Financial Conduct Authority

Retirement reforms and the guidance guarantee: retirement risk warnings

February 2015

Policy Statement

PS15/4

Contents

In this Policy Statement we publish the final rules in respect of retirement risk warnings. The rules have been made without consultation, in reliance on section 138L of the Financial Services and Markets Act 2000.

Please send any comments or enquiries to:

Alex Roy
Strategy and Competition Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 9380
Email: cp13-08@fca.org.uk

You can download this Policy Statement from our website: www.fca.org.uk. Or contact our order line for paper copies: 0845 608 2372.

Abbreviations used in this paper

COBS	Conduct of Business Sourcebook
DC	Defined contribution
DWP	Department for Work and Pensions
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
PRA	Prudential Regulation Authority
TPR	The Pensions Regulator
UFPLS	Uncrystallised fund pension lump sum

1. Overview

Background

1.1 From April 2015, consumers will have greater choice about how they access their Defined Contribution (DC) pension savings. We are concerned that consumers may not be well equipped to make these important decisions, which for some may be irreversible. This concern applies particularly to consumers who are generally not engaged with retirement decision making[1], and who do not take regulated advice or the offer of guidance from Pension Wise (the Government's new pension guidance service). This could lead to poor outcomes for consumers.

1.2 Last year we produced near final rules[2] requiring firms to tell their customers about Pension Wise, and to include a recommendation, in customer communications about retirement options that consumers consult Pension Wise or take regulated advice. We stated that we would consider the need to strengthen consumer protections further in our rules. We have since reflected on the protections offered in our rules, and considered wider feedback on the impact of the new pension flexibilities. We now consider that the risk to consumers in this area is great enough for additional protections to be required before the April 2015 changes.

1.3 Therefore, as noted in our 'Dear CEO' letter of 26 January, we are introducing new rules. We are doing so without consultation, relying on section 137L of the Financial Services and Markets Act 2000 (FSMA), on the grounds that the delay involved in consulting would be detrimental to consumers' interests. Any delay in introducing rules would increase the risk of poor outcomes for large numbers of consumers who decide to access their pension savings over the first months following the introduction of the new pension flexibilities.

The rules

1.4 The new rules will require firms to give appropriate retirement risk warnings to consumers accessing their pension savings. Firms must ask the consumer relevant questions, based on how the consumer wants to access their pension savings, to determine whether risk factors are present. If they are, risk warnings must be given.

1.5 The risk warnings will relate to how the consumer has decided to access their pension savings and require the firms to ask the consumer questions to identify if a risk factor is present and therefore if a risk warning must be given.

1.6 These new rules do not require firms to replicate the Pension Wise service. Instead, and in addition to Pension Wise, the rules ensure firms will flag specific risks to consumers, and give

1 As evidenced in the recently published provisional findings of the retirement income market study

2 See FCA Policy Statement 14/17. These rules are due to be made final following Royal Assent of the Pension Schemes Bill 2014-2015.

them appropriate warnings about the choices they have in accessing their pension savings. These warnings may include setting out options the consumer has, such as shopping around. We think that these retirement risk warnings can be given without providing regulated advice; we are not requiring firms to tell consumers what to do or implying that the consumer's decision will be wrong. We are simply requiring firms to ensure the consumer is aware of the risks of the course of action they are seeking to take.

1.7 The new rules will come into force on 6 April 2015. We are planning a consultation on updating our rules in the pension and retirement area, in summer 2015, following a thorough review. We will consult at this time on whether to retain, modify or add to the rules outlined in this Policy Statement.

1.8 We consider that making these rules is a proportionate response to our concerns. Firms can, and should, already engage with consumers, giving the types of risk warnings that we are proposing. For example, firms complying with the Association of British Insurers (ABI's) Code of Conduct on Retirement Choices[3] will be familiar with these risks when selling annuities. Our proposed rules achieve a fair balance between protecting consumers and addressing valid concerns from firms about their ability to comply from 6 April 2015.

Who does this affect?

