evidence suggesting otherwise, it can be assumed that the **client** is in good health. See the further commentary on when a **client** may be eligible for an enhanced **annuity** at paragraph 3.46, below.

(f) **Dependants:** include details about any dependants and the **client**'s responsibility for them.

(g) **Vulnerable client:** include details about whether the **client** or their **partner** has characteristics of vulnerability. A vulnerable consumer is someone who, due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care. For more information see

(i) FG21/1 Guidance for firms on the fair treatment of vulnerable customers.

(ii) FCA information about 'supporting consumers with pension transfers'

(iii) Finalised Guidance for firms on the Consumer Duty FG22/5 paragraphs 1.23 to 1.30.

Area 2. Has the firm obtained the necessary information regarding the client's objectives?

2.13 This section captures the **client** objectives in relation to their retirement income needs as recorded by the adviser. The firm is required to obtain information about **client** objectives (COBS 9.2.1R(2)(c) and COBS 9.2.2R(1)(a)). The guidance at COBS 9.3.3G may also be relevant.

2.14 The information must include, where relevant, information on the length of time for which the **client** wishes to hold the investment and the purposes of the investment (COBS 9.2.2R(2)). When the advice relates to an income withdrawal **product**, UFPLS or purchase of a **short-term annuity** the firm should also collect information about the **client**'s need for tax free cash and state of health (COBS 9.3.3G(1)).

2.15 The information obtained must be sufficient to ensure that, in assessing suitability, the firm can take into account the **client's** intentions for accessing pension benefits including:

(a) the purpose of the investment; and

(b) the length of time the **client** wishes to hold the investment.

Steps to take

2.16 This section only captures the objectives that have been recorded by the adviser:

(a) If no objectives have been recorded answer "no".

(b) If objectives have been recorded answer "yes" and record what those objectives are using the same wording and ranking or prioritisation as the firm. Where there is no prioritisation record "No" in the "Has the adviser prioritised objectives" box and record the objectives in the order they are presented on the **client file**.

(c) For each objective you identify the **template** will indicate you can provide further information, in the right-hand columns, relating to the amount wanted (to achieve the objective) and the date the amount is needed.

2.17 The **template** will ask about the approach to capturing objectives, and whether the objectives are "generic" or "free text" (the use of generic objectives would not by itself result in the **template** showing a purple box). It also asks whether the firm has explicitly prioritised the objectives. These questions are primarily for collecting management information on the file assessments

2.18 There is a free text box for assessors to expand on any additional information they wish to capture, or comments they may have, in relation to the **client** objectives, including:

(a) whether the information was collected in a way which was fair, clear and not misleading;

(b) whether there is any conflict between the **client**'s objectives; and

(c) whether or not the objective is realistic, given the **client**'s circumstances.

Area 3. Has the firm obtained the necessary information regarding the client's investment risk profile?

2.19 This section captures information in relation to the **client's** investment risk profile. The firm is required to collect this information to comply with COBS 9.2.2R(1), which requires a firm to obtain information about the **client**'s ability and willingness to take investment risk and COBS 9.2.2R(2) which gives examples of the sorts of information which may be relevant to this assessment. The guidance at COBS 9.3.3G is also relevant.

2.20 The information a firm is required to obtain by COBS 9.2.2R(2) includes, where relevant, information as to the **client's**:

(a) preferences regarding risk taking; and

(b) risk profile.

2.21 When the advice relates to an income withdrawal **product**, **UFPLS** or purchase of a **short-term annuity** the firm should also collect information to enable them to assess the **client**'s attitude to risk of these options (COBS 9.3.3G(3)).

2.22 The FCA has published information on the steps firms should take to assess the **client**'s attitude to risk in FG-11/05. The FCA has not prescribed how to assess attitude to risk as we accept that firms will adopt different methodologies. Firms must however have in place robust processes that are fit for purpose.

2.23 The firm must collect information on both of the following measures:

(a) the **client's** attitude to investment risk. This is also known as the **client's** investment risk tolerance (i.e. their emotive response to taking investment risk). Per COBS 9.2.2R(2) a firm must, where relevant, obtain information about their preferences regarding risk taking and risk profile; and

(b) the **client's** capacity for investment loss. This is also known as the **client's** ability to take investment risk (i.e. an objective numbers-based assessment looking at whether the **client** can afford to lose money). Per COBS 9.2.2R(1)(b) the **client** must be able, financially, to bear any related investment risks consistent with his investment objectives.

2.24 If the **firm** uses a tool in this part of the suitability assessment, you should consider, with reference to the guidance in FG11/5 (Assessing suitability: Establishing the risk a customer is willing and able to take and making a suitable investment selection) whether:

(a) the tool or software is capable of taking into account matters relevant to the assessment of a client's attitude to risk;

(b) the tool or software appropriately scores non-committal (neither agree nor disagree / no strong opinion) answers and resolves contradictory answers; and,

(c) any factors which are not included in the tool or software, or which are not resolved by the software, are factored into the firm's assessment of the **client's** attitude to risk.

2.25 Some firms may use the output from the toolkit as the starting point for a wider discussion. It may be that after this discussion, the adviser changes the **client's** risk tolerance (either uprisking or downrisking). Where the firm has done this, we expect to see that the firm has discussed, and agreed this with the **client** and has clearly explained the implications of the change to the risk profile.

2.26 Where a **firm** has used a 'risk descriptor' to frame discussion, the risk descriptor should outline the nature of the risk the **client** is likely to experience. Assessors should consider whether the descriptors effectively quantify the type/level of risk that the **client** may be subject to.

Steps to take

2.27 For each of these measures:

(a) Record in the first box "**Firm's description**…" how the adviser has categorised the **client's** attitude to investment risk and their capacity for investment loss.

(b) Record whether the firm used a tool to help assess the relevant attitude to risk, and if the firm used a tool record the name of that tool.

(c) Record in the "**Comments**" box any additional comments or observations on the firm's approach, including whether the assessment was carried out in a way which was fair, clear and not misleading and whether the investment risk profile appears consistent across the file.

(c) Conclude:

(i) If a firm has recorded both measures of risk, you must answer "yes" to this question.

(ii) If a firm has not recorded information for both measures, you must answer "no" to this question.

(d) If you have concerns that:

(i) the firm has not undertaken the assessment in a clear, fair and non-misleading way; or

(ii) there are issues with the firm's assessment process;

you can record any concerns in the free text box provided. Reflect on and record whether these issues are likely to impact on the suitability of the firm's advice. If the issues are likely to have a material effect on the advice to the **client**, you will be asked to take this into account in the "Suitability" tabs.

Area 4. Has the firm obtained the necessary information regarding the client's knowledge and experience?

2.28 This section captures information relevant to the **client's** knowledge and experience. The firm is required to collect this information to comply with the **suitability requirements**.

2.29 The relevant **information requirements** are:

(a) (COBS 9.2.2R(1)(c)) to obtain such information as is necessary to have a reasonable basis for believing that the **client** has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of their portfolio.

(b) ([COBS 9.2.3R]) that this information should include, to the extent appropriate to the nature of the **client**, the nature and extent of the service to be provided and the type of **product** or transaction envisaged, including their complexity and the risks involved, information on:

   (i) the types of service, transaction and designated investment with which the **client** is familiar;

   (ii) the nature, volume, frequency of the **client's** transactions in designated investments and the period over which they have been carried out; and

   (iii) the level of education, profession or relevant former profession of the **client**.

2.30 For example in cases where the **client** has sought advice on withdrawal of pension benefits. You should consider whether the firm has gathered information about the **client**'s knowledge and experience sufficient to enable them to determine whether the **client** understands the benefits and risks of the recommended **withdrawal type** and/or **withdrawal strategy**.

There are good practice examples on pensions and annuities in [FG 17-8]. For example, if a firm intends to recommend an **annuity** it should identify whether the **client** understands the nature of an **annuity**, e.g. that it is irreversible or that their fund will no longer have the capacity to grow. On the other hand, if the firm recommends **FAD**, the firm should identify whether the **client** understands that they might need to limit their income or they might run out of funds in their lifetime, if the investment performance is poor.

2.31 In this section:

(a) The "firm's assessment" box requires you to record the firm's assessment of the **client's** knowledge and experience relevant to the advice, in the firm's own words.

(b) The "our comments" box can be used to capture any additional comments or observations on the firm's approach.

Steps to take

2.32 If the firm does not have any records of the **client's** knowledge and experience, answer "no" to this question.

2.33 If the firm has established the **client's** knowledge and experience, answer "yes" to this question.

2.34 If you have concerns that:

(a) the firm has not carried out the assessment of knowledge and experience in a clear, fair and non-misleading way; or

(b) there are issues with the firm's assessment process;

you can record any concerns in the comments box provided. Reflect on and record whether these issues are likely to impact on the suitability of the firm's advice. If the issues are likely to have a material effect on the advice to the **client**, you will be asked to take this into account in the "Suitability" tabs.

2.35 Assessors should note that some firms,(for the purposes of assessing the **client's** knowledge and experience) may not explicitly assess the **client's** knowledge and experience (e.g. by concluding that the **client** has a 'reasonable' level of knowledge or is an experienced investor, or even using a binary metric like 'yes' or 'no'). However, it may be possible to draw conclusions based upon the wider **information gathering**, including information as to the assets the **client** currently holds, whether they are actively managing those assets and the **client's** profession. Assessors should only answer "no" where the **information gathering** is significantly flawed and these sorts of conclusions cannot be drawn.

Area 5. Has the firm obtained the necessary information regarding the client's estimated expenditure throughout retirement?

2.36 This section captures information on the **client's** anticipated expenditure throughout retirement. This information is relevant to how much income the **client** will need throughout their retirement and how the advice addresses this. The firm is required to collect this information to comply with the **suitability requirements**.

2.37 The relevant **information requirements** are found in COBS 9.2.1R(2)(b) which requires the firm to obtain information about the **client's** financial situation. Where relevant, this must include information as to the **client's** regular financial commitments (COBS 9.2.2R(3)).

2.38 The guidance at COBS 9.3.3G is also relevant if the firm recommends an income withdrawal, UFPLS, or a **short-term annuity**. This guidance provides that a firm should take into account the **client**'s current and future income **requirements**, existing pension assets and the relative importance of the plan, given the **client**'s financial circumstances.

Steps to take

2.39 The **template** is designed to record the minimum information a firm should collect to comply with the **information requirements**. It asks you to:

(a) identify whether the firm has taken reasonable steps to capture this information (by selecting "yes" or "no"); and

(b) input the relevant figures into a number of mandatory fields which relate to the **client's** current discretionary and fixed expenditure and anticipated expenditure in retirement.

2.40 If you cannot complete all the mandatory fields in the regular or retirement expenditure information boxes, answer "no" to this question.

2.41 If you can complete all the mandatory fields using information from the **client file**, answer "yes" to this question.

2.42 The **template** breaks expenditure down into 3 broad types:

(a) The **basic cost of living** – This includes all non-discretionary expenditure; for example, utility bills, council tax, food and any outstanding accommodation payments (such as mortgages and rents) or care expenses if these are ongoing. This is expenditure that the **client** would find it exceptionally hard/potentially impossible to reduce.

(b) **Lifestyle expenditure** – This is expenditure to support the **client's** lifestyle. For example, **clients** may wish to spend money on socialising, holidays, cleaning, etc. Whilst this expenditure is not non-discretionary and, in theory, could be reduced, many **clients** may not wish to compromise on this expenditure as they see it as necessary to maintain the lifestyle they expect in retirement.

(c) **Discretionary expenditure / savings** – This is expenditure which is purely discretionary and could easily be cut back by the **client** at any time. It may include current savings into pensions or investments which may well cease upon retirement. For **clients** still in employment, this may instead be termed "disposable income".

2.43 You can extrapolate expenditure information from the **client file** if, for example, the firm has captured good detail on the **client's** current level of expenditure (including both discretionary and non-discretionary expenditure) as well as sufficient detail on any liabilities the **client** has (for example how much is being repaid and when the repayment date will be).

What are reasonable steps?

2.44 If the firm has estimated the **client's** expenditure in retirement, because for example the **client** has decided that they will continue to work part-time until their desired retirement date, you will need to consider whether it took reasonable steps to do so. Reasonable steps might include (by way of example only):

(a) gathering sufficient detail on the **client's** current level of expenditure and liabilities and provision for any emergency fund;

(b) considering how the **client's** personal circumstances and lifestyle (for example living arrangements, provision of financial support for dependents, recreational activities, travel) are likely to change upon retirement, and how this might affect future expenditure and liabilities; and

(c) using comparative figures derived from (for example) the firm's experience with other **clients** in similar situations, statistical averages, actuarial data and other reliable sources (though it is unlikely that the use of generic data would by itself satisfy the requirement to take reasonable steps).

Area 6. Has the firm obtained the necessary information regarding the client's financial situation?

2.45 The firm is required to obtain information on the **client's** assets and other sources of income and liabilities to comply with the **suitability requirements**.

2.46 The relevant **information requirements** are in COBS 9.2.1R(2)(b) which requires the firm to obtain information about the **client's** financial situation. Where relevant, this must include information as to the source and extent of the **client's** regular income, their assets including liquid assets, their investments and real property, and their regular financial commitments (COBS 9.2.2R(3)).

2.47 The guidance at COBS 9.3.3G is also relevant if the firm recommends an income withdrawal, UFPLS, or a **short-term annuity**. This guidance provides that a firm should take into account the **client**'s current and future income **requirements**, existing pension assets and the relative importance of the plan, given the **client**'s financial circumstances.

2.48 For **retirement income advice**, it is the FCA's view, based on the **requirements** of COBS 9.2.2R(3), that the firm should obtain details of the **client's** assets , taking into account their ease of accessibility and restrictions on their access. The firm should also obtain full details of any other income the **client** will have in retirement and their debts and liabilities, particularly any unsecured debt. For example, the consumer may be receiving income from letting a second property.

2.49 This information is relevant to the firm's understanding of the **client's** financial situation and the likely impact of the proposed transfer on the **client's** overall finances, their objectives, their tax position and other matters including their ability to access state benefits.

Steps to take

2.50 The **template** has been designed to collect the necessary information a firm should collect to comply with the **information requirements** under the broad categories of income, assets and liabilities. It asks you to:

(a) identify whether the firm has captured the necessary information (by selecting "yes" or "no"); and

(b) record, under each heading, any relevant information.

2.51 If the **client file** is incomplete or it is unclear whether the firm has collected the necessary information on the **client's** financial situation, you will need to consider whether the firm has nonetheless obtained the "necessary information" regarding the **client's** financial situation. For example:

(a) If the "other assets" section in a fact-find is blank, and the **client** has modest income, it may be reasonable to assume that the **client** has no other assets. If this is the only piece of information missing and there is no other evidence on the **client file** to suggest the **client** has other assets, it is likely that the firm has obtained the necessary information.

(b) If the "financial information" section in the fact-find is blank or incomplete but there is evidence on the file suggesting that the **client** has a significant amount of disposable income, it is likely that the firm has not obtained the necessary information.

(c) If the firm has noted that the **client** has other assets or liabilities but the firm have gathered limited or no information on them, it is likely that the firm has not obtained the necessary information.

2.52 You should also identify, based on information on the client file, whether the **client** has or is eligible for:

(a) **State pension benefits**

For many people state pension will be a key part of their future retirement pans and will provide a guaranteed level of income to cover essential expenditure.

Entitlement is accrued through employment (via National Insurance contributions) or a variety of credits (such as those earned by bringing up a child under the age of 12), it is therefore

To understand how much state pension an individual may be entitled to and when this will be paid, clients can undertake a state pension forecast (A state pension forecast may be obtained by clicking on the following link).

Based on DWP figures as of May 2023 only 52% of people aged 65 to 69 were entitled to the full new state pension, this may therefore mean that individual clients have a shortfall, and great care should be made with any assumptions for those who are likely to have any of the following:

- Residence abroad
- Long prison sentences
- Long periods of economic inactivity (without claiming benefits, or if benefits were claimed by a spouse, or civil partner, instead of directly)
- Long periods of low paid employment (below the lower earnings limit)
- Early retirement

Firms should ensure they are adopting a robust process to ensure that actual entitlement is ascertained so that the client's potential capacity for loss is clear, where this is not evidenced the assessor should consider whether there is sufficient information in relation to potential future income to provide assess suitability.

(b) **Other secured gross pension income**

The **client** may have **DB schemes** or secured pension income (such as from an **annuity**). This box should be used to capture the forecast level of income those schemes or annuities in payment will provide in aggregate at the scheme retirement age. Consider what the **client's** preferences are in terms of commuting scheme pension for **PCLS** in these schemes. Any other information on these schemes (for example if there are multiple schemes, different Normal Retirement Dates (**NRD**s, etc.) should be provided in the "additional comments" box.

(c) **Gross income from non-pension assets**

This includes any non-employment income the **client** will be receiving from other sources such as investment income or rental income from buy-to-let properties. It does not cover income from the **client's** current employment.

Where the **client** is in receipt of property income and it is envisaged that this income will continue into retirement, both the relevant box for current income and the box for gross income from non-pension assets should both be completed with this figure.

(d) **Gross income from state benefits**

This includes ill health or employment related benefits the **client** is receiving from the Department for Work and Pensions. Where the **client** is entitled to state benefits the firm should obtain information about the conditions for continued entitlement. This will enable the firm to analyse the impact of the Retirement Income Strategy on the **client**'s entitlement to benefits (COBS 9.2.2R(1)(b)).