1.9 This Policy Statement will relevant to all those with an interest in pensions and retirement issues, including:

- Providers of pensions, including operators of Self Invested Personal Pensions (SIPPs)
- Providers of retirement income products
- Firms facilitating access to pension savings on an execution-only basis
- Trustees of DC pension schemes (and schemes with a DC element)
- Employer sponsors of DC schemes (and schemes with a DC element)
- Providers of other financial services and products that play a role in consumers' retirement planning
- Those providing advice and information in this area already
- Distributors of financial products, in particular retirement income products
- Trade bodies representing financial services firms
- Consumer representative bodies
- Charities and other organisations with a particular interest in retirement or financial services more generally
- Individual consumers

3 See ABI Code of Conduct on Retirement Choices

Is this of interest to consumers?

1.10 The rules will affect all consumers who have contract-based or occupational trust-based DC pension funds, and those who will have these pensions in the future. The rules will play a key role in providing protection for consumers when they access their pension savings, by helping them to understand the implications of the decision they have made.

Next steps

1.11 The new rules described in this Policy Statement will come into force on 6 April 2015. Firms operating personal pensions, stakeholder pensions, selling pension decumulation products or facilitating the access of pension savings on an execution-only basis must make any changes necessary to comply with the rules before they come into force.

1.12 We plan to consult in summer 2015 on whether to retain, modify or add to these rules, as part of a wider consultation on the rules around consumers' interaction with providers as they approach retirement.

1.13 The Pension Regulator will be publishing complementary guidance for trustees following the laying of amendments to the Disclosure regulations before Parliament. The guidance will provide clarity for trustees on the new requirements to signpost pensions guidance. In addition, it will set out the Regulators expectations of trustees in relation to the provision of information to their members on the generic risks of the decumulation options.

2. The issues

Background

2.1 The 2014 Budget announced proposals for fundamental changes to the options consumers will have for accessing their DC pension savings at retirement. These have been referred to as the 'pension freedoms'. From April 2015, consumers aged 55 and over will be able to:

- take their pension savings as cash (in one lump sum or in smaller amounts over time[4])
- buy an annuity (or other income-generating guaranteed products)
- use a drawdown pension without any limits applied
- use any combination of these

2.2 To support this increased flexibility, the Government is establishing Pension Wise to give consumers with a DC pension fund access to free (at the point of delivery) impartial guidance.

2.3 The Financial Conduct Authority (FCA) is responsible for setting and monitoring the standards for the organisations delivering guidance for Pension Wise. We also regulate the firms that hold and invest stakeholder and personal pension scheme savings, as well as the firms that sell pension decumulation products, provide regulated advice on them and facilitate their sale on an execution-only basis.

2.4 In November 2014 we published Policy Statement 14/17[5] (PS 14/17), which set out the near final standards for the designated guidance providers, and a package of near final rules for firms affected by the pension reforms. Coupled with our existing rules and Principles, these new rules will set out the framework for how we expect firms to engage with customers to:

- support the implementation of Pension Wise
- provide consumer protection in the new landscape

2.5 However, we realise how important the decisions people must take about their DC pension pots are. In some instances these choices will be irreversible. People who do not take guidance from Pension Wise or regulated advice may not be well equipped to make these decisions.

2.6 Firms have told us that they do not know how far they can or should go to help people understand the implications of their decisions when they choose not to use Pension Wise,

4 This is termed 'uncrystallised fund pension lump sum' or 'UFPLS' in paragraph 4A of Schedule 29 of the Finance Act 2004, as amended by the Taxation of Pensions Act 2014.

5 See Policy Statement 14/17. These rules and standards are due to be made final following Royal Assent of the Pension Schemes Bill 2014-2015.

or seem to be making poor decisions. Similar concerns about the need for further consumer protections were raised by the Work and Pensions Select Committee[6] and during the House of Lords debate of the Pension Schemes Bill 2014-2015.[7]

What are we doing?

2.7 We stated in PS 14/17 that we will undertake a thorough review of our rules in the pension and retirement area this year. We plan to consult on changes to our rules in summer 2015.

2.8 Before the pension freedoms come into effect we have decided that new rules, requiring firms to give additional and specific retirement risk warnings, are needed immediately to protect consumers and provide clarity for firms. Firms can, and should, already be engaging with consumers in a similar way to what we are proposing; the new rules will help firms understand our expectations.

Our powers

2.9 Section 137A of FSMA enables the FCA to make rules where it appears to the FCA to be necessary or expedient for the purpose of advancing the consumer protection objective, or our other operational objectives.