(d) **Other assets**

Identify what other assets that the **client** holds including the total transferrable values of other workplace and non-workplace pensions. Additionally consider any additional investments held by the **client** and the values of these. These include the total values of any unit trusts, shares, including the value of any shares received or due to be received from an employee sharesave scheme. You should also consider all cash assets held by the **client** (including monies held on deposit and savings accounts). Where a **client** has additional property(ies) you should document the total values of these, excluding the **client's** principal private residence.

If a predicted future inheritance is listed as an asset:

(i) identify what the anticipated inheritance is and if the inheritance is conditional on certain elements and the nature of this. For instance, if this is being gifted directly to the **client**, or held in trust.

(ii) identify when the **client** anticipates they will receive the inheritance and whether there is a will in place bequeathing the asset to the **client;** and

(ii) consider how the firm has treated the inheritance. For example, have they accounted for the fact that the asset is not guaranteed and the risk that the asset will be depleted by the time the **client** is in receipt?

(e) **Other state benefits**

This includes any benefits the **client** is receiving from the Department for Work and Pensions, such as universal credit. Where the **client** is entitled to state benefits the firm should obtain information about the conditions for continued entitlement, including whether the benefit is means tested. This will enable the firm to analyse the impact of the transfer on the **client's** entitlement to benefits (COBS 9.2.2R(1)(b)).

Liabilities

2.53 This section also records information about the **client's** liabilities. You should record the details of any outstanding mortgage, including the date of final payment and the **client's** age at that date. The type of mortgage should be selected (interest only, repayment, other). If the mortgage is interest only this should be recorded and a record of how the **client** will repay the mortgage or their future plans at the end of the mortgage term. This information is necessary to understand the **client's** capacity for loss.

Area 7. For switch recommendations only

2.54 This section is only relevant where the advice includes a **switch recommendation** and is only activated when this has been recorded in the case details section. If there is no **switch recommendation**, you do not need to complete this section.

2.55 For the purpose of completing this section, using pension savings to purchase an **annuity** would not be considered a switch. Where this is the only recommendation, you do not need to complete this section.

2.56 This section captures information the **client**'s current **DC pension scheme(s)**. This information is necessary for the firm to consider whether the **switch recommendation** is suitable for the **client**.

Steps to take (where this area is relevant)

2.57 The **template** has been designed to record the minimum information a firm should collect to comply with the **information requirements**. It asks you to:

(a) identify whether the firm has captured this information (by selecting "yes" or "no"); and

(b) record, under a number of headings, the relevant information.

2.58 Record how many schemes the adviser is recommending that the **client** switches out of. This is limited to five schemes, within the spreadsheet.

Where there are more than five schemes a separate spreadsheet should be completed.

2.59 For each scheme where a switch is recommended, record:

(a) the **product** type, policy or contract switched out of**;**

(b) the **ceding scheme** name;

(c) confirmation of whether the ceding scheme was the **client's** current workplace pension

(d) the fund value at the date of the advice;

(d) details of any charges, including the ongoing charge (%) and any one-off switch or exit charges (%);

(g) whether the **product** contains any guarantees or special benefits. Where this is the case, include a brief summary of these in the following free-text box;

(h) the **product** type switched in to; and

(i) the provider name switched to.

Area 8 – all recommendations

Area 8. Has the firm obtained the necessary information regarding the proposed arrangement(s)?

2.60 This section collects information on the **proposed arrangement**, the **withdrawal type** and the **withdrawal strategy**. This information is necessary for the firm to consider whether the **retirement income advice** is suitable for the **client**.

Steps to take

2.61 The **template** has been designed to collect the minimum information a firm should collect to comply with the **information requirements**. It asks you to:

(a) identify whether the firm has captured this information (by selecting "yes" or "no"); and

(b) record, under a number of headings, the relevant information.

2.62 Record how many schemes the adviser is recommending that the **client** switches out of.

This is limited to five schemes due to the limitations of the tool; where more than five schemes are switched these should be captured within a separate tool.

2.63 For each scheme, record in the "**Product** details" section:

(a) The **product** type recommended;

(b) The name of the **product** provider recommended;

(c) Confirmation of whether the **ceding scheme** was the **client's** current workplace pension

(d) The fund value at the date of the advice, before the withdrawal;

(e) The costs of the recommended **product** (only), both initial and ongoing (%);

(f) Whether the **product** is held on a **platform**, and if so, the platform charges (only), both initial and ongoing (%);

(g) Has the firm recommended a **pathway investment** as part of their advice?

(h) Whether a **discretionary investment manager** (DIM) was recommended, and if so, the charges of the DIM service (only), both initial and ongoing (%);

(i) The charges of the underlying investments (only), both initial and ongoing (%);

(j) Any additional comments you have on the charges applied to the **product** and how you have captured them in the RIAAT. Note that the purpose of the previous section is to capture all costs associated with the recommendation, excluding advice costs which are captured earlier in the RIAAT; and

(k) Whether **Non-Mainstream Pooled Investments** (NMPI), **Speculative Illiquid Securities** (SIS) or other similar non-standard assets are included in the recommendation and if so, the name of the investment, the name of the provider and any additional comments you have about the NMPI, SIS or non-standard assets.

2.64 For each scheme, record in the "withdrawal details" section:

(a) The **withdrawal type(s)** recommended;

(b) The **withdrawal strategy** recommended. Where there are multiple strategies recommended, record the strategy you consider is "primary";

(c) Any additional comments that help explain the **withdrawal strategy** recommended.

(d) The withdrawal frequency recommended. So, whether this is a one-off lump sum withdrawal, the establishment of an ongoing income, or both withdrawal frequencies at the same time.

(e) The gross value of the withdrawal, broken down across any pension PCLS, any pension taxable income and any non-pension income.

"Summary of information obtained" section

2.65 This section of the Information tab has two boxes, one for you to review and the other for you to complete:

(a) **Tool rating:** this is the **template's** automatic rating of whether the firm has obtained the "necessary information" to make a **recommendation** and is based on your answers to the 8 question areas.

(b) **Assessor rating:** this is your own assessment of whether the firm has obtained the necessary information to make a **recommendation**:

(i) select "yes" if the firm has collected the necessary information;

(ii) select "no" if the firm has not collected the necessary information.

2.66 When considering whether the firm has the necessary information to make a **recommendation**, you should consider whether there are any **client** circumstances that may mean the collection of some information is not necessary for the adviser to form a view on the suitability of the transfer. This must be driven by the **client's** circumstances, not the firm's circumstances.

2.67 If your conclusion is that the firm has not collected the necessary information, then (subject to any 'overrides' described above at paragraph 2.65) you should record:

(a) a brief summary of the missing information and its significance to the suitability assessment (for example "the firm has not recorded any **client** objectives and so it cannot form a view on whether the transfer meets the **client's** investment objectives"); and

(b) that the firm has not complied with the requirement in COBS 9.2.1R(2) and COBS 9.2.6R to obtain the necessary information to make a suitable **recommendation**.

3. Suitability Assessment

Background

3.1 This suitability section contains examples which tend to show failure to comply with the **suitability requirements** for making a **recommendation** relating to a **proposed arrangement**.

3.2 The relevant **suitability requirements** are set out in full in **Annex B**. They arise from the rules, guidance and principles set out in the FCA handbook.

3.3 For each **client file** you must:

(a) fairly consider and give appropriate weight to all information on the **client file**; and

(b) decide, with reference to the examples in this section of the **template**, whether it is more likely than not that the **firm** failed to comply with the **suitability requirements**.

3.4 In considering the information on the **client file**, you must not assume that a **firm** has complied with a **suitability requirement** solely because the **client** has signed documentation that purports to record their understanding of or agreement to matters set out in that documentation.

3.5 When assessing whether a **firm** complied with the **suitability requirements** you must take into account the following:

(a) the **client's** investment objectives;

(b) the **client's** financial situation, including their financial ability to bear the risks associated with the **proposed arrangement** consistently with their investment objectives;

(c) the **client's** ability to understand the risks associated with the **proposed arrangement** in light of:

(i) their experience and knowledge relevant to managing their **retirement savings**; and

(ii) information they have been given in the course of their dealings with the **firm**.

3.6 A **firm** is required to take reasonable steps to ensure that a **recommendation** is suitable for the **client**. When assessing the reasonableness of a **firm**'s conduct in relation to a **recommendation**, you must:

(a) assess the **firm**'s conduct against what was reasonable at the time when the **firm** made the **recommendation**; and

(b) determine that the conduct of the **firm** assessed was reasonable only if that **firm** displayed the degree of skill, care and diligence that would at that time have been exercised by a reasonably competent practitioner in the same field with the same expertise as claimed by the **firm**.

3.7 A **firm** is also required to act honestly, fairly and professionally in accordance with the best interests of its **client** (COBS 2.1.1R).

How to complete this section

3.8 This section is divided into 4 parts:

(a) Examples of unsuitability;

(b) Suggested **template** rating;

(c) Assessor's suitability rating; and

(d) Assessor's rationale and evidence supporting suitability rating.

Completing the suitability requirements section

3.9 The **suitability requirements** section is used to record your assessment of whether or not the **firm** complied with the **suitability requirements**.

3.10 Take the following steps to complete the **suitability requirements** section:

(a) review the information on the **client file** and the information recorded in the 'Information' tab of the **template** (the "**available evidence**");

(b) determine whether the **available evidence** shows overall that any or all of **examples 1 to 11** are present or not;

(c) indicate whether any or all of **examples 1 to 11** are present or not by selecting "yes" or "no";

(d) determine, taking into account the **available evidence**, whether the **firm** complied with the **suitability requirements**; and

(e) insert your commentary on whether or not the **firm** complied with the **suitability requirements**, with reference to the example(s) that support your conclusion.

3.11 The **template** advice rating will automatically default to "compliant" or "non-compliant" depending on your answer to the example questions in the **template**. The "non-compliant" rating may indicate that the **recommendation** does not comply with the **suitability requirements**.

3.12 The **template** asks whether the following examples are present or not:

Example	
1	The **recommendation** is unsuitable for how or when the **client** intends to access their **retirement savings**
2	The recommended **withdrawal strategy** is unsuitable for the **client's** objectives for their **retirement savings**
3	The **recommendation** is unsuitable given the **client's** health or lifestyle factors, or their **partner**'s or dependants' health

4	The **client** has incurred, or is likely to incur, unnecessary or excessive adviser or **product** charges
5	The **client** has incurred, or is likely to incur, an unnecessary tax charge or liability
6	The **proposed scheme** requires ongoing review and rebalancing but this has not been explained or arranged
7	The **client** is not willing to take the required risk associated with the **recommendation**
8	The **client** does not have the capacity to bear the risk associated with this **recommendation**
9	The **client** does not have the necessary knowledge and experience to understand the risks associated with this **recommendation**
10	A recommendation to switch **products** is not suitable as the **client** will lose necessary **safeguarded benefits** or valuable features, or incur a penalty
11	The **recommendation** is not suitable for the **client's** investment objectives or financial situation for some other reason

3.13 The following sections contain guidance for determining whether the **available evidence** shows overall that an example is present.

Example 1: The recommendation is unsuitable for how or when the client intends to access their retirement savings

3.14 This example engages the overarching requirement to assess suitability in COBS 9.2.1R and the requirement in COBS 9.2.2R(1)(a) to obtain such information as is necessary to have a reasonable basis for believing that the recommended course meets the **client's** investment objectives. It may also engage the requirement in COBS 9.2.2R(1)(b) to obtain such information as is necessary to have a reasonable basis for believing that the **client** is able to bear the investment risks consistent with their investment objectives.

3.14A If the recommendation relates to income withdrawals, **uncrystallised funds pension lump sum** payments or purchase of short-term annuities you should consider all the relevant circumstances listed in the guidance in COBS 9.3.3G which are:

(a) the **client**'s investment objectives, need for tax-free cash and state of health;

(b) current and future income **requirements**, existing pension assets and the relative importance of the plan, given the **client**'s financial circumstances; and

(c) the **client**'s attitude to risk, ensuring that any discrepancy is clearly explained between his or her attitude to an income withdrawal, **uncrystallised funds pension lump sum** payment or purchase of a **short-term annuity** and other investments.

3.14 B If the recommendation relates to investment of funds in the **client's** capped or flexi-access **drawdown pension** fund where the **client** is exposed to investment risk and not in receipt of a guaranteed income or capital or both, consideration should be given to a **pathway investment** (COBS 9.3.3AG)

3.15 **Clients** may have various intentions as to how and when they will access their **retirement savings**. Some may seek immediate access to funds; others may prefer an ongoing income. The **recommendation** must be tailored to the **client's** objectives for how or when they intend to access their **retirement savings** and should take into account any need for liquidity in their pension scheme. For example:

(a) If the **client** intends to take a **pension commencement lump sum** ("**PCLS**") immediately, or in the near future, locking the funds into an illiquid investment may prevent the **client** from achieving their objective (because sufficient funds may not be available for the PCLS within the **client's** desired timescale) (COBS 9.2.1R(1)(a)).

(b) If the **client** intends to take a long-term income from investments or pension savings but the **firm** recommends an immediate lump sum withdrawal of a substantial sum without a proper plan in place for generating a long-term income, this is likely to be unsuitable for the **client's** objectives and may be unsuitable for their financial situation (COBS 9.2.1R(1)(a)).

(c) If the **client** has an immediate or near-term capital need or plans to take **UFPLS** or withdrawals from investments on an ongoing basis but the **firm** has locked their funds into an illiquid investment or long-term investment, this is likely to be unsuitable for the **client**'s objectives and may be unsuitable for their financial situation (COBS 9.2.1R(1)(a)).

(d) If the recommended **investment** has an exit fee or penalty that is likely to be triggered given the **client**'s intended pattern of withdrawals, then the recommendation is likely to be unsuitable (COBS 9.2.1R(1)(a)).

(e) If the **client** is relying on their **investment** to meet their income needs but the adviser has only recommended cash or cash-like assets, or other assets with limited growth prospects then the recommendation is likely to be unsuitable (COBS 9.2.1R(1)(a)).

Steps to take

3.16 Take the following steps to identify whether this example is present or not:

(a) Identify the **client's** objectives for accessing their **retirement savings**, including:

(i) how the **client** intends to access their **retirement savings** (for example drawdown, **annuity**, **UFPLS** payments, encashment);

(ii) how long the **client** requires their **retirement savings** to last;

(ii) when the **client** intends to first access their **retirement savings**; and

(iii) the frequency with which the **client** intends to access those savings after that date.

(b) Consider whether the **proposed arrangement** (including the related strategy for managing the **client's** pension investments) is suitable for the **client's** objectives for accessing their savings.

(c) The following circumstances may make the **recommendation** unsuitable for the **client's** objectives:

(i) the **client** intends to withdraw money from their **retirement savings** within X years, but their **retirement savings** are invested for a fixed term that is longer than X years; or

(ii) the **client** intends to take a **PCLS** immediately (or within a short time) but the pension is fully invested in illiquid assets or assets that will fluctuate with short term volatility.

3.17 Record whether this example is present by selecting "yes" or "no" on the **template**.

Example 2: The recommended withdrawal strategy is unsuitable for the client's objectives for their retirement savings

3.18 This example relates to the overarching requirement to assess suitability in COBS 9.2.1R, and the obligation on the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation**:

(a) meets the **client's** investment objectives (COBS 9.2.2R(1)(a));

(b) is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)); and

(c) is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of their portfolio (COBS 9.2.2R(1)(c)).

3.19 The **client's** best interests rule at COBS 2.1.1R is also relevant to your assessment.

3.20 If the recommendation relates to income withdrawals, UFPLS or purchase of short-term annuities you should consider all the relevant circumstances listed in the guidance in COBS 9.3.3G.

Withdrawal types

3.21 This example considers whether the recommended **withdrawal strategy** is likely to be suitable for the **client**'s investment objectives for their **retirement savings**. A **withdrawal strategy** is not the same as a **withdrawal type**:

(a) The **withdrawal type** is the method(s) by which the **client** withdraws funds from their **retirement savings**.

(b) The **withdrawal strategy** is the overall strategy that a **firm** puts in place to manage the **client's** withdrawals over their lifetime or investment horizon (if sooner). A **withdrawal strategy** may include multiple different **withdrawal types** from the **client's retirement savings.**

3.22 Some **withdrawal type**s necessarily entail a particular **withdrawal strategy**; for example, a **sustainable withdrawal rate strategy** is likely to fluctuate overtime and need monitoring and ongoing reviews. Whether or not such a strategy is suitable will depend on the **client's** objectives and needs etc. The examples given above and below, in particular, Example 1 will also be relevant.

3.23 This example is focused on the strategies designed to achieve the **client's** objectives for the following types of withdrawal:

(a) **Flexi-access drawdown** (PCLS and taxable withdrawals);

(b) **Flexi-access drawdown** (partial PCLS only);

(c) **Flexi-access drawdown** (full PCLS only);

(d) **Flexi-access drawdown** (taxable withdrawals only);

(e) **Phased/Partial flexi-access drawdown** (part of pot, not entire fund);

(f) **UFPLS** (regular payments, monthly or less frequently);

(g) **UFPLS** (part of pot, not entire fund);

(h) Full encashment; and

(i) **Small pots** e.g. paid under the small lump sum regime.

(j) **Short-term annuity (full or partial pot)**

(k) **Pension annuity purchase (partial pot)**

(l) **Pension annuity purchase (full pot)**

Withdrawal strategy

3.24 Various withdrawal strategies may be employed by a firm to assist a **client** to achieve their objectives for their **retirement savings**. Below we list some examples of common withdrawal strategies we have seen used in relation to **flexible benefits**. This list is not exhaustive and a **firm** may use multiple withdrawal strategies.

(a) A "**sustainable withdrawal rate**" strategy aims to set a fixed level of withdrawals (possibly subject to adjustment for inflation) to enable the **client** to make withdrawals from their pension every year over the course of their retirement, or over a set period of time, without running out of money. It is based on the assumption that a **client** should only withdraw a relatively small percentage of their pension portfolio every year.

Care should be taken to evidence what is reasonable and justifiable based on **client's** position.

(b) A "**natural income**" or "**natural yield**" strategy involves the **client** holding income-generating assets and living off the income or dividends produced. In theory this should preserve the capital invested in the assets (at least in the sense that the **client** is not withdrawing capital; the capital value may still fluctuate). So long as the income produced meets the **client's** needs and objectives, fluctuations in the capital value are less important. This assumes the **client** has the required risk tolerance to "ride out" these capital fluctuations. Consideration also needs to be given to the impact of ongoing costs on this strategy and whether they reduce the level of income provided, or reduce the capital.

(c) A "**multiple pots**" strategy involves a **client** investing money in a variety of assets to manage long-term investment risk. For example, the **client** may invest 10% of their **retirement savings** in cash or cash-like assets to cover 2 years of income, with the remainder invested in longer-term growth assets (e.g. bonds, equities, property, etc). These strategies may involve more than two investment 'pots'. The point is to manage risk, so that (for example) the **client** does not have to withdraw from equities to fund income at a point when equity markets are low. By holding a buffer of cash assets, the **client** can withdraw from these instead of equities and wait for the markets to pick up again.

(d) "**Bridging to other income**" refers to a strategy whereby a **client** takes short-term withdrawals from their **retirement savings** to 'bridge' until a later date when another income becomes payable – typically this is a secured income when the **client** becomes eligible to receive their state pension, or when a **DB** pension becomes payable. However, it may be that the **client** is intending to receive future earned income (I.e. they are currently retraining for a different profession). In some circumstances, the assets used to provide the bridge are only required for the period of bridging (i.e. once the secured income becomes payable, it will cover all the **client's** income needs in retirement).

In other circumstances, the assets used to provide the bridge may be needed for future withdrawals to "top up" the other income payments. In the latter case, the **firm** may adopt a different **withdrawal strategy** for these assets and consideration should be given to the long term sustainability of the **client's** assets.

(e) A "**withdrawal minimisation**" strategy is designed to ensure that the **client** preserves the value of their pension for an aim unrelated to provision of an income. For example, some **clients**' objective is to pass on the maximum possible inheritance. In such circumstances, the **client's** assets are likely to be invested in a way that maximises growth over the long term.

(f) A "**fixed/short-term annuities**" strategy relies on drawdown **products** that pay a fixed level of income for a fixed period of time. A fund value is provided at the end of this term. Some contracts guarantee this fund value. A fixed/**short-term annuity** is not the same as a **pension annuity**.Once the fixed/**short-term annuity** has ended, the **client** has the option to purchase another fixed/**short-term annuity**, purchase a pension **annuity** or withdraw assets via drawdown.

(g) An "**ad hoc withdrawals only**" strategy is designed for **clients** who wish to access their **retirement savings** on an ad hoc basis. In this case, the pension scheme will typically not be needed for income. Investment strategies may vary. Some investment may be in assets for long term growth. Cash or cash-like assets may also be held for short term, ad hoc withdrawals.

Steps to take

3.25 To assess whether this example is present or not, taking the following steps:

(a) Identify the **client's** needs and objectives with regard to their **retirement savings**;

(b) Identify whether the **firm** has recommended one of the **withdrawal types** listed at paragraph 3.24 above; (if no, this example is not present)

(c) If yes, identify which **withdrawal strategy** the **firm** has recommended;

(d) Depending on the **withdrawal strategy** that has been recommended, take the further steps below to determine whether the example is present; and

(e) Consider whether the recommended **withdrawal strategy** is suitable for the **client's** investment objectives:

(i) If the **withdrawal strategy** meets the **client's** objectives – answer 'no' (the example is not present) on the **template**

(ii) If the **withdrawal strategy** does not meet the **client's** objectives – or is unsuitable for some other reason – answer 'yes' (the example is present) on the **template**

Sustainable withdrawal rate strategy*: further steps*

3.27 Where the **firm** has recommended a **sustainable withdrawal rate strategy**, identify and consider:

(a) the recommended withdrawal rate;

(b) the allocation of recommended investments;

(c) How long the **client** requires their **retirement savings** to last;

(d) the **client**'s attitude to risk;

(e) the **client**'s knowledge and experience in relation to this type of investment and the impact it will have;

(f) how the **firm** has mitigated the risks associated with this strategy, including sequencing risk, inflation risk, and longevity risk;

(g) the impact of costs and charges; and

(h) the **client**'s willingness and ability to change the level of their withdrawals depending on the performance of their investments.

3.28 In considering whether the recommended **withdrawal strategy** is suitable for the **client's** investment objectives, the following factors are likely to be relevant. We have indicated below where we think these sub-examples may be more likely to indicate that advice is unsuitable, but in all cases assessors will have to consider the **client's** circumstances in the round:

(a) The recommended withdrawal rate: a relatively low rate is more likely to be sustainable over time than a relatively high rate. The sustainability of the withdrawal rate will depend on the **client's** circumstances, the charges they are paying and the investment strategy employed by the customer at the time.

If the withdrawal rate is unsustainable, and the **client** is not aware of the risks, the recommendation is likely to be unsuitable.

(b) The date at which the **client** intends to retire: the earlier the **client** intends to retire and draw from their **retirement savings**, the less likely it is that withdrawals will be sustainable over time and suitable for the **client's** objectives for their **retirement savings**.

(c) How long the **client** requires the savings to last. This will be impacted by several factors including what other income or assets the **client** has, when the **client** commences drawing from their **retirement savings** and the **client's** health.

(d) Whether the **firm's** analysis includes robust modelling to mitigate against sequencing risk (i.e. the risk of losses in the investments in the early years of the strategy having an impact on withdrawals over the longer-term): if not, withdrawals may become unsustainable over time due to early losses.

(e) Whether the **firm's** analysis assumes withdrawals past average life expectancy: if the strategy is designed so that the **retirement savings** will run out at the same age as average life expectancy, this will be unsustainable for the large number of people who live longer than the national average.

(f) Whether the analysis includes stress testing and uses realistic assumptions: if the **firm's** analysis is unrealistic (e.g. it fails to account for charges, investment returns appear unrealistic, etc.) withdrawals may be unsustainable over time.

(g) The **client's** willingness and ability to take the required level of risk: a **sustainable withdrawal rate strategy** does not provide a guaranteed level of income and some level of risk is inherent in it.

If the **client** is unwilling or unable to bear this risk, the strategy is likely to be unsuitable (see also **Examples 7 and 8** which relate to the **client**'s willingness and ability to bear investment risk).

(h) Where the **client** has indicated that they are <u>not</u> likely to make ad hoc withdrawals over and above the modelled withdrawal rate then this system is more likely to be suitable for them.

Where the **client** has indicated that they are likely to make additional withdrawals or there is evidence that the **client** is likely to make additional withdrawals (e.g. because they are regularly in debt, mortgage arrears or go into overdraft), then the strategy may not be suitable.

If the customer makes additional withdrawals this will affect the sustainability of the strategy as a whole.

(i) The **client**'s willingness and ability to adjust the level of withdrawals: if, for example, the **client** is willing and able to adjust the withdrawal rate downwards if markets take a downturn (e.g. because the **client** is not relying on the full withdrawal rate to meet essential expenditure) this strategy is more likely to be sustainable and suitable.

Natural income / yield strategy: further steps

3.29 Where the **firm** has recommended a natural income / yield strategy, identify and consider:

(a) the **client**'s attitude to, and capacity for, investment risk;

(b) the **client**'s reliance on income from their **retirement savings**; and

(c) the **client**'s investment objectives.

3.30 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) Whether the **client** has indicated that they are likely to make ad hoc withdrawals from their **retirement savings**: ad hoc withdrawals will affect the sustainability of the strategy as a whole because they will reduce the capital available.

(b) Whether the income / dividends from the investment are being used for discretionary expenditure: if the income / dividends are being used for discretionary, as opposed to essential, expenditure, the **client** is more likely to be able to bear the risk of a fall in the level of the income / dividend.

(c) The **client's** willingness and ability to take a reasonable level of risk (see also the instructions on **Examples 7 and 8**): if the **client** is relatively cautious and may not be willing to accept the risk of fluctuations in the underlying value of the assets, or is likely to seek to encash their assets if they see a market downturn, this strategy may not be suitable.

(d) Whether the **client** wishes to preserve the capital value of their assets: if the **client** wishes to leave an inheritance, a natural income / yield strategy might be suitable, because it helps preserves the capital. However, if the **client** wishes to enjoy their assets during their own lifetime, this strategy is unlikely to be suitable.

(e) The impact of costs and charges: costs and charges may be levied in different ways. Depending on how they are implemented, costs and charges may affect the ongoing sustainability and suitability of the strategy. For example:

(i) charges may be deducted from dividends before they are paid out, thus reducing the amount of income available to the **client.** This may be unsuitable if after charges the **client's** income need is not met**;** or

(ii) charges may be levied directly against the invested assets, e.g. by deducting units from the fund. This may be unsuitable if the **client's** capital is being eroded by charges at an unsustainable rate.

Multiple pots strategy: further steps

3.31 Where the **firm** has recommended a **multiple pots strategy**, identify and consider:

(a) the **client**'s needs and objectives for their **retirement savings**;

(b) the recommended allocation of investments in the **client**'s **retirement savings**;

(c) how the **client** may access income from these **retirement savings** (ad hoc or regular withdrawals);

(d) the **client**'s reliance on income from their **retirement savings**; and

(e) the **client**'s attitude to, and ability to bear the risks associated with holding the recommended investments in the **retirement savings**.

3.32 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) Whether the recommended allocation of investments is likely to be suitable to achieve the **client's** specific objectives: for example, where a **client** has a short-term need to make withdrawals, there should be a sufficient investment in accessible assets to permit this.

(b) The **client's** willingness and ability to take a reasonable level of risk: although it will depend on the precise allocation of assets and investments, a **multiple pots strategy** may involve some degree of risk. For example, the more that is held in cash or similar assets, the less that can be invested in growth assets, which will have an impact on the longevity of the funds in the **retirement savings(s)**. If the **client** is reliant on future income from the **retirement savings** to cover essential expenditure, depending on the percentage invested in cash, this strategy may therefore not be suitable.

(c) Whether the **client** has been made aware of the need for, and is willing to pay for, ongoing management: a **multiple pots strategy** is likely to require substantial ongoing management, for example as the shorter-term pots are depleted and need to be replenished. If the **client** is not aware of the need for such management, or is unwilling to pay for it, this strategy is less likely to be suitable.

Bridging to other income strategy: further steps

3.33 Where the **firm** has recommended a "**bridging strategy**", identify and consider:

(a) the **client's** objectives for the **investment**(s) in their **retirement savings**;

(b) the value of the **client**'s **retirement savings**;

(c) whether a secured income will be available to the **client** in the future, and if so when;

(d) the length of the bridging period (how long the **client** wishes to draw down from their **retirement savings**);

(e) the level or rate of the recommended short-term withdrawal(s); and

(f) the **client's** future income needs.

3.34 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) The length of the bridging period: depending on the value of the **client**'s **retirement savings**, a longer bridging period may require a lower level or rate of withdrawal if the withdrawals are to be sustainable.

(b) Whether the future income will be sufficient by itself to meet the **client's** future income needs: if the other income will only meet a proportion of the **client's** future income needs, the assets used to provide the bridge may be needed for future withdrawals (at a lower rate) to 'top up' the other income payments. If this is the case, then the level or rate of withdrawal will have to reflect the need to preserve the assets at a sufficient level to enable future withdrawals / generation of supplementary income.

(c) Whether the analysis supporting the withdrawal is based on realistic assumptions: if the underlying analysis is flawed or unrealistic, then it is possible that (for example) the **retirement savings** will run out before the **client's** other income becomes payable. In assessing whether the analysis is realistic, similar considerations to those identified at paragraph 3.27 above (in relation to the **sustainable withdrawal rate strategy**) will apply.

Withdrawal minimisation strategy*: further steps*

3.35 Where the **firm** has recommended a **withdrawal minimisation strategy**, identify and consider:

(a) the **client's** objectives for their **retirement savings**; and

(b) the **client's** reliance on income from this **investment**.

3.36 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) Whether the **client** wishes to preserve their assets as far as possible: if the **client** wishes to preserve their assets as far as possible (e.g. so as to maximise a potential inheritance) and does not intend to enjoy their assets during their own lifetime, this strategy is more likely to be suitable.

(b) Whether the **client** needs, or is likely to want, to make withdrawals from their **retirement savings**: this strategy is unlikely to be suitable if there is a realistic possibility that the **client** will need or want to make more than minimal withdrawals from their **retirement savings** (e.g. to meet essential expenditure) or if it is likely that the **client** will need to fund care costs now or in the future).

(c) The potential inhertance tax liability that is likely to be incurred by the **client**.

Where this is relevant care should also be taken with example 3.66 below.

*Fixed/****short-term annuity**** strategy: further steps*

3.37 Where the **firm** has recommended a **withdrawal minimisation strategy**, identify and consider:

(a) the **client's** investment objectives;

(b) the **client's** income needs; and

(c) the **client's** attitude to, and capacity for, investment risk.

3.38 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) Whether the **client** needs a guaranteed income: a fixed/**short-term annuity** can be used (like a **multiple pots strategy** or a **bridging strategy**) to provide a short-term income. However, a fixed/**short-term annuity** provides a guaranteed income, whereas other investments/strategies may not. A fixed/**short-term annuity** is therefore more likely to be suitable where the **client** has some reason to opt for a guaranteed income, for example a low tolerance for investment risk; or a need for a guaranteed minimum sum to cover essential expenditure.

(b) Whether the **client** could be better served by purchasing a pension **annuity**: if the **client** simply wants a guaranteed income, a pension **annuity** may be more suitable. However, a fixed/**short-term annuity** may be suitable where there is some legitimate reason to defer the purchase of the pension **annuity** (e.g. because the **client** expects to get a materially better rate if the pension **annuity** is purchased later, perhaps due to eligibility for an enhanced/impaired life **annuity**).

***Ad hoc withdrawals only strategy**: further steps*

3.39 Where the **firm** has recommended an **ad hoc withdrawals only strategy**, identify and consider:

(a) the **client's** investment objectives;

(b) the **client's** reliance on income from their **retirement savings**; and

(c) how the **client** may access income from their **retirement savings**.

3.40 In considering whether the recommended **withdrawal strategy** is likely to be suitable for the **client's** investment objectives, the following factors are likely to be relevant:

(a) Whether the **client** has another source of income: this strategy is only likely to be suitable where the **client** has some other means of meeting their essential expenditure, as assets will not typically be invested in such a way as to provide for sustainable long-term withdrawals.

(b) Whether the **client** intends to make withdrawals on an irregular basis: if the **client** has another source of income but wishes to use their **retirement savings** to supplement this income from time to time, then this strategy is more likely to be suitable. By contrast, if the **client** anticipates making regular withdrawals, or no withdrawals at all, another strategy might be more suitable.

(c) Whether the recommended allocation of investments is apt to achieve the **client's** specific objectives: the allocation of investments should, as far as reasonably possible, reflect the way in which the **client** intends to access income from their investments. For example, there should be a sufficient investment in accessible assets to permit the **client** to make withdrawals.

Example 3: The recommendation is unsuitable given the client's health or lifestyle factors, or their partner or dependants' health

3.41 This example relates to the overarching requirement to assess suitability in COBS 9.2.1R, and the obligation on the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation**:

(a) meets the **client's** investment objectives (COBS 9.2.2R(1)(a)); and

(b) is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)).

3.42 The **client's** best interests rule at COBS 2.1.1R is also relevant to your assessment.

3.43 If the recommendation relates to income withdrawals, **uncrystallised funds pension lump sum** payments or purchase of short-term annuities you should consider all the relevant circumstances listed in the guidance in COBS 9.3.3G and include the **client**'s state of health.

3.44 COBS 9.2.2R(1)(c) requires a **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation** is such that the **client** has the experience and knowledge to understand the risks involved in the transaction. If the **firm** has not explained, and the **client** does not understand, the potential impact of the **proposed arrangement** on the **client**'s means-tested benefits, then the requirement in COBS 9.2.2R(1)(c) is unlikely to be satisfied

3.45 This **example** may apply if:

(a) the **client** has health issues or certain lifestyle factors indicating eligibility for an enhanced or impaired life **annuity**;

(b) the **client** or their **partner** is in receipt of a means-tested benefit related to their health; or

(c) the **client** has a limited life expectancy.

*Eligibility for an enhanced or impaired life **annuity***

3.46 A **client** may be eligible for an enhanced or impaired life **annuity** where there are indicators of a limited life expectancy. Where such indicators are present, a **firm** must consider whether an enhanced **annuity** or an impaired life **annuity** is a suitable option (for more information about eligibility for enhanced **annuities** see COBS 19.9.6AR).

Impact on means-tested benefits

3.47 A **client** or their **partner** or dependant(s) may be receiving means-tested benefits. Before a **firm** recommends a withdrawal from **retirement savings** it should have due regard to the potential implications for (or loss of) means-tested benefits including income-related Employment and Support Allowance, income-based Jobseeker's Allowance, Income Support, Housing Benefit, Universal Credit and Pension Credit.

Check available open source information for an up to date list of benefits, paying specific attention to the benefits available in the devolved nations if relevant.