2.10 We normally do this following consultation on draft rules, and certain associated procedural steps, in accordance with section 138I of FSMA. However, section 138L allows us to make rules without prior consultation or other steps if we consider that the delay involved would be prejudicial to consumer's interests.

2.11 We are satisfied that this test is met in this case, as the pension freedoms come into effect from 6 April 2015, and put consumers at much greater risk of poor financial outcomes from one-off decisions through not fully understanding the consequences of accessing their pension savings.[8] Therefore we are making the rules set out in Appendix 1 in reliance on section 138L.

2.12 The rules will give consumers significant additional protections against the risk of poor outcomes in the new pension landscape. This will be particularly important for consumers in the first few months after the new pension freedoms are introduced as they will be less familiar to consumers. We have sought to ensure that the new rules are a proportionate response, given the significant risks we have identified. We have, as required, consulted with the Prudential Regulation Authority (PRA).

2.13 We will consult publicly in summer 2015 about whether to retain, modify or add to these rules.

6 See: http://www.parliament.uk/business/committees/committees-a-z/commons-select/work-and-pensions-committee/news/pensions-3/

7 See: http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150107-0001.htm#15010764000442 and http://www.publications.parliament.uk/pa/ld201415/ldhansrd/text/150112-0001.htm#15011223000409

8 Indeed, in *Freedom and choice in pensions* (March 2014) the government recognised that, in expanding the range of choices available to people accessing their pension savings, there is a corresponding need to help consumers navigate those choices. This is why Pension Wise has been established.

3.
The new rules

Summary

3.1 The rules we have made sit in our Conduct of Business Sourcebook (COBS) 19.

3.2 The rules come into force on **6 April 2015**.

3.3 The new rules will require firms to give appropriate retirement risk warnings to consumers who have decided to access their pension savings. The warnings relate to how the consumer wants to access their pension savings.

3.4 The retirement risk warnings must be given to the consumer regardless of whether they have already received guidance from Pension Wise or taken regulated advice, unless:

1. an adviser is conducting a transaction on behalf of a consumer they have given financial advice to, or
2. the firm has already provided retirement risk warnings under these rules in a previous communication, and believes that those warnings are still appropriate.

Purpose

3.5 The purpose of the rules is ensure that firms give consumers appropriate retirement risk warnings at the point they decided to take a specific action to access their pension savings. This is intended to help them understand the implications of the decision they are making – for example, at the point the consumer tells the firm that they have decided to purchase an annuity.

3.6 The rules deliver three outcomes:

- Consumers understand the importance and implications of the decision they are making about accessing their pension savings.
- Consumers are further prompted to seek regulated advice or guidance from Pension Wise to help them understand the risks they face.
- Firms understand our expectations about the minimum they should do to warn consumers about the relevant risks when choosing what to do with their pension savings.

3.7 The retirement risk warnings required by the rules do not replace guidance given by Pension Wise and they can be given without providing regulated advice – both of which can help the consumer understand the full options they have when accessing their pension savings.

3.8 These rules should not prevent firms from having more detailed conversations or contacts with consumers, or providing them with information or guidance where appropriate. However, these wider conversations or contacts, particularly when linked to the giving of retirement risk warnings under these rules, should not undermine the intention of the rules.

Application

3.9 The new rules require firms to give appropriate retirement risk warnings to consumers who have decided to access their pension savings on an execution-only basis. The risk warnings will relate to how the consumer wants to access their pension savings – for example, through a pension annuity, taking savings in cash through an uncrystallised fund pension lump sum (UFPLS), pension drawdown or some other combination.

3.10 The trigger for firms to follow the steps in the retirement risk warning rules is the consumer saying (verbally or in writing) that they want to access their savings, regardless of whether the consumer makes contact with the firm or the firm contacts the consumer (even if the purpose of the contact was initially for some other purpose, such as a promotion).

3.11 The retirement risk warnings must be given to the consumer regardless of whether they have already received guidance from Pension Wise or taken regulated advice. The exceptions are where:

- an adviser contacts a firm to transact on behalf of a consumer they have given regulated advice to, or
- the firm believes that retirement risk warnings already given under these rules are still appropriate.

For those consumers who have received regulated advice but who are contacting a firm directly to access their pension savings, the risk warnings will still be important. The consumer may be choosing a different course of action from what was advised, and the firm required to provide the risk warning may not know the content of the advice.