This is relevant to whether the **recommendation** is suitable for the **client's** financial situation (COBS 9.2.2R(1)(a) and (b)).

*Switches between pensions when the **client** is in terminal ill health*

3.48 Where a **client** switches pensions within two years of their death, this may lead to HMRC treating the assets within the pension as subject to Inheritance Tax. Therefore, **firm**s should consider the **client's** health and be cautious of making a switch to a new pension scheme where the **client** is in terminal ill health.

Steps to take

3.49 Where the **client** has health issues or lifestyle factors potentially indicating a limited life expectancy, and the **firm** has recommended either a standard **annuity** or that the **client** make withdrawals from a **drawdown pension**, take the following steps:

(a) Identify from the **client file** whether the **client** has health issues or certain lifestyle factors which may indicate that the **client** is eligible for an enhanced or impaired life **annuity**. The following may indicate that a **client** is eligible for an enhanced **annuity**:

(i) the **client** is or was a smoker;

(ii) the number of units of alcohol the **client** consumes per week; and/or

(iii) the **client** is taking medication for high blood pressure, high cholesterol or other serious health conditions.

(b) Identify whether the **firm** considered the **client's** eligibility for an enhanced or impaired **annuity**.

(c) Consider whether the recommended standard **annuity** or **drawdown pension** is suitable for the **client's** circumstances and investment objectives.

(d) The following circumstances may indicate that a standard **annuity** or **drawdown pension** is not suitable for the **client's** circumstances and investment objectives:

(i) An investment intended to pay out over a relatively long period of time may not be suitable if there is a reasonable risk that the **client** will not survive to take the full income benefits of the **annuity**/pension.

(ii) A standard **annuity** or other investment intended to pay out over a relatively long period of time is less likely to be suitable when a **client** is in ill health or any of the lifestyle factors listed at (a) above apply.

3.50 Where the **firm** has recommended that the **client** make withdrawals from a **drawdown pension** and the **client** or their **partner**/dependant(s) is/are in receipt of a means-tested benefit, take the following steps:

(a) Identify from the **client file** what the effect is likely to be on the means-tested benefit (e.g. loss of benefit, partial loss of benefit, benefit can be retained);

(b) Consider whether the **client** can bear the impact of any loss of benefits;

(c) Consider whether the **firm** has explained the impact of any loss of benefits to the **client** so that they can understand the risk of this course of action; and

(d) Consider whether the recommended investment strategy is suitable for the **client's** circumstances and financial situation.

3.51 Where the firm has made a **switch recommendation** and the **client** is in terminal ill health and likely to die within the next two years, take the following steps:

(a) Identify whether the **firm** has made a **switch recommendation** to allow access to **FAD**?

(b) Identify whether the **switch recommendation** may lead to a potential increased Inheritance Tax liability on the **client's** death (e.g. their assets are already over, or this pension will push them over, the IHT nil rate band).

(c) Rate the example unsuitable where the **firm** has made a **switch recommendation** and an increased potential IHT liability has been created, without good reason.

Where this is relevant care should also be taken with Example 5 in 3.66 below.

3.52 In any case, record whether this example is present by selecting "yes" or "no" on the **template**.

Example 4: The client has incurred, or is likely to incur, unnecessary or excessive adviser or product charges

3.53 This example relates to the overarching requirement to assess suitability in COBS 9.2.1R, and the obligation on the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation**:

(a) meets the **client's** investment objectives (COBS 9.2.2R(1)(a)); and

(b) is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)).

3.54 The **client's** best interests rule at COBS 2.1.1R and the guidance in COBS 6.1A.16G are also relevant to your assessment. The guidance at COBS 6.1A.16G requires a

firm to consider whether the **recommendation** is likely to be of value when the totality of the charges the **client** is likely to be required to pay are taken into account.

Pension scheme charges

3.56 COBS 9.4.1R and COBS 19.2.2R are also relevant. COBS 9.4.1R requires a **firm** to provide a **suitability report** if the **firm** makes a **recommendation** to the **client** and the **client**:

(a) buys, sells, surrenders, converts or cancels rights under, or suspends contributions to, a **personal pension scheme** or a **stakeholder pension scheme**;

(b) elects to make **income withdrawals**, an **UFPLS** payment or purchase a short-term **annuity**; or

(c) enters into a pension opt-out.

3.57 In those circumstances, COBS 19.2.2R requires the **firm** to explain in the **suitability report**:

(a) (where a **firm** recommends a **personal pension scheme**) why it considers the **personal pension scheme** to be at least as suitable as a **stakeholder pension scheme**;

(b) (where a **firm** recommends a **personal pension scheme, stakeholder scheme** or **FSAVC**), why it considers that scheme to be at least as suitable as any **workplace pension** scheme available to the **client**.

3.58 Where a national alternative, such as **NEST**, is available, advisers should take into account whether the **client** could use **NEST** and whether it is capable of meeting their needs (see COBS 6.2B.23G or before 3 January 2018 at COBS 6.2A.17G). The FCA has stated that it considers **NEST** to be a 'relevant financial **product**' in the context of advice on pensions (see paragraph 2.28 of CP 10/26).

3.59 In general, the FCA expects that a **firm** should justify why it has not recommended a stakeholder or **workplace pension** scheme where these are of lower cost than the recommended alternative (COBS 19.2.2R).

Investment charges

3.60 The charges relating to an investment must be considered as part of its overall costs, and should therefore form part of the evaluation of its risks and relative advantages and disadvantages.

3.61 The charges should also be considered in conjunction with the withdrawal rates and relative to the overall withdrawal and investment strategy.

3.62 Charges are to be expected with any professionally-managed investment. Charges will be unnecessary or excessive where substantially identical **products** or services are available at materially lower, cost or where charges are duplicated without good reason.

3.63 Where, as in this example, the **proposed arrangement** carries such unnecessary or excessive charges, the **recommendation** is not likely to be suitable.

Steps to take

3.64 Take the following steps to assess whether the adviser and **product** charges are unnecessary or excessive:

(a) Identify from the **client file** the charges that the **client** has incurred for:

(i) the **proposed arrangement** (**product**, platform and investment costs);

(ii) advice; and

(iii) ongoing advice.

(b) Calculate, taking into account how the **firm** has structured or shaped its charges, how the charges will impact on the **client's** financial situation over time.

(c) Identify whether there were lower cost alternatives available (for example, in the case of a switch, could the **client** have switched into an existing **product**, such as a **workplace pension** scheme which provides sufficient functionality at a lower cost).

(d) Identify whether there is any functionality within the **proposed arrangement** that the **client** does not require.

(e) Identify whether the **client** is likely to incur penalty or other ad-hoc charges in the recommended drawdown **product** given their likely pattern of access to their **retirement savings**.

(f) Taking into account the factors above, determine:

(i) whether the charges are necessary or not; and

(ii) whether the charges are reasonable or excessive.

3.65 Record whether this example is present by selecting "yes" or "no" on the **template**.

Example 5: The client has incurred, or is likely to incur, an unnecessary tax charge or liability

3.66 This example relates to the **client's** financial situation, investment objectives and knowledge. It engages the overarching requirement to assess suitability in COBS 9.2.1R and the requirement for the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation**:

(a) meets the **client's** investment objectives (COBS 9.2.2R(1)(a));

(b) is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)); and

(c) is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of their portfolio (COBS 9.2.2R(1)(c)).

Tax efficiency

3.66 Where a **recommendation** results in a **client** incurring a tax charge or liability that could have been avoided or minimised had a different option been recommended, this may indicate that the **recommendation** is unsuitable.

3.67 In considering the tax efficiency or liability created by a withdrawal, the following general considerations are relevant:

(a) the **client's** current (and potentially future) income tax band. Withdrawal from certain assets favour some tax bands and penalise others.

(b) whether the **client** has a **partner**. Assets are often (though not always) treated by **clients** on a household basis, so the **partner's** assets/position should be considered where relevant.

(c) whether the **client** has other assets that could be used to draw an income while benefiting from more favourable tax treatment. For example, assets held within an ISA are not subject to income tax or capital gains tax, and there is no tax on disposal...

(d) Whether the **client** receives taxable benefits and the payment will affect their eligibility for benefits, or move them into a new tax band.

For example contribution-based Employment and Support Allowance, Incapacity Benefit, Jobseeker's Allowance, pensions paid by the Industrial Death Benefit scheme, Pension Credit and Universal Credit.

Please note this is not an exhaustive list and where the **client** is entitled to benefits the assessor should always check available open source information for an up to date list of benefits when reviewing the file, paying specific attention to the benefits available in the devolved nations if relevant.

(e) Whether the **client** is in receipt of state benefits that could be affected by pension income payments. For example if there are tax linked charges on a recipient of the child benefit, or the **client** is likely to lose their personal allowance as a result.

Care should be taken it rates and allowances in each of the devolved nations, if relevant.

(f) Any undischarged liabilities, such as bankruptcy, or creditors who might have an interest in the amounts received.

The assessor should check the period of bankruptcy and relevant Guidance from HMRC on the pension during bankruptcy.

Withdrawals from a pension

3.68 While pension assets grow free of taxation, benefits drawn by individuals are subject to taxation (except for the **PCLS**).

3.69 Where funds are withdrawn from a pension (as opposed to purchasing an **annuity**) the **client** has two options for withdrawal: **UFPLS** or **FAD**. Pensions are, in general, subject to consistent tax rules in terms of withdrawal. 25% of the pension is available for withdrawal tax free whilst the remaining 75% is subject to income tax on withdrawal. However, the method of withdrawal chosen can have different tax implications for the **client**:

(a) **UFPLS**: 25% of the amount withdrawn will be tax-free and 75% will be subject to income tax at the **client**'s marginal rate. The tax-free / taxable (on withdrawal) split of assets is preserved at 25% / 75% within the scheme.

This may be subject to a maximum cap.

(b) **FAD**: there is flexibility as to how the **client** withdraws money. The lump sum withdrawn may be (i) fully tax-free (assuming the withdrawal is 25% or less and the **client** still has PCLS available); (ii) fully subject to income tax at the **client**'s marginal rate; or (iii) tax-free in part and taxed in part.

3.70 Pension 'income' withdrawals (withdrawals made that are not part of the PCLS entitlement) are subject to income tax at the **client's** marginal rate of tax in the tax year that they are drawn. Significant lump sum 'income' withdrawals can therefore result in the **client** incurring a significant tax burden in a single year.

Incurring additional tax does not automatically make advice unsuitable; however, assessors need to consider whether there is good reason to incur this additional level of tax and whether it has been properly disclosed to the **client** so that they can understand the costs of the transaction. If not, this may indicate that the advice is unsuitable.

Common scenarios

3.71 The tax treatment of different **pension** withdrawal options is complicated and assessors are not expected to consider the full tax implications of a **recommendation** (and the various other **recommendation**s that might have been made). However, in the six common scenarios set out below, there is a real possibility that a **recommendation** is unlikely to be suitable because of its tax inefficiency.

*Scenario 1: **Client** or **partner** holds an unwrapped **CIS** (outside an ISA) but withdraws assets from their pension*

3.72 Gains on disposal of an unwrapped **CIS** are generally subject to capital gains tax. However, individuals have an annual capital gains tax allowance where no tax will be payable.

3.73 Therefore, where a **client**'s portfolio includes one or more unwrapped **CIS**, which is subject to capital gains tax on disposal, and which is generating potential ongoing income tax liabilities for the **client**, it is likely to be more tax efficient for the **client** to withdraw from these assets before making taxable withdrawals from their pension. A **recommendation** to withdraw assets from the **pension** in these circumstances may be unsuitable.

3.74 Some caution may be required where the **client** holds an unwrapped discretionary investment portfolio: it is likely that the discretionary investment manager may utilise some or all of the **client's** annual capital gains tax allowance allowance in running the portfolio. However, even where the **client** has already used their annual capital gains tax allowance, drawing from the unwrapped **CIS** first may still be more tax efficient because:

(a) The current rate of capital gains tax is lower than the corresponding rate of income tax (for basic rate tax payers it is 10% compared to 20% and for higher/additional rate tax payers it is 20% compared to 40%/45%. However, there is an additional 8% capital gains tax included for chargeable gains relating to residential property for all tax payers). There is a bigger saving for those in higher and additional rate tax bands.

(b) It reduces the ongoing tax burden on income generated by these assets.

3.75 Caution is also required where the **client's pension** is close to, or in excess of the **LTA**. In this situation, **clients** will incur a tax charge on gains over the **LTA**. It may make sense in these circumstances for the **client** to withdraw funds from a **pension** to avoid a future tax charge, even though the **client** will incur tax liabilities in relation to the unwrapped **CIS**.

*Scenario 2: **Client** withdraws assets from a pension via UFPLS and incurs unnecessary tax liability*

3.76 75% of a **UFPLS** payment is always taxed at the **client's** marginal rate. This tax may be unnecessary (and, therefore, a **recommendation** to take a **UFPLS** payment may be unsuitable) where:

(a) the **client** takes the **UFPLS** payment when there is no need for them to do so (e.g. they then hold the proceeds in a bank account for no good reason);

(b) the **UFPLS** payment pushes the **client** into a higher tax band, and other options were available to the **client** which would not have done this (e.g. drawing from other assets);

(c) the **client** takes a **UFPLS** payment close to the tax year end (5 April) which pushes them into a higher tax band; whereas, if they had staggered the payment over two tax years, they would have incurred lower tax; or

(d) the **client** takes the **UFPLS** payment whilst they are a higher/additional rate taxpayer, yet they are imminently due to fall down the tax bands (e.g. because they are about to give up work) and, had they deferred the payment, lower tax would have been incurred.

*Scenario 3: **Client** or **partner** holds an ISA but makes a taxable withdrawal from a pension first*

3.77 Where a **client** wishes to draw on assets, it will generally be more tax efficient to take money from an **ISA** than a taxable income from a pension (via drawdown). In the latter situation, the **client** will need to draw higher levels of assets from the pension to compensate for the tax that will be charged. A **recommendation** to make taxable withdrawals from the pension in these circumstances may be unsuitable.

3.78 However, it may make sense for the **client** to draw from a pension rather than an ISA if:

(a) the income withdrawn from the pension is not ultimately subject to tax as it falls fully within the **client's** income tax personal allowance;

(b) the **client** is purchasing an **annuity**;

(c) the **client** is only taking the **PCLS** from a **FAD** arrangement (the tax treatment for the individual is the same either way);

(d) the **client** is taking a pension under **small pots** (if that pension grows in value, the ability to take it under **small pots** may be lost); or

(e) the **client**'s **retirement savings** are approaching the **LTA** (bearing in mind, however, that **clients** may have various forms of **LTA** protection which may mean they have a different **LTA** to the norm) and the purpose of the withdrawal is to try and reduce the chance of incurring a **LTA** charge either now or in the future.

*Scenario 4: **Client** and **partner** have a potential IHT liability and wish to limit IHT paid and have assets (excluding the **client**'s main residence) outside of their pension, but withdraw assets from the pension*

3.79 Pensions generally fall outside the **client's** estate for IHT (IHT allowances and rates are all found at https://www.gov.uk/inheritance-tax) purposes. Consequently, where the **client** wishes to limit IHT, the **client** should draw on assets from within the estate first, as this will reduce/remove the potential IHT liability whilst retaining the value of the pension that can be inherited. A **recommendation** to withdraw assets from the pension in these circumstances may be unsuitable.

3.80 The position may be different where the **client** has some other way of mitigating against an IHT liability.

3.81 The position may also be different where the **client's** pension is near or in excess of the lifetime allowance.

*Scenario 5: **Client** has accessed their pension in a way that triggers the **Money Purchase Annual Allowance** (**MPAA**), yet wished to continue making contributions above the MPAA*

3.82 In general, **clients** can contribute up to the Annual Allowance to their pensions every tax year (subject to tapering for those on higher incomes). However, where they access a **DC pension** in a flexible manner they trigger the **Money Purchase Annual Allowance (MPAA),** and so reduce the amount the can save into a pension.

This includes:

(a) taking a **UFPLS** payment;

(b) taking a payment out of a **FAD** arrangement which does not relate to the **PCLS**; and

(c) purchasing an investment-linked or flexible **annuity** where the income could fall.

3.83 Note, however, that the **MPAA** would not be triggered in the following situations:

(a) taking a **PCLS** and using the balance to purchase a pension **annuity**;

(b) taking the **PCLS** only (no income) from a **FAD** arrangement;

(c) taking **small pot**s valued at £10,000 or less; and

(d) taking benefits from a **DB pension** scheme.

3.84 If the **client** intends to continue contributing over the **MPAA** to their **pension** and there is a clear alternative way of taking funds from the **pension** that would not trigger the **MPAA**, a **recommendation** that triggers the **MPAA** is likely to be unsuitable. For example, if the **client** wishes to withdraw a lump sum but is still working and contributing more than the **MPAA** to a **DC scheme**, a **recommendation** that triggers the **MPAA** may be unsuitable if (for example) the **client** has:

(a) other (non-pension) assets they could draw upon for the lump sum;

(b) a pension fund of sufficient size that they could take **PCLS** only from a **FAD** arrangement; or

(c) pensions valued at less than £10,000 which they could access under '**small pots'**.

*Scenario 6: One of the **client**'s explicit objectives is to limit the amount of tax they are charged across their various assets*

3.85 Some **clients** may have a specific objective to limit the amount of tax they are paying. These **clients** are likely to have a complex financial situation and various different assets that they can draw upon.