3.12 The rules will therefore apply to firms:

- holding the consumer's pension savings, including SIPP operators
- selling pension decumulation products, and who are contacted by a consumer wanting to buy a decumulation product with their pension savings before contacting their holding provider
- providing services that facilitate execution-only transactions.

3.13 Firms must give the retirement risk warnings to the consumer during the course of the contact after the consumer has decided that they would like to take a specific action to access their pension savings. 'Contact' includes telephone, in person, in writing and on the internet. Firms may choose to move consumers between channels during the process. For example where a consumer starts the process of accessing their pension savings in writing firms could direct the consumer to a telephone number to continue the process.

3.14 In order to determine whether a previous retirement risk warning is still appropriate, a firm might want to consider the effect of:

- the passage of time since the previous retirement risk warning was given

- a change in client's circumstances
- a change in product features
- changes in the market (for example, availability of products in the market)

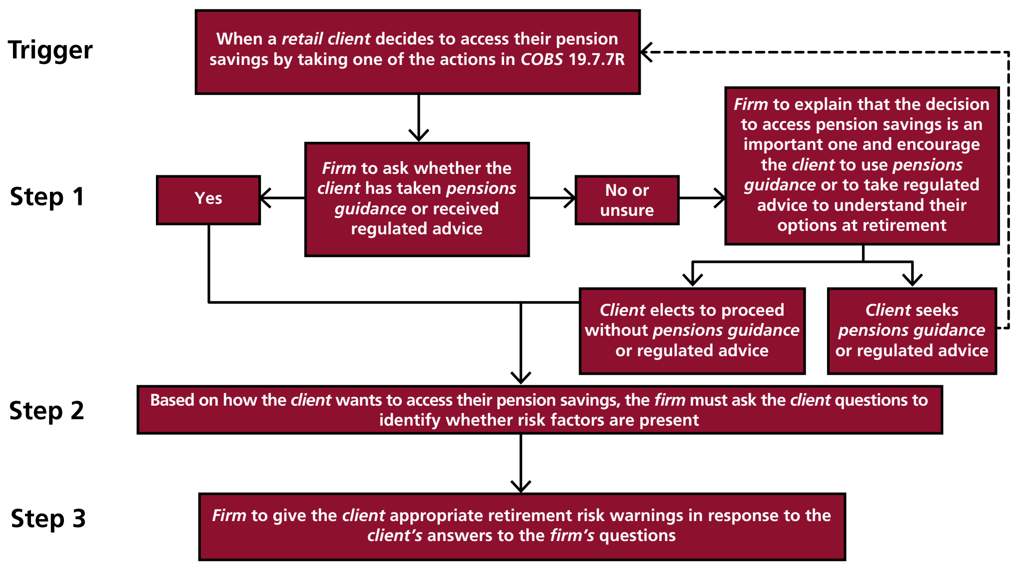
3.15 Firms should note that they will still need to ensure that their sales practices are consistent with our Principles and other rules.

3.16 As firms will be aware, in PS 14/17 we set out a package of rules to take account of the pension changes announced in the Budget 2014. The rules set out in this Policy Statement build on those rule changes and our wider rules on the Open Market Option contained in COBS 19.4, giving additional protections for consumers accessing their pension savings.

3.17 The FCA regulates firms that establish, operate or wind up personal and stakeholder pension schemes. In the spirit of treating customers fairly, we would encourage firms we regulate that run or administer occupational trust-based DC schemes to give members of those schemes the same risk warnings as the customers of the contract-based schemes they operate. In any event, members of occupational trust-based DC schemes will receive the retirement risk warnings when they access their pension savings using an FCA regulated decumulation product.

The process

The rules require firms to take the steps in the flowchart below, which is set out in COBS 19 Annex 1G. Firms should read the rules and guidance contained in COBS 19.7 alongside the flowchart.



3.18 The process must be followed regardless of channel used (for example, communications by telephone, in person, in writing and on the internet).

3.19 Below we set out more detail about the process outlined in the flowchart and contained in COBS 19 Annex 1G.

Trigger: When does a firm have to follow the steps?

3.20 The retirement risk warnings process is triggered when a consumer indicates to a firm (verbally or in writing) that they have decided to take a specific action to access their pension savings. For example, the consumer could contact a firm specifically to indicate that they want to access their pension savings, or they may indicate this during a more general contact with the firm. The process is triggered in both cases. We would expect firms to complete the following steps before acting on the consumer's instruction.

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

3.21 At step 1 firms should ask consumers whether they have received regulated advice or guidance from Pension Wise and, if not, encourage consumers to do so. We require firms to ask the consumer if they have received regulated advice (for example, from a financial adviser) or guidance from Pension Wise.

3.22 If the consumer confirms they have already received regulated advice or guidance from Pension Wise, the firm moves straight to step 2.

3.23 If consumers have not received guidance or regulated advice, firms should help them to understand that accessing their pension saving is an important, sometimes irreversible decision, and that Pension Wise and regulated advice can help them understand the options they have. Firms should encourage consumers to seek guidance from Pension Wise or take regulated advice, and should not do or say anything that might discourage them from doing so. If the consumer does not want to seek guidance or regulated advice the firm moves on to step 2.

3.24 We acknowledge that in the overall journey of deciding what to do with their pension savings and accessing their money, consumers may be encouraged to access Pension Wise or seek regulated advice on a number of occasions. However, we think this is an important message to reinforce. Ultimately a firm should ensure that a consumer has received this recommendation prior to proceeding to step 2.

Step 2: Identify risk factors

3.25 In step 2 we require firms to ask the consumer relevant questions, based on how the consumer wants to access their pension savings. The purpose of this is to determine whether risk factors are present. If they are, risk warnings must be given.

3.26 To do this firms will need to identify the main risk factors relevant to the pension decumulation products they offer to consumers. They must also prepare questions that will help them identify the presence of those risk factors in relation to each of the pension decumulation products offered.

3.27 The rules in this step require firms to prepare questions before taking the steps in this process for the first time, and keep them up to date. This means that firms should have considered and established appropriate questions before the questions are used with consumers. Firms could consider using a scripted list of questions.

Risk factors

3.28 For the purpose of these new rules, 'risk factors' are the attributes, characteristics, external factors or other variables that increase the risk associated with how the consumer has decided to access their pension savings.

3.29 Accessing pension savings in the new environment presents risks to consumers – for example, an increased risk of being scammed. Therefore, when we talk about risk factors we mean the key areas that consumers should consider in relation to the way they are choosing to access their pension savings.

3.30 For example, when accessing pension savings by purchasing a single life annuity, one 'risk factor' is whether the consumer has a partner or dependants. If they do, the risk the consumer should be made aware of is that a single life annuity will not provide for a partner or dependants when they die.

3.31 For the purchase of an annuity in particular, firms complying with the ABI's Code of Conduct on Retirement Choices[9] will be familiar with the risks and the need to communicate clearly to consumers about them.

3.32 COBS 19.7.12G sets out a list of risk factors that firms should look for. This list is not exhaustive and we do not expect firms to go through all the factors listed.

3.33 The following list sets out our core expectations based on how consumers access their pension savings, although firms should consider if there are specific risk factors they should add based on their specific pension decumulation products.

How a consumer may access their pension savings	Risk factor
Pension annuity	• Consumer's state of health • Whether the consumer has a partner or dependants • The effect of inflation • Whether the consumer has shopped around • Loss of any guarantees
Uncrystallised fund pension lump sum	• Tax implications • Sustainability of income in retirement • Charges (if the consumer intends to invest their pension savings) • Debt • Impact on means-tested benefits • Investment scams
Drawdown pension	• Tax implications • Sustainability of income in retirement • Charges (if the consumer intends to invest their pension savings) • Debt • Impact on means-tested benefits • Investment scams • Whether the consumer has shopped around
Other[10]	• Risk factors relevant to how the consumer has decided to access their pension savings.

9 See ABI Code of Conduct on Retirement Choices.

10 We have included this category to cover other products that may develop or could be used by consumers to access their pension savings.

Questions

3.34 The questions are core to helping the firm identify if a risk factor is present, and therefore if a risk warning must be given. To help firms identify the kind of questions they could ask consumers, we set out in the table below the type of questions that firms should ask themselves in judging whether risk warnings are required. This is not an exhaustive or prescriptive list; we expect firms to consider what they think is appropriate.