3.86 Where a **client** explicitly requests tax minimisation as a priority objective, the adviser should undertake a comprehensive analysis of how the **client** can draw the amounts they need in as tax efficient a way as possible. The adviser should also consider how assets can be transferred between the **client** and their **partner** (where relevant) to minimise tax liabilities.

Steps to take

3.87 Take the following steps to assess whether the **client** has incurred an unnecessary tax charge or liability:

(a) Identify the **client's** objectives with regard to their **retirement savings**;

(b) Identify from the **client file** whether any of the six scenarios above (in sections 3.71 to 3.86) are present.

(c) If any of the scenarios above are present, have regard to the specific instructions above and determine whether or not the **recommendation** is suitable, considering in particular:

(i) whether the adviser has considered the **client's** current (and potentially future) income tax band;

(ii) whether the adviser has considered the assets/position of the **client's partner**/**partner**, where relevant;

(iii) whether the adviser has considered other assets the **client** holds, that benefit from more favourable tax treatment, and from which an income could be drawn;

(iv) whether the adviser has considered the tax implications of the recommended course of action;

(v) whether the adviser has considered the tax implications of alternative courses of action;

(vi) whether the **client** has the knowledge and experience to understand the tax implications of the recommended course of action;

(vii) whether, in all the circumstances, the tax charges are reasonable or not; and

(viii) whether the **client** was willing to accept the tax charges.

3.88 Record whether this example is present by selecting "yes" or "no" on the **template**.

Example 6: The proposed arrangement requires ongoing review and rebalancing but this has not been explained or arranged

3.89 This example relates to the balance of assets and investments in the **client's retirement savings**. It engages the overarching requirement to assess suitability in COBS 9.2.1R and the requirement in COBS 9.2.2R(1)(b) for the **firm** to have a reasonable basis for believing that the transaction recommended is such that the **client** is financially able to bear any related investment risks consistent with their investment objectives.

3.90 COBS 9.2.2R(1)(c) requires the **firm** to have a reasonable basis for believing that the transaction recommended is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in it. In order to satisfy this requirement, the **firm** should obtain information about, among other things, the **client's** preferences regarding risk taking and risk profile (COBS 9.2.2R(2)).

Ongoing advice and rebalancing

3.91 In circumstances where assets have been allocated between different funds or investments there is a risk that, without ongoing review and rebalancing of the asset allocation, the portfolio will become unbalanced over time (for example because assets become disproportionately concentrated in higher-performing but riskier funds).

3.92 Making specific provision for automatic or periodic review and rebalancing helps to mitigate this risk. At the very least, the **client** should be made aware of the need for it. Where no such provision has been arranged and the **client** has not been appropriately warned, the **recommendation** is likely to be unsuitable.

3.93 Be aware that the **client file** alone may not tell you whether the **firm** has a review procedure in place for the **client**, as this may be recorded separately (for example in the **firm**'s back-office system or in its initial disclosure document).

Steps to take

3.94 To identify whether this **example** is present or not, take the following steps:

(a) Identify whether the **firm** has recommended that the **client** invest in several funds or investments to meet a set asset allocation; and if so,

(i) whether the **firm** has arranged for ongoing review or automatic rebalancing (at **product** or platform level); or

(ii) whether the **firm** has explained that the **client** will need to make arrangements to review or rebalance their portfolio.

(b) If the **client's** asset allocation needs ongoing review or rebalancing and the **firm** has not arranged for (i) or given the **client** the information in (ii) above, this example is likely to be present.

3.95 Record whether this example is present by selecting "yes" or "no" in the **template**.

Example 7: The client was not willing to take the required risk associated with the recommendation

3.96 This example relates to the overarching requirement to assess suitability in COBS 9.2.1R, and the obligation on the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation** is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)). To do this, the **firm** is required to obtain information about the **client's** preferences regarding risk taking and risk profile (COBS 9.2.2R(2)).

If the recommendation relates to income withdrawals, **uncrystallised funds pension lump sum** payments or purchase of short-term annuities you should consider all the relevant circumstances listed in the guidance in COBS 9.2.3G. This includes the **client**'s attitude to risk, ensuring that any discrepancy is clearly explained between his or her attitude to an income withdrawal, **uncrystallised funds pension lump sum** payment or purchase of a **short-term annuity** and other investments.

3.97 Where the **client** is unwilling to tolerate the risks inherent in a recommended investment, it is likely that the **firm** has failed to have due regard to the **client's** attitude to risk. The **client's** objective will also probably not have been met. The **recommendation** is therefore very unlikely to be suitable where this example is present.

Assessment of attitude to risk

3.98 The **client's** attitude to risk (or risk tolerance) is a subjective measurement of the **client's** willingness to accept risk. The assessment is based on the **client's** behavioural and emotional response to taking on investment risk. This may include the **client**'s preference for fixed or flexible income, how the **client** would react to a fall in the value of their investment or the level of their income and whether the **client** is comfortable with short term volatility.

3.99 If you consider that the **client** was not willing to take the risk associated with the **recommendation**, notwithstanding that the **firm**'s tool might have indicated the contrary, you should answer "yes" in this part of the **template**.

Steps to take

3.100 To identify whether this example is present or not, take the following steps:

(a) **Compare**:

(i) the information on the **client file** and, in particular, the information recorded in the **template** on the **firm**'s assessment of the **client's** attitude to risk, focusing on the degree of risk the **client** was willing to take in relation to the **proposed arrangement** (not, for the purposes of this question, the degree of risk the **client** was able to take);

with

(ii) the degree of risk the **client** must have been willing to take with the **proposed arrangement**.

(b) Determine whether the **client's** attitude to risk matches the degree of risk they must have been willing to take with the sum invested (by reference to the risk scale used by the **firm**, providing that in the assessor's view the assessment undertaken is reasonable – see for example the guidance in FG11/5 which is set out above on the use of risk profiling tools).

3.101 Record whether this example is present by selecting "yes" or "no" in the **template**.

Example 8: The client does not have the capacity to bear the risk associated with this recommendation

About capacity for loss

3.102 Capacity for loss, or ability to bear risk, refers to the **client's** ability to absorb falls in the value of their investment. For decumulation, this is specifically focussed on their ability to absorb falls in their income or their income running out prematurely. If any loss of capital would have a materially detrimental effect on their standard of living, by reducing the level of income that can be taken, this should be considered in assessing the risk that they are able to take.

3.103 Capacity for loss is an objective assessment, based on the financial circumstances of the **client**. How much can the **client** afford to lose before this would materially affect their standard of living? It should be clear from the **information gathering** whether there is an issue around capacity for loss.

3.104 This example is similar to **Example 7** above, with the key difference that it relates to capacity for risk rather than attitude to risk. In this example, the relevant COBS rules are:

(a) the overarching requirement to assess suitability in COBS 9.2.1R; and

(b) COBS 9.2.2R(1)(b), which requires the **firm** to obtain sufficient information about the **client's** financial situation to have a reasonable basis for believing that the **client** is able financially to bear any related investment risks consistent with their investment objectives.

3.105 If the **client** is unable to bear the risk of the recommended investment, the **requirements** above are unlikely to have been satisfied, and the **recommendation** will generally be unsuitable.

Steps to take

3.106 Take the following steps to identify whether this **example** is present:

(a) Refer to the information on the **client file** and the information recorded on the **client's** financial situation in the 'Information' tab of the **template**.

(b) Identify how the funds have been, or are to be, invested under the **proposed arrangement**.

(c) Taking into account, in particular:

(i) the concentration of the investment in one fund, group of funds, or asset class;

(ii) the source and extent of the **client's** assets as an alternative source for providing income;

(iii) the level of exposure to particular asset classes;

(v) the level of stability of returns or security of invested capital in the **proposed arrangement**; and

(vi) the impact the loss of the capital invested would have on the **client's** ability to take income and overall standard of living,

determine whether the recommended solution was suitable for the **client's** financial situation.

3.107 Record whether this example is present by selecting "yes" or "no" in the **template**.

3.108 Where an investment is highly concentrated in one fund, group of funds (particularly higher risk ones) or asset class, then there is a greater risk that losses in those fund(s)/asset(s) will be more than the **client** can bear.

3.109 Answer "no" (i.e. this example is not present) where the investment is made from funds that are either not necessary to maintain the **client's** standard of living, or the risk associated with the investment means it is unlikely there will be a loss that impacts on the **client**'s standard of living.

Example 9: The client does not have the necessary knowledge and experience to understand the risks associated with this recommendation

3.110 This example relates in particular to COBS 9.2.2R(1)(c), which requires a **firm** to obtain from the **client** such information as is necessary for the **firm** to have a reasonable basis for believing that the transaction is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in it. COBS 9.2.3R provides further detail as to the nature of the information required.

3.111 Where the **client** lacks relevant knowledge and experience, and the firm has not been able to bring the **client** up to the requisite level of knowledge and experience, such that they are able to understand the risks involved in the **proposed arrangement**, the **firm** it is unlikely the **proposed arrangement** will be suitable. This includes, but is not limited to, the situation where the **client's** lack of knowledge has been caused by the **firm**'s own failure to communicate information in a clear, fair and non-misleading way.

Steps to take

3.112 Take the following steps to identify whether this example is present:

(a) Refer to the information on the **client file** and the information recorded in the 'Information' tab of the **template**.

(b) Identify the **client's** level of investment experience and knowledge of pensions and investments in relation to:

(i) the type of investment recommended;

(ii) the investment strategy recommended; and

(iii) investments generally.

(c) Identify the steps that the **firm** took to establish that the **client** could appreciate the nature of the risks they were taking with this **proposed arrangement**.

(d) Taking into account, in particular:

(i) information about the **client's** existing investment and pensions portfolio and the nature, volume and frequency of the **client's** transactions in pensions and investments;

(ii) how long the **client** has been an investor;

(iii) the **client's** experience with, and knowledge of the investment recommended;

(iv) the **client's** experience of managing their pension or other investments or using a financial adviser to manage these investments;

(v) the **client's** profession (if any) including whether it is relevant to pensions and **investment advice**;

(vi) how the **firm** communicated about the features of the recommended investments and their risks;

(viii) the overall impression that the **client** would reasonably have had of those features and risks, particularly in the light of:

(A) the entirety of the **firm**'s communications with the **client**;

(B) the extent to which such communications were consistent in their presentation of those features and risks; and

(C) the **client's** relevant experience and knowledge,

determine whether the **firm** had a reasonable basis for believing that the **client** had the necessary experience and knowledge to understand the risks involved in the recommended investment.

3.113 Record whether this example is present by selecting "yes" or "no" in the **template**.

3.114 Answer "yes" (i.e. this example is present) where the **firm** did not communicate in substance the risks of the recommended investment in a way the **client** would have understood.

Example 10: A recommendation to switch pensions is not suitable as the client will lose necessary safeguarded benefits or valuable features, or incur a penalty

3.115 This example relates to the overarching requirement to assess suitability in COBS 9.2.1R and the requirement for the **firm** to obtain the necessary information to have a reasonable basis for believing that the **recommendation:**

(a) meets the **client's** investment objectives (COBS 9.2.2R(1)(a));

(b) is such that the **client** can bear the risks of the investment (COBS 9.2.2R(1)(b)); and

(c) is such that the **client** has the necessary experience and knowledge in order to understand the risks involved in the transaction or in the management of their portfolio (COBS 9.2.2R(1)(c)).

3.116 Some pensions may have special features that make them particularly beneficial for a **client**, such as **safeguarded benefits** which are pension benefits with a guarantee such as Guaranteed Minimum Pensions, or Guaranteed Annuity Rates. Where a **firm** makes a **switch recommendation**, from one pension scheme to another, it is important that the **firm** considers the possible impact on the **client** of the loss of these valuable features.

3.117 Equally, some pensions may have particular features that could, in certain circumstances, reduce the benefits available to the **client**. Again, it is important for the **firm** to consider the potential impact of these features on the **client** when making a **switch recommendation**.

Guarantees

Some pensions may have general guarantees in relation to the investment return of the **product**. For example, certain with profits investments may have guaranteed annual bonus rates, which ensure a certain percentage is seen in investment growth each year. Some investments may have guarantees that the value of the pension will never drop below a certain value, even in times of market downturns. These guarantees may provide value to **client**s, particularly those that have a low attitude to risk or capacity for loss. However, it should be considered that such guarantees often come at an increased cost which can impact on investment returns in positive markets. Therefore, the value should be judged in relation to the individual **client** and whether they are willing to accept this potentially lower investment return to secure these guarantees.

3.118 **Firm**s should consider any guarantees that are available under the **client**'s existing investment. If these guarantees are no longer suitable for the **client**, a switch to a different pension scheme may be appropriate. However, if the guarantees have value for the **client**, the **firm** should consider whether the switch is likely to be suitable in light of the loss of these guarantees. In some cases, it may be better for the **client** not to switch pensions but rather to restructure the existing investment or adapt other investments to complement the one with valuable guarantees.

Guaranteed Annuity Rate (GAR)

3.119 Some pension contracts include a provision called a Guaranteed Annuity Rate (GAR), which can be very valuable to the **client** and can significantly increase the income the **client** receives in retirement for a given pot size. However, individual policies can have specific rules for taking a **GAR**, for example, that the **annuity** must be taken at the **SRD**, or can only be applied to certain **annuity** options, for example if a single life **annuity** is taken rather than a joint life **annuity**. Therefore, it is important not only that the **client** is made aware that they qualify for a **GAR** and of the benefit of having it, but also that they understand how and when to take their **annuity** in order to benefit from the **GAR**. If the **client** is not made fully aware of these factors, they may lose a significant proportion of their potential income in retirement.

Market Value Reduction (MVR)

3.120 Some with-profits pensions can apply **MVRs**. **MVRs** reduce the fund value that can be withdrawn by the **client** if they withdraw their funds early at a time when the market value of the fund has reduced. This is to ensure that the payout reflects the value of the fund in a manner that is fair to all investors. Many providers guarantee that they will not apply an **MVR** at certain times, for example at the customer's **SRD**. If the customer is not made aware of when they may access their pension fund without an **MVR** applying, they may incur the **MVR**, thus reducing their fund value and ultimately reducing their income in retirement.

Steps to take

3.121 Take the following steps:

(a) Identify whether the **firm** has recommended that the **client** switch pensions.

(b) Referring to the information on the **client file**, identify whether there are any safeguarded or other valuable benefits or features in the **ceding scheme**.

(c) Consider whether the **recommendation** to switch pensions was suitable for the **client**. A switch to the **proposed scheme** is more likely to suitable for a **client** if:

(i) the **ceding scheme** has a guaranteed annuity rate (GAR) which is of no value to the **client** as they would be able to obtain a higher rate of income on the open market. For example, they may be eligible for an enhanced **annuity** which will provide a higher income;

(ii) The **ceding scheme** contains no safeguarded benefit or features that are valuable to the **client**.

(d) A switch to the **proposed scheme** is <u>less</u> likely to be suitable for a **client** if:

(i) the **client** has an MVR and if they switch they will incur penalties in excess of the likely returns;

(ii) the transaction will mean that the **client** will lose any enhanced tax-free cash protection, protected early retirement ages or other guaranteed benefits such as a guaranteed growth rate on their fund.

Example 11: The recommendation is not suitable for the client's investment objectives or financial situation for some other reason

3.122 Aside from the examples given above, there may be other situations in which the **proposed arrangement** would be unsuitable for the **client**. For example:

(a) the **recommendation** does not meet the **client's** objectives (COBS 9.2.2R(1)(a)) e.g. because it does not enable the **client** to hold their preferred asset classes within their pension fund;

(b) the **client** has some specific objective in mind for their **retirement savings**, but this objective can be met in another, more advantageous (or less disadvantageous) way .

	(c)	the **client** has placed restrictions around the investments they may wish to hold that are not met by the **proposed arrangement** (such as ethical or other considerations)
	(d)	the **client** has characteristics of vulnerability which were not taken into account or acted on appropriately and which make the proposed transaction, at this time, unsuitable. For example if the **client's** decision making is likely impaired by recent events and the adviser has not factored this into their recommendation.

Steps to take

3.123 Take the following steps to identify whether this example is present:

(a) Refer to the information on the **client file** and the information recorded on the **client's** investment objectives and financial situation in the **template**.

(b) Consider whether there is any reason, other than the reasons at **examples 1 to 10 above**, that the **recommendation** was unsuitable for the **client's** investment objectives or financial situation.

3.124 Record whether this example is present by selecting "yes" or "no" in the **template**.

3.125 Answer "yes" (i.e. the example is present) where:

(a) The **recommendation** did not meet a specific **client** objective.

(b) The **client** did not want to manage their investments or pay for someone to manage their investments.

(c) The recommended solution does not enable the **client** to hold their preferred asset classes within their pension scheme.

Outcome: overall assessment on suitability requirements

3.126 Take the following steps to determine whether the **firm** complied with the **suitability requirements**:

(a) review the information on the **client file** and the features and risks of the **proposed arrangement** for their pension;

(b) determine whether the **firm** took reasonable steps to ensure that the **recommendation** was suitable, and select the appropriate outcome in the "assessor's suitability rating" box (either "compliant" or "non-compliant");

(c) in all cases, insert your commentary on whether or not the **firm** complied with the **suitability requirements** with reference to the example(s) that support your conclusion; and

(d) be aware that, in any cases where you have answered "yes" to any of the questions, this will tend to indicate that the **recommendation** was "non-compliant'".

3.127 The **template** will automatically indicate whether a **recommendation** is likely to be compliant or not: see further paragraph 3.11 above.

3.128 The presence of an example in the suitability section of the **template** is not determinative as to whether a **firm** has complied with the **suitability requirements**. There may be other factors which mean that the **firm** has, despite the presence of the example, complied, or not complied, with the **suitability requirements**.

4. Insistent Client

General

4.1 For the purposes of this **template**, a **client** is an **insistent client** if:

(a) the firm has given **retirement income advice** to the **client** ;

(b) the **client** decides to enter into a transaction which is different from that which the firm has **recommended**;

(c) the **client** wishes the firm to facilitate the transaction; and

(d) the firm arranges the transaction for the **client**.

4.2 The **insistent client requirements** are summarised below. You will need to identify when the **recommendation** was given, and look at the corresponding rules which applied at that time.

*The **requirements***

4.3 The **requirements** in force since 1 November 2007 derive from:

(a) COBS 4.2.1R (the clear, fair and not misleading rule);

(b) COBS 2.1.1R (the **client's** best interests rule) and the duty under Principle 6 on a firm to pay due regard to the interests of its customers and treat them fairly;

(b) COBS 2.2.1R: a firm must provide appropriate information to **clients** about the firm and its services; designated investments (including **personal pension schemes**) and strategies, including their risks; and costs and charges;

(c) COBS 9.2 (**suitability requirements**); and

(d) COBS 9.5 and SYSC 9 (record keeping requirements)

4.4 From 18 February 2016, you should also refer to the FCA website information on Pension Reforms and **Insistent Client**s which set out the three key steps for advising an **insistent client**, which are:

(a) You must provide advice that is suitable for the individual **client**, and this advice must be clear to the **client**. This is the normal advice process.

(b) You should be clear with the **client** about the risks of their chosen course of action.

(c) It should be clear to the **client** that their actions are against your advice.

Please note that the above web page was produced in February 2016 and has been superseded by 4.5 below.

4.5 From 3 January 2018, the guidance at COBS 9.5A.3G states that the firm should communicate the following information to the **insistent client**:

(a) that the firm has not recommended the transaction and that it will not be in accordance with the firm's **recommendation**;

(b) the reasons why the transaction will not be in accordance with the firm's **recommendation**

(c) the risks of the transaction proposed by the **insistent client**; and

(d) the reasons why the firm did not recommend that transaction to the **client**;

and obtain an acknowledgment from the **client**, where possible in the **client's** own words, that (i) the transaction is not in accordance with the firm's **recommendation** and (ii) the transaction is being carried out at the request of the **client**.

4.5A Since 31 July 2023 the Consumer Duty Requirements should apply, which set a higher standard that should be maintained, refer to section 5 for details of the required standard.

*Actions to complete this section of the **template***

4.6 When there is evidence that a **client** has become an **insistent client**, complete the "**insistent client**" tab as follows:

(a) review the information on the **client file** and the information recorded in the Information tab of the **template** ("the available evidence");

(b) determine whether the available evidence shows that it is more likely than not that the firm has complied with each of the steps specified at paragraph 4.7 below;

(c) indicate whether the firm has complied with the step(s) by selecting "compliant" or "not compliant"; and

(d) insert your commentary on whether the firm complied with the relevant step(s), with reference to the steps in paragraph 3.7 below.

Insistent client - Steps

4.7 A firm must first identify whether a **client** is insistent. If the **client** is not insistent do not complete this section of the **template**.

For an **insistent client** there are up to three steps that a firm should carry out, and one further step to be completed where the firm provides a further **recommendation**. They are (in question format):

Identify:	Is the **client** an "**insistent client**"?
Step 1	Has the firm provided the necessary information to the **insistent client**?
Step 2	Has the firm obtained an acknowledgement that the **client** is acting against the **recommendation** given?

Step 3	Where a firm gives a further recommendation in relation to the transaction proposed by the **insistent client**, has the firm made sure it is clear that this **recommendation** is separate from the firm's initial **recommendation**?
Step 4	(From 3 January 2018 onwards) has the firm made a record of this process?

4.8 The next section of the instructions addresses how to identify an **insistent client**, what steps to take for an **insistent client**, and how to assess whether the firm has complied with the **insistent client requirements**.

Identify – is the client an "insistent client"?

4.9 A **client** is an **insistent client** if they meet the criteria outlined in 4.1 above.

Steps to take

4.10 Check whether the **client** meets the criteria listed above in 3.9(a) to (d), and select "yes" if the firm has correctly identified the **client** as an **insistent client**.

4.11 If the firm has not correctly identified the **client** as an **insistent client**, and they met the criteria for an "**insistent client**", select "no" and proceed to Step 2.

4.12 If the **client** is not an "**insistent client**" and the firm should not have followed the **insistent client** process, select "not an **insistent client**" and record your reasons in the box provided.

Step 1: has the firm provided the necessary information to the insistent client?

*Background on information for **insistent client**s*

4.13 Where a firm is willing to transact for **clients** on an **insistent client** basis (i.e. to carry out a transaction which is contrary to the firm's recommendation), the firm is required to communicate various matters, including the risks of the **client's** proposed course of action. The relevant FCA **requirements** and guidance are outlined in paragraph 4.3 above.

4.14 The reason for the provision of the information above is to ensure that the **client** understands the ramifications of what they intend to do and the impact it will have on them.

4.15 This, alongside a firm's initial, clear, recommendation, should help put the **client** in an informed position about what they wish to do next.

4.16 Our guidance does not prescribe when, by what method, or in what document the matters above are required to be communicated. You should have regard to all the communications between the **client** and the firm in order to assess whether the required matters have been communicated.

4.17 Irrespective of the timing, method, or document by which the matters were communicated, you must consider whether the communication satisfied each of the

requirements specified above at paragraphs 4.3 to 4.5. The steps to take to do this are outlined below.

Steps to take

4.18 Identify whether the firm has provided the following information to the **client**:

(a) that the firm has not recommended this transaction initially, and that the transaction will not be in accordance with the firm's initial **recommendation**;

(b) the reasons why the transaction will not be in accordance with the firm's initial **recommendation**;

(c) the risks of the transaction proposed by the **insistent client**; and

(d) the reasons why the firm did not recommend that transaction to the **client**.

4.19 Determine whether the firm has communicated the information in paragraph 4.18 above:

(a) in a way which is clear, fair and not misleading in accordance with COBS 4.2.1R; and

(b) having regard to the information needs of the **insistent client**, so that the **client** is able to understand the information in paragraph 4.18.

4.20 You should rate the communication as "non-compliant" if either:

(a) The firm has not provided all of the information in paragraph 3.18; or

(b) The firm has provided the information, but it has not been communicated in accordance with the **requirements** in paragraph 4.19 (for example it isn't clear, fair or not misleading).

Step 2: has the client acknowledged that they are acting against advice?

Background

4.21 Following Step 1, it should be clear to the **client** that they are acting against the firm's recommendation and that the firm is acting at the **client's** request. The obligation on the firm is to obtain an acknowledgement of this (see COBS 9.5A.4G). There should be evidence of an acknowledgement from the **client** to this effect.

4.22 The acknowledgment should be in the **client's** own words where that is possible (see COBS 9.5A.4G). Therefore, if the acknowledgment is <u>not</u> in the **client's** own words, you should consider whether or not it was possible for the **client** to provide the acknowledgment in their own words.

4.23 A standard 'disclaimer'-style form would not automatically prompt a failure against this step. However, we are concerned that **clients** may view disclaimers as just another form to complete and they may not be fully aware of their meaning and effect. Where you see a disclaimer, you should assess whether the **client** did in fact understand what they were signing. For example:

(a) If the form is very simplistic, with just a tick box or a space for the **client** to sign, or has been pre-completed by the firm, then it is likely that this step is "non-compliant".

(b) If the form provides space for the **client** to write, in their own words, their rationale for acting on an insistent basis (i.e. contrary to the recommendation of the firm), then the step should be classified as "compliant", unless the form has <u>not</u> been filled in by the **client** , in which case you should consider whether a valid acknowledgement has been received.

Steps to take

4.24 To answer this question, identify whether the firm has a record of the **client's** acknowledgement:

(a) that the transaction is not in accordance with the firm's **recommendation**;

(b) that the transaction is being carried out at the **client's** request; and

(c) where possible, containing the acknowledgement in the **client's** own words.

4.25 You should rate this answer as "non-compliant" if the **client** has not confirmed either (a) or (b) above.

Step 3: where the firm gives a further recommendation in relation to the transaction proposed by the insistent client, has the firm made it clear that this recommendation is separate?

4.26 Where a firm gives a further recommendation COBS 9.5A.4G states that: where a firm gives a further **recommendation** in relation to the transaction proposed by the **insistent client**, the firm should make clear to the **client** that this **recommendation** is distinct from, but does not affect the conclusions of, the initial **recommendation**.

4.27 When assessing this step, you should consider whether the firm has communicated in a fair, clear and not misleading way (COBS 4.2.1R). For example, if the firm initially **recommended** to the **client** to purchase an **annuity**, and following the **client's** insistence to use **FAD,** is subsequently advising on a potential **FAD** arrangement, then you should consider whether the firm is still clear that its initial **recommendation** to the **client** to purchase an **annuity**. If it appears (or may reasonably appear) that the firm is now **recommending** the FAD arrangement instead of acting on an insistent client basis, then the step should be classified as "not compliant".

4.28 Where dealing with an **insistent client**, the firm should, ideally, provide the further recommendation (for example on how to invest the **drawdown pension** and also a suitable withdrawal strategy) in a separate letter to the initial recommendation. This letter should, ideally, come later in the process. This is because:

(a) Having separate letters draws prominence to the initial recommendation.

(b) Having a period of delay in the process will provide the **client** with time to reflect on the initial **recommendation**. In some cases, this may lead to a

client changing their mind and deciding not to act contrary to that initial recommendation.

(c) Where both **recommendations** are made in the same letter and/or are made at the same time, this creates a risk that it will not be sufficiently clear that (i) the **recommendations** are distinct and (ii) the further **recommendation** does not impact on the conclusions of the initial **recommendation**.

4.29 It is not an express requirement that the recommendations be in separate letters or made at different times. However, you should consider carefully whether the position is made sufficiently clear in accordance with the **insistent client requirements**.

Steps to take

4.30 This step only arises if the firm gives a further **recommendation** in relation to the transaction proposed by the **insistent client**.

4.31 If the firm does not give such a further **recommendation**, then you should select "N/A" in the **template**.

4.32 If the firm does give a further **recommendation**, then the firm should make clear to the **client** that:

(a) the further **recommendation** is distinct from the initial **recommendation**; and

(b) the further **recommendation** does not affect the conclusions of the initial **recommendation**.

4.33 If the firm does not make (a) and (b) clear, then the firm should be classified as "not compliant" for this step.

Step 4: the firm has retained a record of the process

Background

4.34 Firms are required to keep records under a number of provisions of the FCA Handbook.They are:

(a) COBS 9.5A.6G states that a firm dealing with an **insistent client** should retain a record of:

(a) the advice and transaction process followed, including the communications with the **client**; and

(b) the acknowledgment from the **client** referred to in COBS 9.5A.4G.

(b) COBS 9.5A.6G states that a firm dealing with an **insistent client** should also refer to the record keeping **requirements** in COBS 9.5 (Record keeping and retention periods for suitability records) and SYSC 9.1 (General rules on record-keeping).

Steps to take

4.35 Identify whether the firm has retained a record of each of the matters specified above in respect of the particular **client**. There should be, for example, a record of:

(a) any information and instructions received from the **client**;

(b) any advice provided by the firm to the **client**;

(c) any communications between the **client** and the firm;

(d) any steps taken by the firm pursuant to the **client's** instructions

(e) any fees charged to and paid by the **client**; and

(f) any acknowledgement obtained by the **client** under Step 2 above.

4.36 Where the firm has not retained a record of all the matters specified above, then it should be classified as "Not compliant".

4.37 Identify whether the firm has kept a record of:

(a) the advice and transaction process followed, including the communications with the **client**; and

(b) the acknowledgment from the **client** referred to in Step 2 above.

4.38 Where the firm does not have a record of the above, it should be recorded as "not compliant".

Summary of insistent client section

4.39 This section of the disclosure tab has two boxes, one for you to review and the other for you to complete:

(a) **Tool rating:** this is the **template's** automatic rating of whether the firm has taken the steps above and is based on your answers to the question areas.

(b) **Assessor rating:** this is your own assessment of whether the firm has taken the steps above:

(i) select "yes" if the firm has taken the required steps;

(ii) select "no" if the firm has not taken the required steps.

4.40 In all cases record your reasons and evidence for the final insistent **client** rating.

5. Consumer Duty

Background

5.1 This section refers to firms' obligations under the Consumer Duty, effective from 31 July 2023 for products and services on sale or available for renewal on or after this date, and effective from 31 July 2024 for products and services that are no longer on sale or available for renewal on or after this date.

5.2 This section should only be used for advice given after 31 July 2023, which is subject to the Duty.

5.3 The relevant rules and guidance on the Consumer Duty are contained in Principle 12, PRIN 2A and FG22/5.

5.4 Other relevant rules for investments and insurance-based pension schemes are contained in PROD 3 and PROD 4.

5.5 The Consumer Duty is underpinned by the concept of reasonableness. This is an objective test and means that the rules and guidance must be interpreted in line with the standard that could reasonably be expected of a prudent firm:

(a) carrying on the same activity in relation to the same product or service; and

(b) with the necessary understanding of the needs and characteristics of the customers in the relevant target market.

5.6 The expected standard in relation to this is covered more fully in PRIN 2A.7.

5.7 The **cross-cutting obligations** contained in PRIN 2A.2, articulate the standards of conduct that we expect under Principle 12, these are split into the following areas:

(a) acting in good faith towards retail customers (PRIN 2A.2.1R)

(b) avoiding causing foreseeable harm to retail customers (PRIN 2A.2.8R)

(c) enabling and supporting retail customers to pursue their financial objectives (PRIN 2A.2.14R)

5.8 In addition to the cross-cutting obligations, the four **retail consumer outcomes**, contaid in rules in PRIN 2A.3 to PRIN 2A.6, define what is required by Principle 12 and PRIN 2A.2, in the following areas.

(a) products and services – PRIN 2A.3

(b) price and value – PRIN 2A.4

(c) consumer understanding – PRIN 2A.5

(d) consumer support – PRIN 2A.6

These instructions focus on the outcome areas above. However, it is also important to consider whether there are any additional issues in relation to the **cross-cutting obligations** that are not covered in these areas.

How to complete this section

5.9 For each **client file** you must:

(a) fairly consider and give appropriate weight to all information on the **client file**; and

(b) consider, with reference to the examples in this section of the **template**, whether there is sufficient evidence to believe that are potential issues in the **client file**, in relation to the firm failing to comply with the **retail consumer outcomes** or the **cross-cutting obligations** set out in PRIN 2A.2.

5.10 This section is divided into four parts:

(a) Examples indicating non-compliance with the four **retail consumer outcomes** (we refer to these as "examples of non-compliance");

(b) Suggested **template** rating;

(c) Assessor's compliance rating; and

(d) Assessor's rationale and evidence supporting compliance rating.

Completing the examples of non-compliance with the retail consumer outcomes

5.11 This section is used to record your assessment of whether there is enough information on file to indicate a potential failure to demonstrate compliance with the **retail consumer outcomes**.

(a) review the information on the **client file** and the information recorded in the 'Information' tab of the **template** (the "**available evidence**");

(b) determine whether the **available evidence** shows overall that any or all of **examples 1 to 4** are present or not;

(c) indicate whether any or all of **examples 1 to 4** are present or not by selecting "yes" or "no";

(d) determine, taking into account the **available evidence**, whether there are any areas of potential non-compliance.

5.12 The **template** asks whether the following examples are present or not:

Example	
1	The firm have not demonstrated how the recommended product or service meets the needs, characteristics and objectives of the **client**.

2	The firm have not demonstrated that the costs incurred by the client are reasonable relative to the benefits they can expect from the product or service
3	The firm have presented information to the **client** in a way that the risks, costs and benefits of their proposal are unlikely to be understood.
4	The firm have not demonstrated that they have provided the customer with the necessary support to make a decision.

5.13 The following sections contain instructions for determining whether the **available evidence** shows overall that an outcome is present.

Example 1: The firm have not demonstrated how the recommended product or service meets the needs, characteristics and objectives of the **client**

5.14 The relevant rules will depend on the product being recommended. The first step is to identify whether the PRIN or PROD rules apply to the product. In certain circumstances, as set out in PRIN 2A.3.29G and 2A.3.30E, firms may choose to follow either the processes in PROD 3, PROD 4 or those in PRIN 2A.3.

(a) Where PRIN applies the **retail consumer outcome** products and services (PRIN 2A.3) applies, PRIN 2A.3.14R requires a distributor firm to maintain, operate and review product distribution arrangements for each product it distributes that:

(i) avoid causing and, where that is not practical, mitigates foreseeable harm to retail customers;

(ii) support a proper management of conflicts of interest; and

(iii) ensure the needs, characteristics and objectives of the target market are duly taken into account.

(b) Where the firm is subject to PROD for the distribution of products, the relevant PROD rules include

(i) for the distribution of non insurance-based pensions and investment products (PROD 3.3). PROD 3.3.15R applies similar requirements in relation to the distribution of financial instruments, structured deposits and investment services.

(ii) for the distribution of insurance-based products, including insurance-based pension schemes (PROD 4.3). PROD 4.3.6UK applies similar requirements in relation to the distribution of contracts for insurance.

5.15 The second step is to identify whether the firm has complied with PROD or PRIN. To do this, review the findings in the suitability tab.

(a) If the assessor has found (under suitability tab and referenced in Section 3 of these instructions) potential examples of unsuitability in relation to the following these are likely to evidence a failure to comply with PRIN or PROD and answer "yes" on the template (the firm have not demonstrated compliance):

(i) Suitability Example 1: The **recommendation** is unsuitable for how or when the **client** intends to access their retirement savings

(ii) Suitability Example 2: The recommended **withdrawal strategy** is unsuitable for the **client's** objectives for their **retirement savings**

(iii) Suitability Example 3: The **recommendation** is unsuitable given the **client's** health or lifestyle factors, or their **partner**'s or dependants' health

(iv) Suitability Example 6: The **proposed scheme** requires ongoing review and rebalancing but this has not been explained or arranged

(v) Suitability Example 7: The **client** is not willing to take the risk associated with the **recommendation**

(vi) Suitability Example 8: The **client** does not have the capacity to bear the risk associated with this **recommendation**

(vii) Suitability Example 9: The **client** does not have the necessary knowledge and experience to understand the risks associated with this **recommendation**

(viii) Suitability Example 10: A recommendation to switch products is not suitable as the **client** will lose necessary safeguarded benefits or valuable features, or incur a penalty

(b) The assessor should also consider whether in their review they have identified any other example of a potential breach of PRIN or PROD. If the assessor has identified an example of non-compliance and answer "yes" on the template (the firm have not demonstrated compliance) and record detail in the comment box.

Example 2: The firm have not demonstrated that the costs incurred by the client are reasonable relative to the benefits they can expect from the product or service

5.16 This example relates to the requirements under Consumer Outcome 2: Price and Value (PRIN 2A.4.16R(1)). A distributor must not distribute products unless its distribution arrangements are consistent with the product providing fair value to retail customers.

5.17 The first step is to review the findings in the information and suitability tab and refer back to the review of the client file.

5.18 The second step is to identify whether the firm has complied with PRIN. Answer "yes" on the template (the firm have not demonstrated compliance) if the assessor has found or the information on the client file evidences:

(a) (under suitability tab and referenced in Section 3 of these instructions) potential examples of unsuitability in relation to the following:

(i) Suitability Example 4: The **client** has incurred, or is likely to incur, unnecessary or excessive adviser or product charges

(ii) Suitability Example 5: The **client** has incurred, or is likely to incur, an unnecessary tax charge or liability

(b) any other unreasonable charge the **client** incurs as a result of the advice

(c) the firm have recommended an ongoing service to the **client** but it is unclear how the **client** will obtain sufficient value to compensate for the costs

(d) any other potential breach of PRIN 2A.4.

Example 3: The firm has presented information to the **client** in a way that the risks, costs and benefits of their proposal are unlikely to be understood.

5.19 This example relates to the requirement under Consumer Outcome 3: Consumer Understanding (PRIN 2A.5.3R(1)) that a firm must support retail consumer understanding so that it's communications:

(a) meet the information needs of retail customers;

(b) are likely to be understood by retail customers; and

(c) equip retail customers to make decisions that are effective, timely and properly informed.

5.20 The first step is to review the findings in the information and suitability tab and refer back to the review of the client file.

5.21 The second step is to identify whether the firm has complied with PRIN. Answer "yes" on the template (the firm have not demonstrated compliance) if the assessor has found or the information on the client file evidences:

(a) (under suitability tab and referenced in Section 3 of these instructions) potential examples of unsuitability in relation to the following:

(i) Suitability Example 9: The **client** does not have the necessary knowledge and experience to understand the risks associated with this **recommendation**

(b) the firm have failed to comply with our disclosure requirements and the assessor considers that they have potentially presented information to the **client** in a way that they could struggle to understand. For example if:

(i) The Firm have not provided the **client** with sufficient information for them to understand the risks of the transaction, including that they could run out of money in the future'

(ii) Any other examples of poor disclosure

(c) where cashflow modelling is used, it does not appear to be based on a consistent, reasonable and justifiable basis so it can't be communicated and explained in a way that would put the **client** in an informed position of the risks they are exposed to. For example if:

(i) projections are based entirely on past performance, which may give an overly optimistic picture of the future potential for the **client's** investment

(ii) returns are used which appear to be inconsistent with the investments the **client** has been recommended and give an overly optimistic picture of the future potential for the **client's** investment.

(iii) there is insufficient stress testing of the **client's** position, which means they cannot appreciate the risks of the returns not being achieved.

(iv) there are different growth rates used across illustrations, risk profiling tools and cashflow, without explanation.

(v) the firm uses nominal returns instead of real returns, which may not effectively show the **client** the impact of future inflation.

(vi) There is a failure to account for adviser charges in the cashflow plan, which means the returns are overstated.

Where a firm has adopted consistent assumptions in a 'reasonable' and 'justifiable' manner and explained them to the **client** this example would not be evidenced.

(d) Any other potential breach of PRIN 2A.5

Example 4: The firm have not demonstrated that they have provided the customer with the necessary support to make a decision.

5.22 This example relates to the requirement under Consumer Outcome 4: Consumer Support (PRIN 2A.6.2R) that a firm must design and deliver support to retail customers such that it:

(a) meets the needs of retail customers, including those with characteristics of vulnerability;

(b) ensures that retail customers can use their product as reasonably anticipated;

(c) ensures that it includes appropriate friction in its customer journeys to mitigate the risk of harm and give retail customers sufficient opportunity to understand and assess their options, including any risks; and

(d) ensures that retail customers do not face unreasonable barriers (including unreasonable additional costs) during the lifecycle of a product, such as when they want to:

(i) make general enquiries or requests to the firm;

(ii) amend or switch the product;

(iii) transfer to a new product provider;

(iv) access a benefit which the product is intended to provide;

(v) submit a claim;

(vi) make a complaint; or

(vii) cancel a contract, agreement or arrangement or otherwise terminate their relationship with the firm.

5.23 The first step is to review the findings in the information and suitability tab and refer back to the review of the client file.

5.24 The second step is to identify whether the firm has complied with PRIN. Answer "yes" on the template (the firm have not demonstrated compliance) if the assessor has found or the information on the client file evidences:

(a) the **client** has characteristics of vulnerability which were not taken into account or acted on appropriately and which make the proposed transaction, at this time, unsuitable. For example if the **client's** decision making is likely impaired by recent events and the adviser has not factored this into their recommendation.

(b) the firm have placed any unreasonable post sale barriers to stopping a service.

(c) If the assessor has found (under suitability tab and referenced in Section 3 of these instructions) potential examples of unsuitability in relation to the following:

Suitability Example 6: The **proposed scheme** requires ongoing review and rebalancing but this has not been explained or arranged

(d) Any other potential breach of PRIN 2A.6

Completing the examples of non-compliance with the cross-cutting obligations

5.25 This section is used to record your assessment of whether there is any information on file to indicate a potential failure to demonstrate compliance with the cross-cutting obligations. To complete this section:

(a) review the information on the **client file** and the information recorded in the 'Information' tab of the **template** (the "**available evidence**");

(b) determine whether the **available evidence** shows overall that example 1 is present;

(c) select "yes" or "no";

(d) determine, taking into account the **available evidence**, whether there are any areas of potential non-compliance.

5.26 The **template** asks whether the following example is present or not:

Example	
1	The firm appears to have acted in a way that has not complied with the cross cutting obligations, in a way not covered under the outcomes noted above

Example: The firm appears to have acted in a way that has not complied with the cross-cutting obligations, in a way not covered under the outcomes noted above

5.27 This example relates to the requirement under PRIN 2.A.2 in that a firm must act in good faith towards retail customers.

5.28 The first step is to review the findings in the information and suitability tab and refer back to the review of the client file.

5.29 The second step is to identify whether the firm has complied with PRIN. Answer "yes" on the template (the firm have not demonstrated compliance) if the assessor has found or the information on the client file evidences:

(a) The firm appear to have acted in a way that cannot be characterised as being honest, fair and open or dealing and acting consistently in respect of the **client** PRIN 2A.2.2R

(b) The firm appear to be acting in a way that could cause foreseeable harm to the **client** PRIN 2A.2.8R

(c) The firm appear to be acting in a way that does not enable or support the **client** to pursue their financial objectives PRIN 2A.2.14R

(d) Any other potential breach of the Cross-Cutting obligations contained within PRIN 2A.2

5.30 The template advice rating will automatically default to "compliant" or "non-compliant" depending on your answer to the example questions in the template. The "non-compliant" rating may indicate that there are areas that may need to be considered by the firm in relation to compliance with either the Consumer Outcomes, covered in section 5.8 or the Cross-Cutting Obligations covered in section 5.25.

5.31 Where there are examples of potential non-compliance with either the Consumer Outcomes or the Cross-Cutting Obligations the assessor should insert their commentary in relation to these areas, with reference to the example(s) that support their conclusion.

"Summary of the Consumer Duty" section

5.32 This section of the Consumer Duty tab has two boxes, one for you to review and the other for you to complete:

(a) **Tool rating:** this is the **template's** automatic rating of whether the firm has complied with either the Cross Cutting Obligations (PRIN 2A.2) or the Consumer Duty Outcomes (PRIN 2A.3 – PRIN 2A.6), or whether the file is unclear. This is based on your answers to the two areas above.

(b) **Assessor rating:** this is your own assessment of whether the firm has complied with the above rules.

5.33 The presence of an example in the Consumer Duty section of the **template** is not determinative as to whether a firm has complied with the Consumer Duty outcomes and cross-cutting obligations. There may be other factors which mean that the firm has, despite the presence of the example, complied, or not complied, with the Consumer Duty.

(a) select "Compliant" if based on the file you believe the firm have complied with the Consumer Duty;

(b) select "Unclear" if based on your analysis you believe it is not clear the firm have complied with the Consumer Duty.

(c) Select "Not Compliant" if, based on your analysis, there is clear evidence that the firm have failed to comply with the Consumer Duty

5.34 If your conclusion is that the **firm** have not complied with the Consumer Duty, or it is 'unclear', then (subject to any 'overrides' described above at paragraph 5.16) you should record a brief summary of the reasons for the decision and how the firm have failed to comply with the rules or guidance contained within Principle 12, PRIN 2A or FG 22/5

6. Disclosure

General

6.1 This section records the information collected by the firm and held on the **client file** as part of the **information gathering** process.

6.2 Fill in each part of the Disclosure tab using the disclosure information on the **client file**. Where there is no disclosure information on the **client file**, you should leave the section blank. All answers should be based on information recorded up until the firm gave the advice or arranged the **proposed arrangement**, unless otherwise stated.

6.3 Complete the "disclosure" tab as follows:

(a) review the information on the **client file** and the information recorded in the Information Tab of the **template** ("the available evidence");

(b) determine whether the available evidence shows that it is more likely than not that the firm has given each of the required disclosures in the **template**;

(c) indicate whether the firm has complied with the relevant step(s) to give the required disclosure by selecting "compliant" or "not compliant"; and

(d) insert your commentary on whether the firm complied with the relevant step(s), with reference to the steps in each section below.

6.4 The **disclosure requirements** are set out in paragraph 6.5 below.

Required disclosures

6.5 Consider whether the firm has made the following required disclosures:

(a) initial disclosure of the firm's services and adviser charges (6.6);

(b) specific disclosure of the firm's services and adviser charges (6.15);

(c) **product** disclosure (6.21);

(d) **suitability report** disclosure (6.29);

(e) additional disclosure for drawdown and **UFPLS** recommendations (6.34); and

(f) (depending on the timing) additional disclosure of costs and charges under MiFID II and the IDD or UK equivalent rules (6.37).

6.5 All disclosures must be made in a way that is clear, fair and not misleading (COBS 4.2.1R).

Area 1. Initial disclosure of the firm's services and adviser charges

Background

6.6 The **disclosure requirements** in respect of a firm's services and adviser charges fall into two stages. The first stage, *initial disclosure*, is addressed here. The second stage, *specific disclosure,* is addressed in paragraphs 6.17 to 6.22 below and in Area 2 of the **template**.

6.7 The objective of the initial disclosure is to give the **client** enough information to decide whether they wish to engage this firm for its services or not. The information is generic because, at this stage, it is not personalised to the **client's** circumstances.

6.8 The initial disclosure should include information about:

(a) the firm and compensation information (COBS 6.1.4R and COBS 6.1.16R); and

(b) costs and associated charges (COBS 6.1.9R).

6.9 This information must be provided in writing and in good time before making the **recommendation** (or providing related services) (COBS 6.1.11R):. In "good time":

(a) will usually be prior to, or at the first meeting, ideally before a fact find is started; and

(b) where it is provided in a second meeting, this would not meet our expectations, as it would not allow the **client** to understand what they will pay at a sufficiently early stage in the advice process; (COBS 6.2B.33R)

6.10 This information should be communicated in a fair, clear and not misleading way (COBS 4.2.1R).

6.11 The firm must also provide information about its charging structure in writing and in good time before making the **recommendation** (or providing related services) (COBS 6.1A.17R).

6.12 A firm must also disclose, in good time before the provision of advice, whether its advice will be independent or restricted and whether the advice will be based on a broad or more restricted analysis of different types of relevant **products** (COBS 6.2B.33R(1)(a) and (b)). Where advice is restricted, the firm must disclose what those restrictions are, for example to explain that they only offer investments from a limited number of firms or relevant **products**. The key risk to disclose is whether the firm's independence may be impaired due to a close relationship with another entity.

Assessment

6.13 For each question in this section indicate (by selecting "yes" or "no") whether:

(a) **Question 1:** the initial disclosure was provided (COBS 6.1.4R, COBS 6.1.9R and COBS 6.1.16R);

(b) **Question 2:** the initial disclosure was provided in good time before making the **recommendation** or related service (COBS 6.1.11R).

(c) **Question 3:** the firm has provided the **client** with details of its charging structure (COBS 6.1A.17R);

(d) **Question 4:** the details of the charging structure were provided in writing in good time before making the **recommendation** (COBS 6.1A.17R):

(e) **Question 5:** the disclosure of the charging structure is fair, clear and not misleading (COBS 4.2.1R); and

(f) **Question 6:** the firm has explained the scope of its advice (whether it provides independent or restricted advice to its **clients**), including any restrictions on its advice (COBS 6.2B.33R).

6.14 If, on review of the available evidence, you consider that the firm has not complied with any or all of the indicators above, you must answer the relevant question(s) "no" and rate the disclosure as "non-compliant" for this disclosure area.

Area 2. Specific disclosure of the firm's services and adviser charges

Background

6.15 Specific disclosure complements initial disclosure, as it outlines what the **client** will actually pay and what services the **client** will actually receive. Specific disclosure comes at a later stage in the process, often when the firm has completed some preliminary work to understand precisely what it can/will do for the **client**.

6.16 Specific disclosure must be as "early as practicable" in a durable medium, as defined in the Glossary to the FCA Handbook, (or via a website, if website conditions are met) and include:

(a) The total payable in cash terms (or convert non-cash terms into illustrative cash equivalents) (COBS 6.1A.24R(1)(a));

(b) If there are payments over a period of time: (COBS 6.1A.24R(1)(c)):

(i) the amount and frequency of each payment due;

(ii) the period of time over which the payments are due;

(iii) for payments not relating to an ongoing service, the sum total of all payments; and

(iv) the implications of cancelling before the charges are fully paid (initial and ongoing).

6.17 Where a firm is required to disclose information "as early as practicable", for example as required by COBS 6.1A.24R(2)(b), FCA guidance (FG17/08) is that:

(a) This should happen once the nature of the work has been established and the adviser charges have been calculated.

(b) At the latest, the specific disclosure should be made before chargeable work starts.

(c) If the adviser charge varies depending on the type of recommendation or whether the **client** decides to proceed or not (so is "contingent") 'as early as practicable' for the disclosure of the actual charge is likely to be at the point where the **recommendation** is made. This may be at the same time as the firm provides a **suitability report** or the corresponding KFI.

(d) If the firm charges for a **suitability report**, then disclosing the specific fee for that report within the report itself is too late.

6.18 **Clients** should be able to understand what ongoing services they are receiving for any ongoing charge. This is particularly important when the firm offers multiple types of ongoing service because, in this case, it will be important for the **client** to understand which service they will receive. This should be communicated in a way that is clear, fair and not misleading (COBS 4.2.1R).

In addition, the firm's should also explain the cancellation rights for any service provided (COBS 6.1A.22R). This requirement may be met either in the **suitability report** or an other document which explains the service level that applies as long as it is issued in good time before the firm implements the recommendation.

Assessment

6.19 Indicate (by selecting "yes" or "no") whether:

(a) **Question 1:** the firm has disclosed the total adviser charge payable by the **client** (COBS 6.1A.24R(1));

(b) **Question 2:** the disclosure of the total adviser charge was as early as practicable (COBS 6.1A.24R(2)(b)) (see paragraph 6.17 above):

(c) **Question 3:** the disclosure of the total adviser charge is either (COBS 6.1A.24R(2)(a)):

(i) in cash terms; or

(ii) if not in cash terms, then converted into illustrative cash equivalents;

(d) **Question 4:** the total adviser charge is disclosed either (COBS 6.1A.24R(2)(c)):

(i) in a durable medium; or

(ii) through a website (if the website conditions are satisfied);

(e) **Question 5:** where there are payments over a period of time (COBS 6.1A.24R(2)(d)) the disclosure of the adviser charge includes (COBS 6.1A.24R(2)(c)):

(i) the amount and frequency of every payment due;

(ii) the period over which the adviser charge is payable;

(iii) the implications for the **client** if the **product** is cancelled before the adviser charge is paid; and

(iv) (if there is no ongoing service) the total sum of all payments.

(f) **Question 6:** where there is an ongoing service:

(i) that service is described in a clear, fair and non-misleading way (COBS 4.2.1R); and

(ii) the cancelation rights are explained (COBS 6.1A.22R).

6.20 If, on review of the available evidence, you consider that the firm has not complied with any or all of the indicators above, you must answer the relevant question(s) "no" and rate the disclosure as "non-compliant" for this disclosure area.

Area 3. Product disclosure

Background

6.21 This area of disclosure relates to the **product** being recommended by the firm. The purpose of the **requirements** is to ensure that the **client** understands the **product** being recommended. The relevant product **disclosure requirements** are in COBS 14 and the detail of their content is in COBS 13.

6.22 COBS 13.3.1R(1) provides that a **KFD** must include enough information about the nature and complexity of the product, how it works, any limitations or minimum standards that apply and the material benefits and risks of buying or investing for a **client** to be able to make an informed decision about whether to proceed.

COBS 13.3.1(R)(2) sets out some specific matters that the **KFD** must address. For example, the KFD must identify whether a right to cancel or withdraw exists, and, if it does, its duration and the conditions for exercising it, including information about the amount a **client** may have to pay if the right is exercised. This would include, for example, details of any exit fee payable.

6.23 COBS 13.4.1R provides that a **KFI** must include appropriate charges information, information about any interest that will be paid to **client**s on money held within a **personal pension scheme** bank account and, if the **KFI** is prepared for a non-PRIIP packaged product which is not a financial instrument, it must include a standardised deterministic projection.

Is the investment a PRIIP?

6.24 A PRIIP is a packed retail and **insurance-based investment product** which is defined on our website as:

*an investment where, regardless of its legal form, the amount repayable to the retail investor is subject to fluctuations because of exposure to reference values or to the performance of one or more assets that are not directly purchased by the retail investor; or an **insurance-based investment product** which offers a maturity or surrender value that is wholly or partially exposed, directly or indirectly, to market fluctuations.*

Our website lists the retail **products** the FCA considers would fall within the PRIIPs definition, and those that are not PRIIPs. You may use this as a guide when you respond to the questions in this section.

6.25 Our website also lists pension **products** that are recognised under national law as having the primary purpose of providing the investor with an income in retirement that are not PRIIPs. This includes:

(a) pension annuities purchased using monies from a pension **product** recognised under UK law

(b) occupational pension schemes and

(c) individual pension **products** for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension **product** or provider.

6.26 Individual Savings Accounts (ISA) wrappers are not PRIIPs, although investments held within an ISA wrapper may be PRIIPs for which a KID is required.

Assessment

6.27 Indicate, after considering whether the investment is a PRIIP or a non-PRIIP, (by selecting "yes" or "no") whether:

(a) **Question 1:** the firm has provided the **client** with a **KFD** (COBS 14.2.1R(1)), or where the adviser has advised on or sold a PRIIP, a PRIIP **KFD**. In particular, the **KFD** should include enough information about the nature and complexity of the **product**, how it works, any limitations or minimum standards that apply and the material benefits and risks of buying or investing for a retail **client** to be able to make an informed decision about whether to proceed. The full **requirements** for the contents of a **KFD** are set out at COBS 13.3.1R and (for a non-PRIIP packaged product **KFD** only) COBS 13.3.2R.

(b) **Question 2**: the firm has provided the **client** with a **KFI** unless the information that would be within the **KFI** is included in the **KFD** provided to the **client** (COBS 14.2.6R). The full **requirements** for the contents of a **KFI** are set out at COBS 13.4.1R to 13.4.4AR.

(c) **Question 3**: the **KFD** and/or **KFI** covers:

(i) the correct fund(s); and

(ii) the adviser charge (where this is paid/facilitated from the pension) (COBS 14.2.1DG).

(d) **Question 4:** the **KFD** and/or **KFI** was provided (COBS 14.2.14R):

(i) free of charge; and

(ii) in good time before the firm carries on the relevant business. (It is acceptable for the **KFD** and/or **KFI** to be provided at the same time as the **suitability report**, so long as the **suitability report** itself is provided at an appropriate time.)

6.28 If, on review of the available evidence, you consider that the firm has not complied with any or all of the indicators above, you must answer the relevant question(s) "no", and rate the disclosure as "non-compliant" for this disclosure area. If, for questions 3 or 4, the firm has satisfied (i) but not (ii), use the comments box to record your observations.

Area 4. Suitability report disclosure

Background

6.29 COBS 9.4.1R and COBS 9.4.2R require a firm to provide a **suitability report** to a **client** if it makes a **recommendation** to a **client**, and the **client**:

(a) buys, sells, surrenders, converts or cancels rights under, or suspends contributions to, a **personal pension scheme** or a **stakeholder pension scheme**; or

(b) elects to make **income withdrawals**, an **UFPLS** payment or purchase a **short-term annuity**; or

(c) acquires a holding in, or sells all or part of a holding in:

(i) a regulated **CIS**;

(ii) an investment trust where the shares have been or are to be acquired through an investment trust savings scheme; or

(iii) an investment trust where the relevant shares are to be held within an ISA which has been promoted as the means for investing in one or more specific investment trusts; or

(d) makes a **recommendation** in relation to a life policy to a **client**.

6.30 If a firm provides a **suitability report** to a **client** in accordance with COBS 9.4.1R or COBS 9.4.2R, then the **suitability report** must at least (COBS 9.4.7R):

(a) specify, on the basis of the information obtained from the **client**, the **client**'s demands and needs;

(b) explain why the firm has concluded that the recommended transaction is suitable for the **client** having regard to the information provided by the **client**;

(c) explain any possible disadvantages of the transaction for the **client** (note that for income withdrawals additional disclosures are covered in area 5, below);

(d) from 1 October 2018 in the case of a life policy, include a personalised recommendation explaining why a particular life policy would best meet the **client**'s demands and needs.

6.31 The disadvantages of a **recommendation** might include matters such as any exit fee payable, or any other conditions or limitations on the exercise of a right to cancel or withdraw. It will also include the risks associated with the **recommendation**.

Assessment

6.32 Indicate in the **template** (by selecting "yes" or "no") whether:

(a) **Question 1:** the **suitability report** specifies the **client's** demands and needs (COBS 9.4.7R(1));

(b) **Question 2:** the **suitability report** explains why the firm has concluded that the recommended transaction is suitable for the **client** (COBS 9.4.7R(2)).

(c) **Question 3:** the **suitability report** explains any possible disadvantages of the transaction for the **client** (COBS 9.4.7R(3)). So it should include an explanation of, for example amongst others (as appropriate):

(i) the implications of the loss of any guarantees;

(ii) the risks of the proposed investment strategy, including e.g., investment risk, inflation risk and longevity risk;

(iii) where the **client** is reliant on income from the scheme, the fact that they risk running out of money in retirement because of e.g. risks inherent in the **withdrawal strategy** or **proposed arrangement**

(d) **Question 4:** the **suitability report** is written in a way that is fair, clear and not misleading (COBS 4.2.1R).

6.33 If, on review of the available evidence, you consider that the firm has not demonstrated that that the **suitability report** includes any of the indicators above, you must answer the relevant question(s) "no" and rate the disclosure as "non-compliant" for this disclosure area.

Area 5. Additional disclosure for drawdown and UFPLS recommendations

Background

6.34 When a firm is making a **recommendation** to a **client** about income withdrawals, purchase of short-term annuities or **UFPLS** payments, the explanation in the **suitability report** of the possible disadvantages must address certain specific additional risk factors. These may include, but are not necessarily limited to, the five factors set out at COBS 9.4.10G.

Assessment

6.35 Indicate in the **template** (by selecting "yes" or "no") whether:

(a) **Question 1:** the **suitability report** discloses that the capital value of the fund may be eroded;

(b) **Question 2:** the **suitability report** discloses that the investment returns may be less than those shown in the illustrations;

(c) **Question 3:** the **suitability report** discloses that **annuity** or scheme pension rates may be at a worse level in the future;

(d) **Question 4:** the **suitability report** discloses that the levels of income provided may not be sustainable;

(e) **Question 5:** the **suitability report** discloses that there may be tax implications.

6.36 If, on review of the available evidence, you consider that the firm has not demonstrated that the **suitability report** includes any or all of the indicators above, you must answer the relevant question(s) "no" and rate the disclosure as "non-compliant" for this disclosure area.

Area 6. Additional disclosure of costs and charges in relation to MiFID business and insurance distribution activities

Background

6.37 Certain additional **disclosure requirements** apply to a firm carrying on **MiFID business** or **insurance distribution activities**. The definition of these activities can be found in the FCA Glossary.

6.38 COBS 6.1ZA.11R (which also refers to COBS 2.2A.2R) requires that firms must provide a **client** with at least the following information about all costs and charges relating to:

(a) the cost of the financial instrument recommended or marketed to the client;

(b) the cost of the investment services and ancillary services;

(c) the cost of **investment advice** (where relevant);

(d) information on how the **client** may pay for the cost and charges; and

(e) details of any third-party payments.

6.39 In relation to firms giving financial advice, this means that they must provide **clients** with details of all the costs that would be incurred by the **client** as part of the **recommendation**. It is likely that this will be included in the **suitability report** alongside the disclosure of the specific adviser charge, though it could be disclosed separately.

6.40 The applicable rules require that the disclosure of costs and associated charges be presented in a certain way. There are several factors relevant to this assessment, as set out below.

(a) COBS 6.1ZA.12R requires that the costs and charges be aggregated and presented as a single figure. This includes the following costs:

(i) all costs associated with the financial instrument (this will include elements such as the ongoing management charge (TER/OCF), transaction charges, exit charges and any other charges relating to the investment itself);

(ii) all costs associated with the investment services and ancillary service (this will include all the charges for ancillary services such as the advice charge (both initial and ongoing), the platform charge, the **product** charge and the charge for any discretionary investment management services); and

(iii) any third-party payments (though, in practice, due to the ban on inducements, it is unlikely that there will be any such costs when firms are delivering financial advice).

(b) COBS 6.1ZA.14UK requires that all aggregated and itemised charges (including the overall charge) be disclosed both as a cash amount and as a percentage.

6.41 Alongside the disclosure of charges, COBS 6.1ZA.14UK also requires firms to provide **client**s with an illustration showing the cumulative effect of costs on return. This illustration should:

(a) be provided on both an *ex-ante* and *ex-post* basis;

(b) show the effect of the overall costs and charges on the expected or actual return of the fund;

(c) show any anticipated spikes or fluctuations in the costs; and

(d) be accompanied by a description of the illustration.

6.50 Firms have flexibility as to how they provide this illustration. For example, they may issue the **client** with a formal "illustration" document, akin to a **KFI**, which shows these costs and their impact. Alternatively, they may illustrate the impact using different tools, such as some form of cash flow modelling tool that incorporates the anticipated or actual costs of the investments recommended.

6.51 COBS 6.1ZA.14UK and 6.1ZA.17UK require firms to provide the *ex-ante* disclosure of costs and charges to **client**s in good time before the provision of investment services or ancillary services to **client**s. In practice, the *ex-ante* disclosure of costs and charges will typically be found at the point of recommendation (e.g., in the **suitability report**) as it is only at this point that the firm will know what **product** it is that it is recommending, and therefore the associated charges. If the disclosure is provided later than the point of recommendation, you should rate this measure of disclosure as "unacceptable".

6.52 Certain further **requirements** apply if a firm is a Vertically Integrated Firm ("**VIF**"). A VIF is a firm that provides more than one service along the supply/distribution chain; for example, a firm that provides advice and also provides the **products** upon which it advises. COBS 6.1ZA.16R states that where firms (such as VIFs) offer investment services with another service or **product** as part of a package, they must:

(a) inform the **client** of whether it is possible to buy the different components separately of each other; and

(b) provide information on the costs and charges of each component.

6.53 Where this package is offered to **client**s, the firm must also:

(a) inform the **client** if the risks resulting from the agreement or package are different from the risks associated with the underlying components; and

(b) provide the **client** with a description of the different components and the way in which this changes the overall risk.

Assessment

6.54 Indicate in the **template** (by selecting "yes" or "no") whether:

(a) **Question 1:** the firm has provided the **client** with the *ex-ante* costs and charges disclosure (COBS 6.1ZA.11R);

(b) **Question 2:** the *ex-ante* disclosure meets the requirements relating to presentation and aggregation (COBS 6.1ZA.12R and 6.1ZA.14UK);

(c) **Question 3:** the *ex-ante* disclosure includes an illustration of the impact of charges on the likely return (COBS 6.1ZA.14UK);

(d) **Question 4:** the *ex-ante* disclosure was provided in good time (COBS 6.1ZA.14UK and 6.1ZA.17UK);

(e) **Question 5:** for VIFs only, the firm has clarified whether the different services it offers can be purchased separately and has provided information on the costs and charges of each component service (COBS 6.1ZA.16R).

6.55 If, on review of the available evidence, you consider that the firm has not complied with any or all of the indicators above, you must answer the relevant question(s) "no" and rate the disclosure as "non-compliant" for this disclosure area.

7. Results and Feedback

7.1 This tab collates and summarises the individual ratings for each element that we are testing as part of the file review. This is done automatically by the **template**, based on how the assessor has completed earlier parts of the **template.**

7.2 It prompts the file review assessor to draft the feedback. It is more efficient to do this at this stage whilst memory of file review is fresh.

7.3 The main actions required of assessors in this tab are:

(a) To check and ensure they agree with the ratings for each element of the review. If the assessor disagrees with any element, they should go back to the relevant tab and adjust how they have completed it there.

(b) Draft the feedbackbased using the boxes provided.

(c) Include references to the FCA Handbook rules and guidance that you have relied on when making your assessment.

Feedback boxes

7.4 There are six boxes for writing your feedback. What should be put into each box and when it should be completed is summarised in the table below:

Feedback box	**When to complete**	**What to include**
Case summary	In all cases	A brief summary of the **client's** circumstances, financial situation and their objectives for their Retirement Income Goals. This is for background/context purposes and should not include our opinion on other areas, such as suitability, as these are covered in the boxes below.
Information Obtained	When the information obtained is "non-compliant"	Information on the necessary information that is missing. You should also include reference to the specific rules breached.
Suitability – Investment advice	When the **recommendation** is not suitable	An explanation of why you consider the **recommendation** is unsuitable with reference to the relevant examples and COBS rule(s). This explanation should reference the supporting evidence on file.
Insistent client	When the **insistent client** process is "non-compliant"	An explanation of why you consider the firm has failed to meet our

		expectations regarding the **insistent client** process with reference to the specific rule(s). This explanation should reference the supporting evidence on file.
Consumer duty	When our assessment of the firm's processes is either "unclear" or "non-compliant"	An explanation of why you consider the firm has failed to meet our expectations regarding the **consumer duty requirements** with reference to the specific rule(s). This explanation should reference the supporting evidence on file.
Disclosure	When the firm's disclosure is "non-compliant"	An explanation of why you consider the disclosure for the case does not comply with our rules. You should reference the specific disclosure element(s) and rule(s). This explanation should reference the supporting evidence on file.

Annex – COBS Suitability Rules and Guidance as at 1 January 2024

COBS 9 Applies to a firm which:

(a)

makes a *personal recommendation* to a *retail client* in relation to a *designated investment*;

(b)

manages investments of a *retail client* of the *firm*;

(c)

manages the assets of an *occupational pension scheme*, *stakeholder pension scheme* or *personal pension scheme*,other than in relation to its *MiFID, equivalent third country or optional exemption business* or to an *insurance-based investment product*.

COBS 9A Applies to a firm which provides:

(1)

investment advice or *portfolio management* in the course of *MiFID, equivalent third country or optional exemption business*; or

(2)

investment advice in relation to an *insurance-based investment product*.

In COBS 9A there are specific provisions which apply to MiFID and IBPI business, these are listed below:

Area	COBS Rules in relation to suitability requirement, excluding MiFID and Insurance Based Investment Product Business	COBS Rules in relation to MiFID and Insurance Backed Investment Products	Specific MiFID Provisions	Specific Insurance Based Investment Products Provisions
	COBS 9	COBS 9A		
Drawdown	COBS 9.3.3G & COBS 9.3.3AG			
Information Gathering	COBS 9.2.1R(2)	COBS 9A.2.1R	COBS 9A.2.4UK	COBS 9A.2.4AUK
Knowledge and Experience	COBS 9.2.1R(2)(a) & COBS 9.2.3R	COBS 9A.2.1R	COBS 9A.2.6UK	COBS 9A.2.6AUK
Financial Situation	COBS 9.2.1R(2)(b)	COBS 9A.2.1R	COBS 9A.2.7UK	COBS 9A.2.7AUK
Investment Objectives	COBS 9.2.1R(2)(c)	COBS 9A.2.1R	COBS 9A.2.8UK	COBS 9A.2.8AUK

Reliability of Information			COBS 9A.2.9UK	COBS 9A.2.9AUK
Reliance on Information	COBS 9.2.5R		COBS 9A.2.12UK	COBS 9A.2.12AUK
Insufficient Information	COBS 9.2.6R		COBS 9A.2.13UK	COBS 9A.2.13AUK
Switching Products			COBS 9A.2.18UK	COBS 9A.2.18AUK
Guidance on Assessing Suitability	COBS 9.2.1R	COBS 9A.2.1R		
Explaining the Reasons for assessing suitability			COBS 9A.2.1UK	COBS 9A.3.1AUK
Providing a Suitability Report	COBS 9.4.1R	COBS 9A.3.2R	COBS 9A.3.3UK	COBS 9A3.3AUK
Periodic Assessments		COBS 9A.2.2G	COBS 9A.3.8UK & COBS 9A.3.9UK	COBS 9A.3.10UK