Risk factor	Examples of what the firm is trying to find out	Risk warning required?
Consumer's state of health	Are there aspects of the consumer's health or lifestyle that would make them potentially eligible for a better value annuity – for example, an enhanced annuity?	If yes or unclear, give risk warning
Loss of guarantees	Will the consumer lose any guarantees attached to the pension?	If yes or unclear, give risk warning
Whether the consumer has a partner or dependants	Does the consumer have a partner or dependents who might benefit from a joint life annuity (where they are not already purchasing one)?	If yes, give risk warning
Inflation	If the consumer is seeking to buy a level annuity, do they understand that inflation will erode the real value of the income they receive from their annuity?	If no or unclear, give risk warning
Whether the consumer has shopped around	Has the consumer shopped around different providers before choosing to buy the product?	If no or unclear, give risk warning
Sustainability of income in retirement	Is the consumer expecting the money they take from the pension to help provide an income in retirement?	If yes or unclear, give risk warning
Tax implications	Does the consumer understand the tax implications of taking money from their pension savings?	If no or unclear, give risk warning
Charges (if a consumer intends to invest their pension savings)	Has the consumer considered how the charges they may face when investing their pension savings elsewhere compare with those on their pension savings?	If no or unclear, give risk warning
Impact on means-tested benefits	Is the consumer aware that taking money from their pension may impact on any means-tested benefits they receive?	If no or unclear, give risk warning
Debt	Is the consumer aware that creditors may have a call on any money taken from pension savings?	If no or unclear, give risk warning
Investment scams	Is the consumer aware that investment scams exist, and that they should be careful where they invest money taken from their pension savings?	If no or unclear, give risk warning

Step 3: Provide appropriate retirement risk warnings

3.35 Step 3 requires firms to prepare retirement risk warnings in good time before the information has to be provided, and to give the appropriate risk warnings in response to the consumer's answers to the firm's questions at step 2.

3.36 We expect firms to give risk warnings unless the responses to the questions at step 2 establish that a risk factor is not present. If it is unclear whether a risk factor is present, a firm should give the consumer the appropriate retirement risk warning.

3.37 This means that if, after asking one question, a firm is unsure whether the risk factor is present or not, they could ask further questions or give the risk warning. We would expect the risk warning to be prepared in advance, but tailored where necessary to the consumer's responses. For example, risk warnings about annuities should be tailored to the specific options available to the consumer. We do not believe that the provision of a simple pre-prepared fact sheet would be sufficient but the risk warnings could follow a pre-prepared format. Furthermore, the risk warnings could be delivered online if suitable filtering has occurred.

3.38 We are not prescribing the content or format of the risk warnings in the rules. We expect firms to develop appropriate risk warnings. These will be specific to the way the consumer has decided to access their pension savings, and specific to the personal circumstances outlined by the consumer in response to the firm's questions at step 2.

3.39 Risk warnings are to be communicated clearly and prominently. Firms must follow the steps in the process and are required to ensure that consumers cannot progress to the next stage of a sale until the relevant signpost or retirement risk warning has been given. If, after receiving appropriate risk warnings, the consumer wants to continue to access their pension savings, the firm can continue with the transaction.

3.40 The rules require firms to keep a record of whether a consumer has received a retirement risk warning in accordance with the process, regulated advice, or guidance from Pension Wise. Beyond this, in respect of record keeping, firms should have regard to SYSC 9.

4. Next steps

What happens next?

4.1 The new rules described in this Policy Statement will come into force on 6 April 2015. Firms operating personal pensions, stakeholder pensions, selling pension decumulation products or facilitating the access of pension savings on an execution-only basis must act to make any changes necessary to comply with the rules once they come into force.

4.2 We are planning a consultation in summer 2015 following a thorough review of our rules in the pension and retirement area. We will consult at this time on whether to retain, modify or add to the rules outlined in this Policy Statement. To feed into that process we would welcome comments about the operation of these rules in practice.

Appendix 1
Made rules (legal instrument)

CONDUCT OF BUSINESS SOURCEBOOK (RETIREMENT RISK WARNINGS) INSTRUMENT 2015

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 137T (General supplementary powers); and
(3) section 139A (Power of the FCA to give guidance).

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 6 April 2015.

Amendments to the FCA Handbook

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

Citation

E. This instrument may be cited as the Conduct of Business Sourcebook (Retirement Risk Warnings) Instrument 2015.

By order of the Board of the Financial Conduct Authority
26 February 2015

Annex

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, the text is all new and is not underlined.

19.7 Retirement risk warnings

Definitions

19.7.1 R In this section:

(1) "payment out of uncrystallised funds" is an uncrystallised funds pension lump sum within the meaning of paragraph 4A of Schedule 29 of the Finance Act 2004;

(2) "pension decumulation product" is a product used to access pension savings and includes a facility to enable a *retail client* to make a payment out of uncrystallised funds, a *drawdown pension* or *pension annuity*;

(3) "pension savings" is the proceeds of the *client's personal pension scheme, stakeholder pension scheme*, or *occupational pension scheme*;

(4) "retirement risk warnings" are the warnings required to be given to a *retail client* at step 3 of the process specified in this section;

(5) "risk factors" are the attributes, characteristics, external factors or other variables that increase the risk associated with a *retail client's* decision to access their pension savings using a pension decumulation product;

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

Application

19.7.2 R This section applies to a *firm* communicating with a *retail client* in relation to accessing their pension savings using a pension decumulation product.

19.7.3 R This section does not apply:

(1) to a *firm* giving regulated advice to a *retail client* on options to access their pension savings;

(2) if the *firm* has already provided the retirement risk warnings to the *retail client* in relation to their decision to access their pension savings and the *firm* has reasonable grounds to believe that the retirement risk warnings are still appropriate for the *client*.

Purpose

19.7.4 G (1) The purpose of this section is to ensure that a *firm*, which is communicating with a *retail client* about a pension decumulation product, gives appropriate retirement risk warnings at the point when the *retail client* has decided how to access their pension savings.

(2) If the *retail client* has not yet decided what to do the *firm* should consider whether it is required to signpost the *pensions guidance* under *COBS* 19.4.5R (signposting pensions guidance).

19.7.5 G This section amplifies *Principles* 6 and 7, but does not exhaust or restrict what they require. A *firm* will, in any event, need to ensure that its sales processes are consistent with the *Principles* and other *rules*.

19.7.6 G An illustration of the steps a *firm* is required to take is set out in *COBS* 19 Annex 1G.

Trigger: when does a firm have to follow the steps?

19.7.7 R A *firm* must follow the steps specified in this section at the point when the *retail client* has decided (in principle) to take one of the following actions (and before the action is concluded):

(1) buy a pension decumulation product; or

(2) vary their *personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* to enable the *client* to:

(a) access pension savings using a *drawdown pension*; or

(b) elect to make one-off, regular or ad-hoc payments out of uncrystallised funds; or

(3) receive a one-off, regular or ad-hoc payment out of uncrystallised funds; or

(4) access their pension savings using a *drawdown pension*.

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

19.7.8 R (1) The first step is to ask the *retail client* whether they have received *pensions guidance* or regulated advice:

(a) if the *client* says that they have, the *firm* must proceed to step 2; or

(b) if the *client* says that they have not or is unsure, the *firm* must explain that the decision to access pension savings is an important one and encourage the *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement.

(2) If, after giving the explanation in *COBS* 19.7.8R(1)(b), the *retail client* does not want to access *pensions guidance* or take regulated advice, the *firm* must proceed to step 2.

Step 2: identify risk factors

19.7.9 R Based on how the *retail client* wants to access their pension savings, at step 2 the *firm* must ask the *client* questions to identify whether any risk factors are present.

19.7.10 R A *firm* must prepare the questions required by *COBS* 19.7.9R before taking the steps for the first time, and must keep the questions up to date.

19.7.11 G To prepare for step 2, the *firm* should:

(1) identify the main risk factors relevant to each pension decumulation product it offers to enable *retail clients* to access their pension savings; and

(2) prepare questions to enable it to identify the presence of those risk factors for different *retail clients*.

19.7.12 G Examples of the sorts of risk factors which relate to pension decumulation products are:

(1) the *client's* state of health;

(2) loss of any guarantees;

(3) whether the *client* has a partner or dependants;

(4) inflation;

(5) whether the *client* has shopped around;

(6) sustainability of income in retirement;

(7) tax implications;

(8) charges (if a *client* intends to invest their pension savings);

(9) impact on means-tested benefits;

(10) debt; and

(11) investment scams.

Step 3: provide appropriate retirement risk warnings

19.7.13 R At step 3, a *firm* must give the *retail client* appropriate retirement risk warnings in response to the *client's* answers to the *firm's* questions.

19.7.14 R A *firm* must prepare the retirement risk warnings required by *COBS* 19.7.13R in good time before taking the steps for the first time, and must keep them up to date.

19.7.15 G If after considering the *retail client's* answers it is unclear whether a risk factor is present, a *firm* should give the *client* the appropriate retirement risk warning.

Communicating the signpost and retirement risk warning

19.7.16 R When communicating the signpost and retirement risk warnings, the *firm* must do so clearly and prominently.

19.7.17 R Whatever the means of communication, the *firm* must ensure that the *retail client* cannot progress to the next stage of the sale unless the relevant signpost or retirement risk warning has been communicated to the *client*.

19.7.18 G For an internet sale, a *firm* should display the required information on a screen which the *retail client* must access and acknowledge as part of the sales process. It would not be sufficient for the information to be accessible only by giving the *client* the option to click on a link or download a document.

Record keeping

19.7.19 R *Firms* must record whether the *retail client* has received:

(1) the retirement risk warnings at step 3 of the process specified in this section;

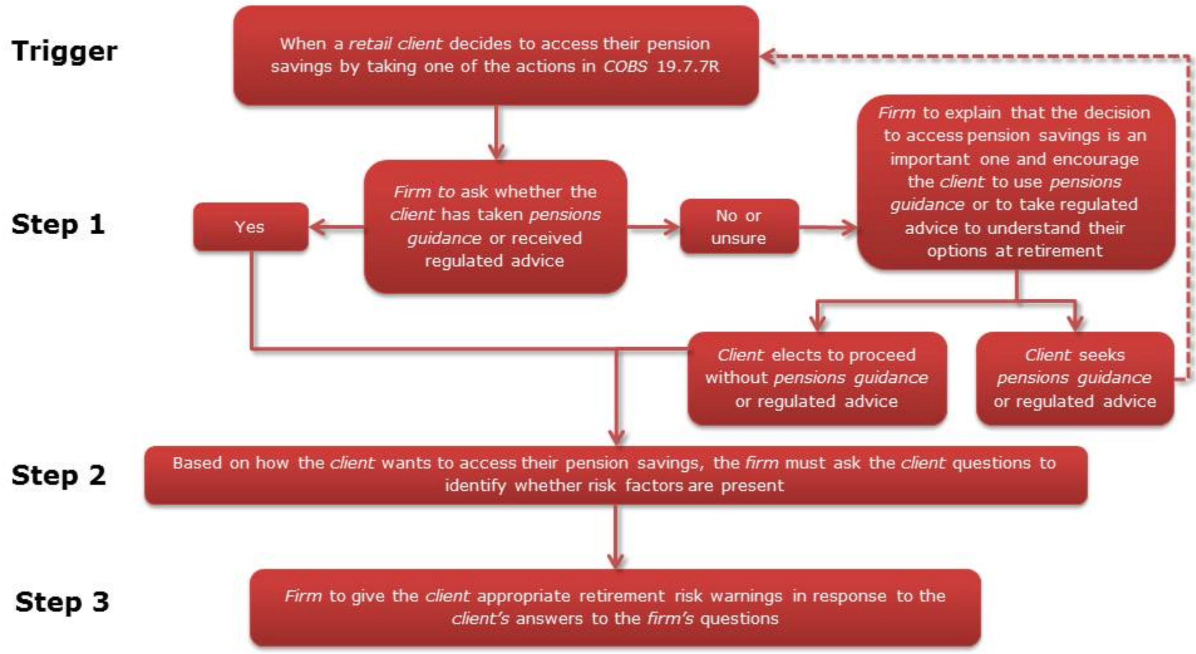
(2) regulated advice; and

(3) *pensions guidance*.

COBS 19 Annex 1G Retirement risk warnings – steps to take

This annex belongs to COBS 19.7.

COBS 19 Annex 1G
Retirement risk warnings – steps to take



Financial Conduct Authority

PUB REF: 005030

25 The North Colonnade Canary Wharf
London E14 5HS
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk