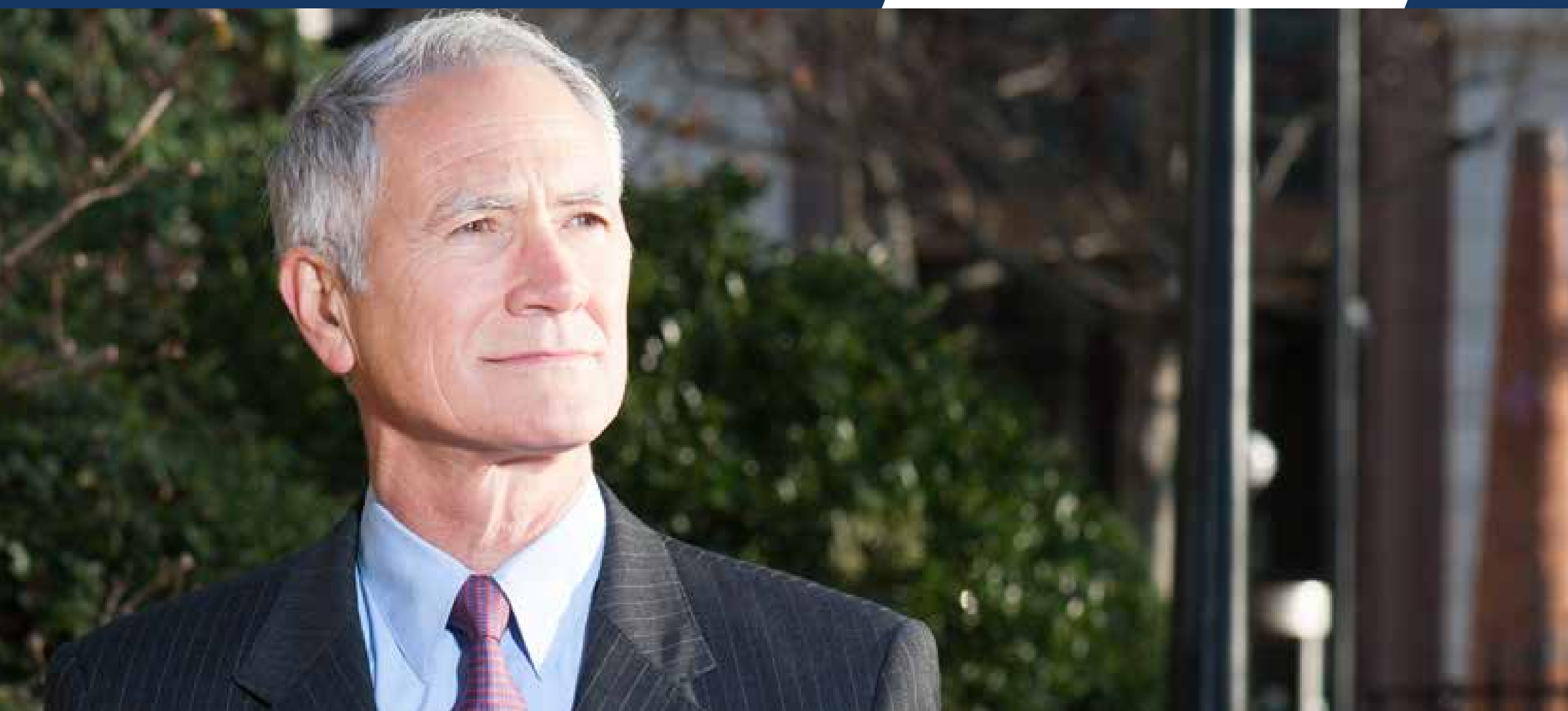
Financial Conduct Authority

Consultation Paper CP14/11***

Retirement reforms and the Guidance Guarantee

July 2014



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We are asking for comments on this Consultation Paper by **22 September 2014**.

You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp14-11-response-form

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

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

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

Abbreviations used in this document

AFR	Annual funding requirement
CBA	Cost benefit analysis
COBS	Conduct of Business Sourcebook
DB	Defined benefit
DC	Defined contribution
DWP	Department for Work and Pensions
EEA	European Economic Area
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
IFA	Independent financial adviser
MAS	Money Advice Service
TPAS	The Pensions Advisory Service
TPR	The Pensions Regulator

1 Overview

Introduction

1.1 In the 2014 Budget the Government announced reforms to retirement options including a proposal that all consumers with Defined Contribution (DC) pensions should be entitled to free impartial guidance at retirement – the 'Guidance Guarantee' – to help them make the most of their pension savings.

1.2 The Government consulted on these proposals from April to June 2014[1], and the Government response to the consultation, published today, sets out how the Guidance Service that will fulfil the Guidance Guarantee will be delivered and funded. Our paper should be read in conjunction with the Government's consultation response. Where we refer to 'the guidance' within this paper we mean the guidance that will be delivered by the Guidance Service to fulfil the Guidance Guarantee.

1.3 The Government response has set out many of the key design elements of the guidance; in particular that, initially, the Treasury will hold overall responsibility for the service design and will work with a range of organisations including The Pensions Advisory Service (TPAS) and the Money Advice Service (MAS). Only designated organisations which are independent and have no actual (or potential) conflict of interest will be allowed to provide the guidance. These designated organisations are referred to as 'delivery partners' throughout this paper.

A new role for the Financial Conduct Authority in relation to the Guidance Service

1.4 The Government response sets out a formal role for the Financial Conduct Authority (FCA) in setting the standards for the delivery partners, maintaining the standards, monitoring compliance with those standards and collecting the levy, which will fund the provision of the guidance.

1.5 Chapter 2 of this consultation paper sets out the proposed standards that will apply to the delivery partners. We are consulting on the standards on the basis that the legislation will be brought forward and passed by Parliament and given Royal Assent to give us this formal role. The guidance will be offered to consumers with contract-based and trust-based pensions. Therefore the standards will be of relevance to trustees and members of trust-based schemes, as well as the pension and retirement product providers that we regulate. We have worked with the Department for Work and Pensions (DWP) and The Pensions Regulator (TPR) in developing the proposed standards.

1.6 Chapter 3 of this consultation paper seeks views on our provisional proposals for collecting the levy to fund the provision of the guidance. Once we have analysed the responses to this paper, we intend to include firm proposals for this levy in the annual fees consultation paper in October 2014.

1 Freedom and Choice in Pensions, HM Treasury, March 2014
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/294795/freedom_and_choice_in_pensions_web_210314.pdf

FCA role under our existing functions

1.7 Scheme trustees and contract-based pension providers will be required to signpost their members and customers respectively to the guidance, ensuring that they are aware they are entitled to the guidance and how to access it. For contract-based schemes this will be enacted through the rules we propose in Chapter 4 of this paper. For trust-based schemes, the DWP expect to consult on changes to regulations later in the year. We have worked with the DWP and TPR in developing the proposals in Chapter 4 to enable the requirements for trust and contract-based schemes to be appropriately aligned.

1.8 We also have a role under our existing functions in relation to the way regulated firms operate in the new retirement landscape. Chapter 4 of this paper also sets out proposals for changes to our Handbook for firms to take account of the proposed reforms to the retirement landscape.

Who does this consultation affect?

1.9 This consultation will be of interest to all those with an interest in the pensions and retirement space, including:

- Providers of pensions and retirement income products
- Trustees of DC schemes (and schemes with a DC element)
- Employer sponsors of DC schemes (and schemes with a DC element)
- Providers of other financial services 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 and/or financial services more generally
- Individual consumers

Is this of interest to consumers?

1.10 Our proposals will affect all consumers who have DC pension funds, and those who will have these pensions in the future. The proposals in this paper play a key role in determining the way in which consumers will interact with the pensions and retirement markets in future.

Context

The Budget proposals

1.11 The 2014 Budget announced fundamental changes to the options consumers will have for accessing their DC pension savings at retirement. From the age of 55 consumers will be able to:

- take their pension savings as cash, and/or
- buy an annuity (or other income generating guaranteed products that may emerge), and/or
- use drawdown but without any limits applied

1.12 To support this increased flexibility the Government announced a 'Guidance Guarantee', which entitles everyone with a DC pension fund to access free (at the point of delivery), impartial guidance, including the option of a face-to-face conversation about their options when accessing their pension savings. It will not be mandatory for people to take this guidance to access their pension savings, but they will be signposted to the Guidance Service before they do.

The role of standards in delivering the Guidance Guarantee

1.13 The guidance does not replace financial advice given by regulated advisers, nor does it replace communication programmes run by trustees for their members or contract-based pension providers' communications with their own customers. We expect that many people will continue to consult a financial adviser. Indeed it is intended that the guidance will signpost people to additional specialist help where appropriate, including, for example, regulated financial advice or debt advice.

1.14 The objective of the Guidance Guarantee is to empower consumers to make informed and confident decisions on how they use their pension savings in retirement. The Government response makes it clear that the guidance is not intended to stray into areas such as specific product or provider recommendations, which would be better handled by an authorised independent financial adviser (IFA). However, to be effective the guidance will need to be tailored, providing consumers with sufficient personalised information, so that they can understand their options and make confident, informed decisions about their retirement choices.

1.15 The Government has said that it does not believe it would be appropriate for the organisations that will deliver the guidance to be subject to FCA authorisation and regulation for this activity. They have indicated that they will also bring forward legislation to clarify that the delivery partners designated by the Treasury as official providers of the guidance, and subject to the standards, will not need to be authorised for this activity.

1.16 To ensure the conduct of the delivery partners is subject to appropriate standards, the Government will bring forward legislation to establish a separate standards regime, and to give us, as the expert conduct regulator, the appropriate duties and powers to set standards, maintain them and monitor compliance. We will develop a proportionate approach to this monitoring role in consultation with the Government and stakeholders.

1.17 The Treasury will be responsible for designating the delivery partners that will be subject to the standards regime, and will ultimately be responsible for ensuring delivery partners take remedial action on the basis of any recommendations about their conduct from the FCA.

Funding the Guidance Service

1.18 The Government response sets out that it believes the Guidance Service should be funded by the firms that are likely to benefit from more engaged consumers. They therefore intend to legislate to establish a levy on regulated financial services firms and those operating in the pensions market.

1.19 They have asked us to collect the levy due to our experience in this area. Together with the Treasury, we will determine which firms the levy will apply to. The Government will determine the size of the levy, depending on the costs of the guidance.

Relationship between the Budget proposals and FCA requirements on firms

1.20 The Government response sets out that they will place a statutory obligation on the FCA to make rules to require pension providers to clearly point their customers to the guidance. An equivalent legislative requirement will be placed on trustees of trust-based schemes.

1.21 In addition, our Handbook contains requirements for pension providers' communications with their customers as they approach retirement. Those requirements were designed for a landscape where there were restrictions on what action could be taken with the proceeds of a pension. Therefore these requirements need to be updated.

Summary of our proposals

Proposals for the standards to apply to the delivery partners

1.22 We are proposing a suite of principles-based standards, which the delivery partners delivering the Guidance Guarantee will need to comply with.

1.23 The proposed standards cover the following areas:

- Ensuring the guidance is free at point of delivery
- Consistency and quality of the delivery of the guidance
- Professional standards
- Communications
- Systems and controls
- Complaint management
- The information the delivery partners will use in giving the guidance
- Content of the guidance session
- Helping the consumer to take the next step
- Providing a record of the guidance

Proposals for the levy

1.24 We are proposing to use the existing FCA 'A' fee-block framework as a basis for collecting the levy from firms that could potentially benefit from the provision of retirement guidance.

1.25 We are seeking views on these provisional proposals to inform our consultation on draft levy rules in our annual fees policy consultation paper in October 2014.

Proposals for Handbook changes for firms

1.26 We propose to make the following changes to the Handbook.

- Add a requirement for providers to signpost their customers to the guidance as they approach retirement. The proposals cover the content and timing of this signpost.
- Add guidance to make it clear that any behaviour by firms that seeks to circumvent the spirit of the Guidance Guarantee is likely to breach the requirement to act in the best interests of their customers and the principle of treating customers fairly.
- Add a requirement for firms to make a more general reference to the guidance in all communications to customers relating to their retirement options.
- Amend the requirements around the open market option to broaden it to all retirement options, not just annuities, and to make our expectations on the information that should be provided about the existing pension scheme clearer.
- Delete references to maximum withdrawal limits for income withdrawal within the handbook.
- Add a requirement for providers to provide their customers with a description of the potential tax implications whenever they apply to access some or all of their pension using any of the options available.

Equality and diversity considerations

1.27 Under the Equality Act 2010, we are required to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions.

1.28 As part of this, we have assessed the likely equality and diversity impacts and rationale of these proposals through an Equality Impact Assessment, and concluded they do not give rise to any concerns for particular groups as a result of any protected characteristic. Comments are still welcome.

Next steps

1.29 We want to know what you think of our proposals. Please send us your comments to this consultation by 22 September 2014 by using the online response form on our website or by using the address on page 2 of this paper.

1.30 We will continue to engage with stakeholders throughout this period. This may include a stakeholder workshop within this period. Once we have gathered stakeholder responses we plan to publish final standards and rules in a policy statement in late autumn.

1.31 Some of the questions we ask in this paper are at a higher level and we will provide feedback on these at the same time as our policy statement.

1.32 The draft levy rules will be set out in our annual fees policy consultation paper in October 2014.

2
Standards for the delivery partners

Introduction

2.1 The Government consultation response sets out a new role for the FCA to set, maintain and monitor compliance with the standards that will apply to the Guidance Guarantee delivery partners. In this chapter we set out the proposed standards.

2.2 In developing the standards below, we have taken into account responses to the Government consultation, the feedback received at the joint FCA/Treasury workshops that we ran in April and May this year, and suggestions from other events.

2.3 The standards aim to:

- Ensure that the guidance is impartial, consistent, of good quality and engaging across the range of delivery channels.
- Create consumer trust and confidence in the delivery partners and content of the guidance so that consumers actively use the service.
- Ensure that the framework works for both contract-based and trust-based pension schemes.
- Deliver helpful guidance for consumers that considers their retirement options and refers them to specialist advice or information where appropriate.

2.4 This means all those involved in the guidance process – pension providers, scheme trustees, consumers and delivery partners – have certain responsibilities to ensure that the guidance is as relevant and useful to the consumer as it can be.

Who must offer the guidance?

2.5 The pension provider or scheme trustee must give the individual relevant information about his or her pension savings and benefits and clearly point ("signpost") the individual to the guidance. This signpost will tell the individual that the Guidance Service is available, how it can be accessed, and give them key information about the specific pension pot.

Who will deliver the guidance and what will they do?

2.6 The Government's consultation response sets out that the Treasury will hold overall responsibility for the service design and implementation of the Guidance Service and will work with a range of organisations to deliver the Guidance Guarantee. This will ensure consistency of service delivery across the delivery partners.

2.7 The delivery partner should set factual financial and personal information that would be helpful for the individual to gather before the guidance session. While consumers cannot be required to divulge personal information, the delivery partner should encourage the consumer to provide this information on the basis that it will make the session more meaningful and helpful to them.

2.8 The delivery partner must discuss with the consumer their relevant options and provide key facts and information on the consequences of each of those options. Based on the information provided by the consumer, the delivery partner must set out other issues for the consumer to consider.

2.9 The delivery partner must also ensure that the consumer receives a record of their guidance session.

What is the guidance?

2.10 The objective of the Guidance Guarantee is to empower consumers to make informed and confident decisions on how they use their pension savings in retirement. To be effective the guidance will need to be tailored, providing consumers with sufficient personalised information.

2.11 Therefore, the guidance will inform, educate and help empower pension savers. It will equip consumers with information about their options when accessing their pension savings. The guidance will give consumers key facts and information about the consequences of the relevant options, for example taxation. It will also set out other issues the consumer should consider based on the information the consumer puts into the discussion; for example, the needs of the family where a consumer has a spouse or dependants. It will provide clear next steps and appropriate signposting to further sources of information or advice. The consumer will receive a record of the session for future reference and continuation of their retirement journey.

2.12 As set out in Chapter 1, the Government response makes it clear that the guidance is not intended to stray into areas such as specific product or provider recommendations, which would be better handled by an authorised IFA. Therefore, the guidance will not tell consumers which option to choose or recommend a particular product, provider or adviser. Ultimately, consumers will be responsible for the decisions they make.

The standards

2.13 As drafted, the standards are principles based. In delivering the Guidance Guarantee, it is for the delivery partners to interpret the standards and work up the operational detail while ensuring adherence with the standards.

Now that the delivery model has been set out by the Treasury, we appreciate that stakeholders may have comments about what this means for the standards. We would therefore welcome comments from stakeholders on the proposed standards for the delivery partners below.

Free at point of delivery	The delivery partner must not charge the consumer for the guidance.
Delivering the guidance	The delivery partner must ensure that the consumer experience of the guidance is consistent and of good quality across the range of delivery channels. The delivery partner must deliver the guidance with due skill, care and diligence. The delivery partner must not recommend specific products, providers or financial advisers to the consumer or sell any products directly or indirectly to the consumer.
Professional standards	The delivery partner must ensure that all those who: • approve the design of any processes and tools, including web-based material • deliver the guidance over the phone or in person are competent and have sufficient knowledge and expertise to deliver the guidance or design any processes and tools.
Communications	The delivery partner must have due regard to the needs of the consumers using the service and communicate in a way that is clear, fair and not misleading.
Systems and controls	The delivery partner must establish and maintain such systems and controls as are appropriate to ensure that it meets its obligations under these standards, as well those applicable to its operations more generally, including protection of consumer information (e.g. Data Protection Act).
Complaint management	The delivery partner must establish an appropriate complaint management system to investigate complaints arising in connection with the delivery of its service. For complaints that cannot be resolved by the delivery partner, or cut across a number of different services, the Treasury will determine an adjudicator function, independent of providers of guidence, to which these complaints can be escalated as appropriate.
Guidance input	The delivery partners must agree the information (pension entitlement and other personal and financial details) that will be requested during the guidance session. The delivery partners must use this information when developing the content of the session, as well as the tools that will support the range of delivery channels, such as web pages.

Content of the guidance session	The delivery partner must establish processes to ensure that the guidance is delivered consistently across the delivery channels and that it: • Sets out the scope, purpose and limitations of the session. • Sets out the information (pension entitlement and other personal and financial details) that will be used during the session. • Requests all relevant information from the consumer about their pension entitlement. • Requests relevant information about the consumer's financial and personal circumstances that would inform the discussion. This would include information on family circumstances. • Alerts the consumer to other sources of information and advice as appropriate and at relevant points during the session. • Discusses the relevant options and the key facts and consequences for each option and based on the information provided by the consumer sets out other issues for the consumer to consider. This could cover life expectancy, the danger of running out of money during retirement and possible long-term care needs • Sets out next steps for the consumer to take forward, as well as appropriate signposting to further sources of information, guidance or advice. We set out more detail on the consumer journey through the guidance session below
Next steps	The delivery partner must: • signpost the consumer to further information, advice or relevant support tools • ensure that signposts are appropriate and consistent with the principles of the guidance; that is be impartial, consistent, relevant and of good quality • not recommend specific products, providers or financial advisers but empower consumers to find further sources of information, a product or specialist advice; for example, by referring the consumer to a directory of advisers
Guidance output	The delivery partner must ensure that the consumer receives a record of their guidance session. This record must cover the options discussed with the consumer and key facts and consequences, as well as other sources of information or specialist advice, and information on how to shop around for any products the consumer wishes to consider purchasing.

Q1: Do you have any comments on the proposed standards for the delivery partners?

The consumer journey through the guidance session

2.14 It is important that the consumer receives consistent, good quality guidance across the range of delivery channels. Here we set out more detail of how we see the consumer journey through the guidance session.

2.15 As set out by the Treasury, consumers must be notified that they can access the Guidance Service by their pension provider or scheme trustee on a per pot basis. This means that a consumer could be informed on more than one occasion and by more than one pension provider or scheme trustee that they can access the guidance. However, in each case we would expect the delivery provider to prompt customers to think about all their sources of pension to make the session as meaningful as possible.

2.16 Key stages in the journey, as steered by the consumer:

- Set out the scope, purpose and limitations of the session.
- Request relevant information about the consumer's pension entitlement.
- Request relevant information about the consumer's financial and personal circumstances and objectives.
- Discuss the relevant options, including the key facts and consequences for the options and based on the information provided by the consumer, set out other issues for the consumer to consider.
- Set out next steps for the consumer to take forward and appropriate signposting to further sources of information, guidance or advice.

2.17 We consider each stage of the session in more detail below.

Scope, purpose and limitations of the session

2.18 It will be important to set out very clearly for the consumer the scope, purpose and limitations of the guidance session. This will manage the consumer's expectations by explaining what the guidance will, and will not, do and ensure they recognise that they are responsible for making their own decisions. As a minimum, this should make it clear to the consumer that the aim of the guidance is to empower them to make informed and confident decisions on how they use their pension savings in retirement.

2.19 The guidance will give consumers key facts and consequences about their options and provide information on next steps for the consumer to take forward, as well as appropriate signposting to further sources of information or advice and a record of the session for future reference and continuation of their retirement journey.

2.20 The guidance will not tell consumers what to do, in terms of the specific action to take in their circumstances, nor will it recommend a particular product, provider or adviser. Ultimately, consumers must take responsibility for the decisions they make, but the guidance will support them in this decision making and help empower them to make the most of their pension savings.

2.21 We would also expect the consumer to be alerted to other sources of information and advice during the session, if the consumer wants this information or advice, or if the information provided by the consumer suggests that more specialist advice is needed; for example, debt advice, advice on state benefits or regulated financial advice.

Request relevant information about the consumer's pension entitlement

2.22 Pension providers and scheme trustees will be required to provide the customer/member with the necessary information regarding their pot. This could include:

- the size of their pension pot
- details of any Market Value Reduction, guarantees or any other relevant special feature
- in the case of trust-based schemes, details of any other pension benefits held by the member – for example, the Defined Benefit (DB) benefit where the DC pot is an Additional Voluntary Contribution

The delivery partner will request this information from the consumer at the beginning of the session.

Request relevant information about the consumer's financial and personal circumstances and objectives

2.23 To get the most out of the guidance session, the consumer will need to input or provide a certain level of financial and personal information.

2.24 Consumers cannot be required to divulge personal information but the guidance should encourage people to provide relevant information on the basis that it will make the output more meaningful and helpful to them. This would cover areas like the consumer's wider financial information and personal circumstances. For example, we would expect the following information to be relevant:

Financial information

- other pension pots or benefits
- spouse /partner's pension pots or benefits and other income
- current and future sources of income
- capital expectations
- tax status
- entitlement to state benefits (current and future)
- home owner or renting
- debt position

Personal circumstances

- dependants
- spouse/partner
- state of health
- potential long-term care needs

Objectives

- the consumer's plan for retirement, to identify retirement income needs

Discuss the relevant options, including the key facts and consequences and set out other issues for the consumer to consider

2.25 Once the relevant financial and personal information has been collected from the consumer, the options relevant to that consumer should be discussed, alongside the key facts and consequences for each. While not exhaustive, the broad categories of options include:

- Taking income via a formal retirement income product; for example, an annuity or drawdown product (including other income generating products that may emerge).

- Taking cash, which could be used for any purpose including providing ad hoc income or a rainy day fund.

- A combination of these options.

- Not taking any action at that time.

2.26 Based on the personal and financial information the consumer has provided, we would also expect other issues to be set out for the consumer to consider; for example, the needs of the family if the consumer has a spouse or dependants.

2.27 We would also expect consumers to be alerted to areas that they may not have considered; for example longevity and the danger of running out of money during retirement, the possible impact of state benefits and possible long-term care needs. We also expect consumers to be given information about where to get more information on topics that are relevant to them.

Set out next steps for the consumer to take forward and appropriate signposting to further sources of information, guidance or advice

2.28 A critical part of empowering consumers is ensuring that they are clear about the next steps they can choose to take and where they can go for further information.

2.29 At this stage we believe there will be three possible broad categories of outcome resulting from the guidance. The consumer could take no immediate action, require specialist advice or information or decide to buy a product or products directly. The guide should suggest appropriate hand-offs for specialist advice or further information, as well as appropriate support tools to help and encourage consumers to shop around.

2.30 We believe that the consumer should receive a record of their guidance session, which will be of practical use in the future. This should cover information on the options, as well as suggest appropriate places where the consumer can get further information or specialist advice. This could include:

- information on how to shop around, signposting to relevant websites and setting out questions the consumer can ask when purchasing a product

- signposting to debt advice services, benefit advice or full financial advice; for example, to a directory of financial advisers

Summary of the consumer journey

Set out the scope, purpose and limitations of the session and request relevant information	Set out the scope, purpose and limitations of the guidance, in particular set out that the guidance will provide the consumer with information to help them understand their options when accessing their pension savings. However, it will not tell the consumer what to do or recommend a product, provider or adviser. Request relevant information about the consumer's pension entitlement. Request relevant information about the consumer's financial and personal circumstances. For example, other and future sources of income, capital expectations, tax status, entitlement to state benefits, debt position, plans for retirement, dependants, spouse/partner, health, homeowner or renting, plans for retirement. Alert the consumer to other sources of information and advice, if the consumer wants this information/advice or if the information provided by the consumer suggests that more specialist advice is needed; for example, debt advice, advice on state benefits or regulated financial advice.
Discuss the options, including key facts and consequences, and set out other issues for consideration	Discuss the relevant options, and key facts and consequences of each, including financial consequences, e.g. tax implications. While not exhaustive, the broad categories of options include: • Taking income via a formal retirement income product; for example, an annuity or drawdown product (including other income generating products that may emerge). • Taking cash, which could be used for any purpose including providing ad hoc income or a rainy day fund. • A combination of these options. • Not taking any action at that time. Alert the consumer to areas they might not have considered; for example, the possible need for long term care, longevity and the danger of running out of money.
Set out next steps for the consumer to take forward and appropriate signposting to further sources of information, guidance or advice	Reiterate that the guidance will not recommend specific products, providers or financial advisers, but should help empower the consumer to find a product, adviser or further sources of information. Inform the consumer where they can get further information, guidance or information. Examples include: • debt advice services, state benefits information and other relevant websites • regulated financial advice • information on how to shop around • other web support tools
Guidance output	Give the consumer a record, which sets out: the relevant options and key facts and consequences of each, information on next steps and appropriate signposting to further sources of information, guidance or advice.

3
Levy to fund provision of the guidance

3.1 The Government consultation response sets out the role for us in collecting the levy to fund the provision of retirement guidance. This includes the design of the levy so that it is raised from the population of firms that will potentially benefit from the retirement guidance service in terms of more engaged and empowered consumers, making better-informed decisions about how to use their pension pots in retirement.

3.2 The Treasury will set the overall amount of the levy. We will need to seek agreement with the Treasury over the design detail we include in our consultation on draft levy rules and before making final levy rules.

3.3 In this chapter we are seeking views on our provisional proposals for:

- using the existing FCA 'A' fee-block framework for collecting the levy to fund the retirement guidance
- identifying which firms should contribute to the retirement guidance levy
- how the overall levy should be allocated across the identified firms

3.4 These views will inform our consultation on draft levy rules in our annual fees policy consultation paper in October 2014.

3.5 Overall, these provisional proposals are aimed at striking a proportionate balance between applying the levy to the firms that could benefit from the provision of retirement guidance and minimising the costs to the industry of administrating the levy. In the case of administering the levy, these include minimising the costs related to firms reporting additional data and for us to collect and process it.

3.6 We have not undertaken assessments of these costs at this stage as we are first seeking views on the provisional proposals and establishing what alternatives the industry propose.

Using the existing 'A' fee-block framework

Existing framework

3.7 Our 'A' fee-block framework is made up of a series of fee-blocks under which the relevant firms pay annual periodic fees to us. These include fee-blocks that are based on groups of related regulated activities that firms have permission to carry out.

3.8 We allocate a proportion of our annual funding requirement (AFR) to each of these fee-blocks in line with the resources we apply to meeting our statutory objectives in relation to the regulated business carried out by all firms in each fee-block. The amount of AFR allocated to each fee-block is recovered from the firms in proportion to their size as a proxy for the impact risk on our statutory objectives should they fail.

3.9 The measures of size (tariff base) differ across fee-blocks, but within them they represent an objective and transparent measure of regulated activity that can be consistently applied to all firms in the fee-block.

3.10 At the beginning of each periodic fee-year (1 April to 31 March), we total the amount of tariff data reported by firms in each fee-block and divide the AFR allocated to the fee-blocks by the total tariff data. The result is the fee rate per unit of tariff data (see Figure 1).

Figure 1: calculating tariff rates for fee-blocks

AFR allocated to fee-block / Total tariff data reported by firms in fee-block	**equals**	Tariff rate per unit of tariff data

3.11 The tariff rate is then applied to the amount of tariff data reported by the individual firms in the fee-blocks (see Figure 2).

Figure 2: Calculating the firm's periodic fee in a fee-block

Firm's tariff data for that fee-block (above the minimum threshold)	**X**	Tariff rate for that fee-block	**equals**	Firm's periodic fee for that fee-block

3.12 All firms pay a minimum fee. The minimum fee is currently £1,000, except in the case of smaller credit unions and smaller friendly societies who pay lower minimum fees depending on their size.

3.13 Where the amount of tariff data that firms report under Figure 2 is below the minimum threshold for a specific fee-block, they do not pay any periodic fees in that fee-block. Firms can be in more than one fee-block depending on the range of regulated activities they have permission to carry out. If a firm is in several fee-blocks, but the size of its tariff data falls below the minimum threshold in each fee-block, then it will only pay the minimum fee.

Using the framework for the retirement guidance levy

3.14 We are proposing to use the 'A' fee-block framework to collect the retirement guidance levy from firms by using the:

- existing fee-blocks to identify the firms that, given the regulated activities they carry out, may benefit from the provision of retirement guidance (the 'retirement guidance fee-blocks')
- retirement guidance fee-blocks across which to allocate a proportion of the overall retirement guidance levy
- same tariff base/data (measures of size) and minimum thresholds to recover the allocated portion of the overall levy from firms in the retirement guidance fee-blocks

3.15 We are, however, proposing that small firms, who only pay our minimum fee, should not pay an additional minimum retirement guidance levy. We do not believe that there is a clear basis for setting the amount of a fixed minimum retirement guidance levy, that would be proportionate to the benefit such small firms may receive from the provision of retirement guidance.

3.16 Small firms will be those where the amount of regulated business they undertake will be below the minimum thresholds in all the retirement guidance fee-blocks they come under. However, the extent that the amount of regulated business (as the proposed measure of potential benefit) falls below the minimum thresholds will vary across firms. A fixed minimum levy would not take account of this variance in potential benefit.

3.17 The approach of using the existing FCA periodic fees framework to collect the retirement guidance levy will be using our resources in the most efficient and economical way. We believe alternative ways would include the need to collect additional data from firms requiring us to change our operational systems to accommodate the new data. Taking the proposed approach will also be more proportionate for firms as it avoids the additional burden that will arise from firms having to change their systems and processes to provide us with the new data.

> **Q2: Do you agree with the proposed use of the FCA periodic fees framework to collect the retirement guidance levy? If no, please provide alternatives and set out how they would be implemented.**

Which authorised firms should contribute?

3.18 The retirement guidance will help consumers understand the options they will have for accessing their DC pension savings at retirement. From the age of 55, individuals will broadly have the following options for accessing their savings:

- take their pension savings as cash
- buy an annuity (or other income generating guaranteed products that may emerge)
- use drawdown but without any limits applied

3.19 We believe that the firms that contribute to the retirement guidance levy should, as far as possible, be those that would potentially benefit when these consumers go on to purchase the financial products and services supplied by them.

3.20 The range of retirement financial products and services that they could purchase is wide and includes cash savings accounts, annuities; other income-generating guaranteed products that may emerge and investment funds/schemes, as well as the services of financial advisers and managers of investments.

3.21 We have considered the existing 16 fee-blocks in terms of what regulated activities would firms that could provide these retirement financial products and services need to have permission to carry out. Our conclusion is that they would include the regulated activities covered by the five fee-blocks in Table 3.1.

3.22 We are therefore proposing that the retirement guidance levy is recovered from authorised firms in these five fee-blocks. This will include UK branches of European Economic Area (EEA) firms covered by these fee-blocks.

3.23 We are proposing that small firms do not pay the levy as discussed in paragraphs 3.15 and 3.16.

3.24 We believe that by selecting only these fee-blocks we are recognising the differences between the nature of the businesses that firms undertake. We also consider, that selecting only these five fee-blocks enables the burden of the levy on firms to be more proportionate to the benefit generally expected to result from the provision of retirement guidance that the levy will fund.

3.25 We acknowledge that there will be some firms in the five retirement guidance fee-blocks that will not provide retirement financial products and services. To exclude such firms from these fee-blocks we would need to be able to identify the firms to which the exclusion applied both initially and on an ongoing basis. We would also need to change our systems to keep a record of excluded firms and introduce new processes for keeping that record up-to-date as firms change their business models to bring them within the exclusion or bring them outside it. As indicated under paragraph 3.17 this would increase our operational costs and will increase the amount of data that firms will need to report to us.

3.26 However, we invite firms to propose ways that we could identify firms in any of the five proposed retirement guidance fee-blocks who would not potentially benefit from the provision of retirement guidance. In particular where they could be identified through the existing provisions within our Handbook.

Table 3.1 Proposed fee-blocks that will contribute to collection of the levy (retirement guidance fee-blocks)

Fee-block		Tariff base	Minimum threshold
A.1	deposit acceptors	Modified Eligible Liabilities (MELs)	>£10m
A.4	insurers – life	Adjusted gross premium income	>£1m
		Mathematical reserves	>£1m
A.7	portfolio managers	Funds under management	>£10m
A.9	managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes	Gross income	>£1m
A.13	advisory arrangers, dealers or brokers	Annual income	>£100,000

Notes:

- A firm will be in the above fee-blocks if it has permission to undertake the regulated activities grouped together under the fee-block as set out in Part 1 of FEES 4 Annex 1A: http://fshandbook.info/FS/html/FCA/FEES/4/Annex1A
- Part 3 of FEES 4 Annex 1A details the tariff base for each fee-block. The tariff base represents the measure of the amount of business conducted by a firm for the purposes of calculating annual periodic fees payable to the FCA in these fee-blocks.
- If a firm reports tariff data that is less than the minimum threshold the firm does not pay FCA fees in that fee-block.

3.27 The firms in the fee-blocks that we are proposing should not make a contribution to the levy are set out in Table 3.2. We have excluded these fee-blocks because they cover regulated activities that are not required by firms to provide retirement financial products and services.

Table 3.2 Proposed fee-blocks not to contribute to collection of levy

Fee-block
A.0 FCA minimum fee
AP.0 FCA prudential fee
A.2 home finance providers and administrators
A.3 insurers – general
A.5 managing agents at Lloyd's
A.6 the Society of Lloyd's
A.10 firms dealing as principal
A.14 corporate finance advisors
A.18 home finance providers, advisers and arrangers
A.19 general insurance mediation
A.21 firms holding client money or assets or both

Notes:
A firm will be in the above fee-blocks if it has permission to undertake the regulated activities grouped together under the fee-block as set out in Part 1 of FEES 4 Annex 1A: http://fshandbook.info/FS/html/FCA/FEES/4/Annex1A

Q3: Do you agree that only firms in the proposed five retirement guidance fee-blocks (Table 3.1) should contribute to the retirement guidance levy? If no, please provide your reasons.

Q4: Do you agree that firms in the remaining fee-blocks set out in Table 3.2 should not contribute to the retirement guidance levy? If no, please provide your reasons.

Allocation of overall levy across retirement guidance fee-blocks

3.28 We believe there are three options for how to allocate the overall levy across the five retirement guidance fee-blocks. At this stage we are not proposing a particular option. We are seeking views on Options 1 and 2 on the basis that we could easily accommodate either of them. We are also seeking views on Option 3, but we are also asking for suggestions from the industry on how we could accommodate this option.

Option 1 – Based on FCA AFR allocations

3.29 Under this option the overall levy would be allocated across the five retirement guidance fee-blocks based on the total FCA AFR allocated to these fee-blocks and the proportion that each fee-block represents of the total. Using our 2014/15 AFR allocations as a basis the proportion of the overall levy that would be allocated to each retirement guidance fee-block is set out in Table 3.3.

Table 3.3 Allocation across retirement based on FCA AFR allocations

Fee-block		Proportion
A.1	deposit acceptors	28%
A.4	insurers – life	17%
A.7	portfolio managers	19%
A.9	managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes	6%
A.13	advisory arrangers, dealers or brokers	30%
Total		100%

Notes:
The 2014/15 FCA AFR allocated to these fee-blocks was: A.1 £62.3m; A.4 £38.5m; A.7 £43.4m; A.9 £13.4m; and A.13 £68m. Total £225.6m.

3.30 The main advantage of this approach is transparency as it is clear to firms on what basis the allocations are made.

3.31 The main disadvantage of this approach is that the amounts of AFR we allocate to these fee-blocks represent the proportion of our resources applied to meet our statutory objectives in relation to the regulated activities covered by these fee-blocks.

3.32 This does not link the allocation of retirement guidance costs with the extent that consumers will chose the retirement financial products and services provided by the firms through the regulated activities covered by them.

Option 2 – Equal split of allocation

3.33 Under this option the overall levy would be allocated equally across all five retirement guidance fee-blocks – 20% to each.

3.34 The main advantage of this option is simplicity, although the disadvantage is that it makes no distinction between the five fee-blocks.

Option 3 – Allocation in line with consumers' retirement choices

3.35 Under this option the allocation of the overall levy would take account of the significance that the various retirement financial products and services play in consumers' retirement choices.

3.36 The main advantage of this option would be a greater link between the allocation of retirement guidance costs and the extent that consumers will chose the retirement financial products or services provided by the firms through the regulated activities covered by these fee-blocks.

3.37 Key to accommodating this option is the availability of industry-wide research or surveys that would give a reasonable indication about what retirement financial products and services consumers are choosing. If appropriate this could be used to inform the proportion of the overall retirement guidance levy that should be allocated to the five retirement guidance fee-blocks.

3.38 We invite firms and, in particular, their representative trade bodies to propose whether there is such information available or that such information could be available in the future.

Q5: Do you have any comments on the three options for allocating the overall levy across the five retirement guidance fee-blocks? If you do not agree with any of these options please advise us of your proposed alternative allocation options.

4
FCA requirements for firms in light of the reforms

4.1 We have a regulatory responsibility over firms providing contract-based pensions and retirement income products. This chapter sets out proposals on how our regulation of activities relating to pension and retirement provision should adapt to facilitate the implementation of the changes and to provide consumer protection in the new landscape.

4.2 Our rules apply to contract-based pension schemes and retirement income providers. We have worked with the DWP and TPR in developing the proposals with the aim of ensuring appropriate alignment with the regulations for trust-based schemes that they will be developing. The DWP expect to consult on changes to their regulations later in the year.

4.3 The reforms give rise to a new set of questions around what products might emerge in future, and how consumers will navigate a wider set of choices at retirement. The market study into retirement income and the thematic review of annuity sales practices will aim to set the regulatory approach to retirement income to address ingrained issues in the market.

4.4 We are monitoring the market closely to understand changes in firm strategies and to keep abreast of new product development and changes in distribution. As a result of our work we may consider whether further changes to requirements on firms are needed and would consult on these in the usual manner.

Signposting customers to the guidance

4.5 The guidance will be relevant for and targeted at consumers with DC pension funds who are actively considering their options for accessing their pension savings. There will be no limit to the number of times an individual can use the Guidance Service as their plans develop in retirement.

4.6 The Government has indicated that they will place an obligation on the FCA to make rules to require providers to signpost their pension customers to the Guidance Service. (An equivalent requirement will be placed on the trustees of trust-based schemes.) The requirement to signpost ensures those who may not otherwise be aware of the guidance are directed toward this service at a relevant time.

Content and format of the signpost

4.7 Signposting is about more than simply referring to the existence of the Guidance Service. We propose that in signposting their customers to the Guidance Service providers should:

- Clearly set out that the guidance is available and that it is a free impartial Guidance Service to help consumers understand their options.

- Show clearly how the Guidance Service can be accessed by giving the website details and phone number[2] and making it clear that face-to-face guidance is available to those who want it.

- Provide the customer with the information they will need to make an informed decision about that pension pot (either with or without use of the guidance).

4.8 We do not propose any conditions on the format of the signpost at this time. As the Guidance Service develops it may be desirable for customers to receive all of this information in a standardised, separately branded, format to facilitate the interface with the guidance. For example, in future it may be possible for firms to provide this information by email in a format that can be easily uploaded to the Guidance Service systems. Developing a template should be something the delivery partners and the industry – both contract and trust-based – should work on together to put in place as soon as they are able. As this work continues we will consider whether the use of such a template should be required in our rules or whether the industry and the delivery partners have developed an appropriate market solution that firms follow.

> **Q6: Do you agree with the proposed content of the signposting information? If not, please provide alternative suggestions.**

> **Q7: Do you have any thoughts on the standardisation of this information for the future?**

Timing of signposting

4.9 We propose to apply the timescales in COBS 19.4, which apply to the provision of the wake-up pack information by providers, to the requirement to signpost customers to the guidance.

4.10 This means that, unless the customer has requested a statement in the past 12 months, providers will have to signpost the customer to the guidance between four and six months before their intended retirement date (the date selected by the customer either at the outset of the pension contract or since – often termed the nominated retirement date or selected retirement date) and to remind them of this at least six weeks before the intended retirement date.

4.11 The firm will also be required to signpost their customers to the guidance if they contact the firm indicting they wish to access their pension fund (unless they have recently received a wake-up pack). This will minimise the impact on firms as they can integrate it into their existing processes.

4.12 As April 2015 approaches there will be some customers who have received a wake-up pack that did not include the signpost to the guidance, and to whom there would currently be no requirement for the signpost to be sent later. We propose a transitional provision to require firms to send a wake-up pack that complies with the new requirements with the six-week reminder letter to ensure those who receive their wake-up packs before April 2015 still receive the signpost information at the six week reminder date. The Guidance Service will be highlighted in the MAS leaflet that is referred to in the rules on the information to be included in the wake-up pack.

4.13 There was a lot of discussion at the workshops we held and in responses to the Treasury consultation about whether, once the Guidance Service is more developed and demand is

2 Note this information is not yet available and therefore we refer to contact details in the draft rules.

better understood, signposting should come at an earlier point. This is something we will continue to consider as the guidance delivery model develops.

Q8: Do you agree with the proposal to align the timing of the signpost with the existing timing requirements for wake-up packs?

Q9: Do you agree with the proposal to introduce a transitional provision to ensure that those receiving wake-up packs before April 2015 do not miss out on being signposted to the guidance?

Effectiveness of the signpost

Preventing the guidance being undermined

4.14 Pension providers, trustees and employers are likely to remain the first point of contact for their customers when they are starting to think about taking their pension. It is right that providers should be able to speak to their customers about their options in general and about the products they can offer. However, concerns have been raised by many stakeholders that providers may seek to circumvent the spirit of the Guidance Guarantee.

4.15 We believe behaviour of this kind is likely to breach the requirement to act in the best interests of customers (the client's best interest rule in COBS 2.1.1R) and the principle to treat customers fairly. We propose to add guidance setting out that firms should not do anything to actively discourage their customers from taking the guidance. This would include:

- holding themselves out as providing the 'Guidance Guarantee' themselves
- suggesting the guidance is unnecessary or not useful
- obscuring the information that customers need to enable them to access the guidance

Q10: Do you agree with the proposal to add this guidance?

4.16 Stakeholders have raised concerns about unscrupulous firms or individuals using the retirement reforms as a hook to target consumers to get them to invest in unauthorised investments using the cash from their pensions. We have already issued a warning about firms purporting to be offering the guidance promised in the budget. We will continue to be vigilant in this area and take a very dim view of this type of activity.

Communications outside the wake-up process

4.17 Providers already have their own processes for communicating with customers as they approach retirement and many begin this process well before the timing requirements for wake-up packs. We believe there is a risk that the effectiveness of the Guidance Guarantee could be undermined if customers are not made aware of the availability of the guidance until they have already had a number of interactions with their pension provider about their options – and potentially have already made some decisions.

4.18 We do not propose that providers should be prevented from having such discussions with their customers, or providing information that helps them with their decision making. However, we feel it is appropriate that, whenever a provider is communicating with their customers in relation to the options they have at retirement, they refer to the guidance being available.

4.19 We do not propose that this requires the same content as the signpost, but that providers should explain that the guidance is available to help consumers understand their options at the point they are thinking about accessing their pension savings.

4.20 This requirement would also ensure those who have not responded to the wake-up pack communication and reminder as set out in COBS 19.4 would be reminded of the guidance in further communications from the provider, either reminding them that they have the pension or informing them of any contractual action that will be taken with the pension (e.g. some contracts set out that an annuity will be purchased at a certain age if no action has been taken by the customer).

Q11: Do you agree with the proposal that firms should refer to the availability of the guidance whenever they are communicating with a customer about retirement options?

Pension providers' communications with their customers

4.21 Providers are currently required to provide their customers with information about their ability to buy an annuity on the open market. The purpose behind these requirements remains very important. Customers should be given information about their options (some may not choose to take up the guidance, so this may be the only information they get). It should also be made clear that, whatever option the individual chooses, they can and should shop around on the open market to find the best deal for them. We propose to amend our rules to make clear that the ability to shop around applies to any of the options an individual has.

4.22 The MAS Leaflet 'Your pension: it's time to choose' covers all the options an individual has. This has been updated following the Budget announcements and we and TPR will work closely with MAS to ensure this leaflet is updated further so that information about the different options is clearly outlined for consumers. Firms are currently required to send this leaflet or provide the same information in another way.

4.23 Our rules currently require firms to provide 'a written summary of the retail client's open market option, which is sufficient for the client to be able to make an informed decision about whether to exercise, or to decline to exercise, an open market option'. We propose changes to clarify that this means information about the specific pension the individual has with that provider, along with general information about the options the individual has (which is covered by the MAS leaflet or the firm's own version of that communication). We also propose to clarify in the rules what the information about the pension should include as follows.

- The current value of the pension fund.
- Whether there are any guarantees that apply to the pension. Any other relevant special features, restrictions or conditions that apply e.g. market value reduction (MVR) conditions within with-profits investments.

4.24 We believe that these proposals make our expectations clearer and do not significantly change the impact of the requirements on firms. The retirement reforms themselves mean that firms have already made changes (and will make further changes for April 2015) to the information they provide to customers.

> **Q12: Do you agree with our proposal to clarify the information provision requirement and add guidance on information that should be included?**

4.25 We are currently carrying out supervisory thematic work on how pension providers are selling annuities to their existing customers. Although the marketplace has now changed significantly, many of the concerns that led to this review remain relevant. The concerns were around whether providers had unfair strategies or were using unfair sales techniques that were designed to retain customers.

4.26 The market study into retirement income will also try to understand how consumers, providers and distributors are likely to behave in the new market landscape to assess potential competition risks and vulnerabilities. As well as there being new issues that we will need to consider, many of the features of the market we are currently concerned about may continue.

4.27 We will look at the findings from the thematic review and consider whether additional rules or guidance would provide greater clarity about what firms should be doing in this area.

> **Q13: Do you have any comments on whether further requirements should be placed on provider behaviour and communications?**

Taking an unsecured income from a pension

4.28 Where an individual chooses to purchase an annuity, the process for this will remain similar to the existing process (we note that there may be product innovation in this area and we will continue to monitor developments in this market). Where an individual is taking partial cash withdrawals from their pension or using drawdown, the parameters around that have changed. This section covers changes we propose to our rules to take account of those changes.

4.29 From April 2015 there will be no requirement for consumers to ensure that the funds in their pension last for the rest of their life. However, we believe it is important for consumers to understand the impact of making withdrawals over time on their remaining savings and their ability to go on making withdrawals. Current rules on income withdrawal address sustainability over time.

Advice on income withdrawals

4.30 The requirement to remain within the withdrawal limits when using income withdrawal has meant that advice has been a key feature of this market. With the new freedoms and the likely development of more mass market products we may see products being sold without advice or through different types of advice services in the future.

4.31 We published a guidance consultation clarifying the types of advice that can be given under our rules.[3] We hope that this will encourage firms to develop a range of services that allow

3 GC 14/3 Retail investment advice: Clarifying the boundaries and exploring the barriers to market development, FCA, July 2014 www.fca.org.uk/your-fca/documents/guidance-consultations/gc14-03

consumers to access the help they need in a cost effective way. For example, we believe that firms could offer focused advice on retirement options for a fixed fee.

4.32 COBS 9.4.10G provides guidance on additional context to be given in a suitability report where an adviser recommends income withdrawals or short-term annuities. The purpose of this is to make it clear to those taking the maximum level of income out of their pension pot that those levels of income may not be sustainable over the long term (i.e. they may run out of money). We propose to amend this to remove the reference to maximum withdrawal levels and to provide broader context about how sustainable the level of income being taken might be. We also propose to add to this guidance that the suitability report should give a description of the potential tax implications.

Q14: Do you agree with the proposal to remove the reference to maximum withdrawals and require a general statement about sustainability of income and to add to the guidance that the suitability letter should include a description of the potential tax implications?

Illustrations for income drawdown

4.33 COBS 13 Annex 2 2.9R contains requirements for illustrations for income withdrawal. This includes a requirement to project the amount of income and the projected value of the fund at five-yearly intervals. The purpose of this is to show the size of the remaining fund over time and when it is likely to be completely used up. It also requires a projection of the annuity that could be bought in ten years and the annuity the customer could buy today. This information is to help the consumer compare the impact ofusing income drawdown with securing an income through an annuity.

4.34 All of these pieces of information will still be important and useful to someone considering income drawdown. We do not propose any changes to these requirements. The requirements also refer to the maximum withdrawal limits, which will no longer be relevant. We therefore propose to remove this reference.

4.35 Our requirements do not prescribe how this information should be presented to customers. Firms may wish to think about the way they present this information to ensure it is customer focused, increases customer engagement and enables their customers to understand the relevance of the information.

Q15: Do you agree with our proposal to remove the reference to maximum withdrawals in COBS 13 Annex 2 2.9R?

Planning for retirement

4.36 This section covers our consideration of the information requirements that apply to pensions in the accumulation phase in light of the retirement reforms.

4.37 We do not believe that the content requirements for a Key Features Document (COBS 13.3.1R and 13.3.2R) for a pension need to be amended. However, firms may need to change the information they include in the document as a result of the reforms themselves coming in April 2015 to ensure they continue to comply with these rules.

Q16: Do you agree that there do not need to be any changes to the Key Features contents rules? If you disagree, please explain why.

4.38 The detailed content requirements for a projection for a personal pension scheme or a stakeholder pension scheme come from COBS 13 Annex 2 1.2R. This currently specifies that a projection of the benefits must be shown and that this must include the projection of an annual income (i.e. an annuity calculated on the basis of the rules set out in that annex).

4.39 The purpose of a projection is for an individual to understand the range and uncertainty of potential outcomes from their investment and to help them plan for the future. Most people find it difficult to think about their income needs in retirement and struggle to translate a lump sum into the concept of an annual income.

4.40 Therefore, although there will no requirement for consumers to ensure their fund lasts throughout their lifetime, we believe that a projection of an annual income remains appropriate. The projection will also show the total fund and we believe that both the projection of annual income and the total fund are important items of information for customers, both in understanding the product they are buying and in planning for their retirement.

4.41 Firms may wish to think about the way they present this information to ensure it is consumer focused, increases customer engagement and enables their customers to understand the relevance of the information.

Q17: Do you agree that the projection of an annual income in retirement and a projection of the total fund is still useful and therefore this rule should not be amended?

4.42 The requirement for annual pension statements for both contract-based and trust-based schemes comes from DWP regulations requiring the Statutory Money Purchase Illustration to be sent. We have discussed this with the DWP and understand that they will be proposing changes in this area in due course.

4.43 Stakeholders have commented that the lifestyling applied within pensions is no longer appropriate, as the 'end goal' for the accumulation phase should not be assumed to be an annuity. We do not set any specific requirements relating to lifestyling. Providers should consider whether the lifestyling used within their funds remains appropriate. They should also consider what communications they make to their customers when the lifestyling starts.

4.44 Over time it may become clearer what decisions are most commonly being made at retirement, which will inform what default investment may be appropriate. In addition, over time, as pensions built up under automatic enrolment become bigger, customers may become more engaged earlier in planning their options at retirement. Firms should be encouraging their customers to engage in thinking about their retirement plans and options well in advance.

Customers taking action with their pension fund

4.45 We do not believe that there should be a requirement for providers to check whether a customer has taken the guidance before they buy a product or take their cash. It is likely that firms will want, for their own purposes, to monitor how many of their customers use the guidance. We believe this would be helpful to firms in monitoring how effective their signposting is.

4.46 We do not believe that firms should be required to check whether the decision being made by the customer aligns with the guidance they have received (i.e. that it aligns with the information they have provided about themselves and their circumstance). Where the firm itself holds information about the customer that indicates a potential inconsistency with the product they have chosen, they may wish to consider whether it is appropriate to query this with the customer.

4.47 Each of the options available to customers at retirement comes with different tax implications. For example, annuities are taxed as income; funds taken as cash will be taxed at the customer's marginal tax rate; and taking funds as cash or using income drawdown affects the ability to access tax-free cash from any additional pension savings made in the future.

4.48 We believe it is important for customers to be reminded of the potential consequences, so we propose a new requirement on providers to provide their customers with a description of the possible tax implications when they apply to access some or all of their pension fund using any of the options available.

> **Q18: Do you agree with the proposal to add a requirement for providers to provide their customers with a description of the possible tax implications when they are applying to access some or all of their pension fund using any of the options available?**

4.49 There may be customers who take no action and do not respond to any communications made by the provider. Some firms have clauses in their contracts that mean they automatically annuitise pension customers at a certain age. Firms will wish to consider how they operate these contractual clauses in the new retirement landscape and ensure the processes around seeking to trace customers are appropriate.

Ongoing supervision of firms following the Budget reforms

4.50 We have focused on the strategies and behaviour of firms in the retirement market over the past 18 months through the thematic work we have done in this area. We published guidance for firms following the budget announcement in April.[4]

4.51 This area continues to be a high priority for us and we will monitor changes to firms' business models and new product developments arising from the Budget so we can intervene early if we see any risks to consumers.

4 Budget 2014 – Pension reforms: guidance to firms in the interim period: http://www.fca.org.uk/news/fg14-03

Annex 1
Cost benefit analysis

Rule changes

1. Sections 138I of the Financial Services and Markets Act 2000 (FSMA) require us to publish a cost benefit analysis (CBA) when proposing draft rules, unless there will be no increase in costs or an increase in costs of minimal significance.

2. After careful consideration, including the appropriate comparison, we have concluded that the proposed rule changes will result in an increase in costs but that increase will be of minimal significance. Consequently, the FCA is not required to publish a CBA (section 138L).

Proposed standards

3. The delivery model and overall cost of the Guidance Service are matters for the Treasury. We are consulting on the standards on the basis that the legislation will be brought forward and passed by Parliament and given Royal Assent to give us a formal role to set these standards. This does not therefore trigger the section 138I requirement to publish a CBA.

4. We note that, prior to the publication of this paper, we gave both MAS and TPAS sight of the proposed standards for the guidance guarantee as outlined in this paper. Based on the initial conversations we have had with them, it is our current understanding that the operational nature of delivering the guidance service to the standards laid down here will be similar to the way in which they currently operate their existing services. We would therefore expect the incremental changes (including incremental costs) that would result from the implementation of the standards to be low overall.

Guidance levy

5. We have not undertaken assessment of the costs at this stage as we are seeking views on provisional proposals. We will consult on draft levy rules in our annual fees policy consultation paper in October 2014.

> **Q19: What are your views on the approach taken on costs and benefits?**

Annex 2
Compatibility statement

Compatibility with the FCA's general duties

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

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

3. Our proposals are intended to ensure that the market for retirement products functions well and advance our operational objective of securing an appropriate degree of protection for consumers (section 1C FSMA).

4. In preparing our proposals, we have had regard to the factors set out at section 1C(2) FSMA, the regulatory principles set out in section 3B of FSMA and the importance of taking action intended to minimise financial crime as part of section 1B(5)(b) of FSMA.

5. The standards for delivery providers are proposed in anticipation of new duties and powers that the Treasury have proposed for us to set and monitor standards on the delivery partners involved in the Guidance Service.

6. We are amending our rules to require firms to point consumers to the new service. This will be something we will be required to do under proposed legislation.

7. The remaining proposals for changes to our Handbook are to ensure adequate consumer protection in the new retirement landscape and ensure our requirements are technically correct and continue to have the intended effect following the wider reforms to options at retirement.

8. Our proposals are driven by the requirement that will be placed on us to require firms to signpost their customers to the guidance. We believe the remaining rule proposals do not require significant changes for affected firms as they are largely a clarification of the existing requirements. We do not believe the impact on mutuals will be any different to the impact on other firms in the pension and retirement market. The wider reforms to retirement options mean that firms have to make changes to their systems and strategies and our approach has been to minimise any additional changes in our rule proposals and to allow firms flexibility in incorporating the requirements into their existing processes.

9. We decided on a two-month consultation period due to the short timescales before the wider retirement reforms come into effect. Stakeholders have been keen to get further detail and clarity and a two-month consultation period will help us give them that as soon as possible.

Annex 3
List of questions

We would like to invite your responses to the following questions. Please ensure that your responses reach us by **22 September 2014**.

Q1: Do you have any comments on the proposed standards for the delivery partners?

Q2: Do you agree with the proposed use of the FCA periodic fees framework to collect the retirement guidance levy? If no, please provide alternatives and set out how they would be implemented.

Q3: Do you agree that firms in the proposed five retirement guidance fee-blocks (Table 3.1) only should contribute to the retirement guidance levy? If no, please provide your reasons.

Q4: Do you agree that firms in the remaining fee-blocks set out in Table 3.2 should not contribute to the retirement guidance levy? If no, please provide your reasons.

Q5: Do you have any comments on the three options for allocating the overall levy across the five retirement guidance fee-blocks? If you do not agree with any of these options please advise us of your proposed alternative allocation options.

Q6: Do you agree with the proposed content of the signposting information? If no, please provide alternative suggestions.

Q7: Do you have any thoughts on the standardisation of this information for the future?

Q8: Do you agree with the proposal to align the timing of the signpost with the existing timing requirements for wake-up packs?

Q9: Do you agree with the proposal to introduce a transitional provision to ensure that those receiving wake-up packs before April 2015 do not miss out on being signposted to the guidance?

Q10: Do you agree with the proposal to add this guidance?

Q11: **Do you agree with the proposal that firms should refer to the availability of the guidance whenever they are communicating with a customer about retirement options?**

Q12: **Do you agree with our proposal to clarify the information provision requirement and add guidance on information that should be included?**

Q13: **Do you have any comments on whether further requirements should be placed on provider behaviour and communications?**

Q14: **Do you agree with the proposal to remove the reference to maximum withdrawals and require a general statement about sustainability of income?**

Q15: **Do you agree with our proposal to remove the reference to maximum withdrawals in COBS 13 Annex 2 2.9R?**

Q16: **Do you agree that there do not need to be any changes to the key features contents rules? If no, please explain why.**

Q17: **Do you agree that the projection of an annual income in retirement and a projection of the total fund is still useful and therefore this rule should not be amended?**

Q18: **Do you agree with the proposal to add a requirement for providers to provide their customers with a description of the possible tax implications and of the availability of the Guidance Service when they are applying to access some or all of their pension fund using any of the options available?**

Q19: **What are your views on the approach taken on costs and benefits?**

Appendix 1
Draft Handbook text

Appendix 1

CONDUCT OF BUSINESS (RETIREMENT GUIDANCE GUARANTEE) INSTRUMENT 2014

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in or under:

(1) the following sections of the Financial Services and Markets Act 2000 ("the Act"):

(a) section 137A (The FCA's general rules)
(b) section 137T (General supplementary powers);
(c) section 139A (Power of the FCA to give guidance);
(d) section 395 (The Authority's procedures); and

(2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the FCA's Handbook.

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 (Retirement Guidance Guarantee) Instrument 2014.

By order of the Board of the Financial Conduct Authority
[*date*]

Annex

Amendments to the Conduct of Business sourcebook (COBS)

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

9.4 **Suitability reports**

…

Additional content for income withdrawals

9.4.10 G When a *firm* is making a *personal recommendation* to a *retail client* about *income withdrawals* or purchase of *short-term annuities*, explanation of possible disadvantages in the *suitability report* should include the risk factors involved in entering into an *income withdrawal* or purchase of a *short-term annuity*. These may include:

…

(4) ~~when maximum withdrawals are taken or the maximum short-term annuity is purchased, high level~~ the levels of income provided may not be sustainable; and

(5) ~~[deleted]~~ there may be tax implications.

…

13 Annex 2 **Projections**

…

R			
Additional requirements: drawdown pensions			
2.9	…		
	(2)	A *standardised deterministic projection* for a *drawdown pension* must be based on an assumption that the current gilt-index yield will continue to apply throughout the relevant term and include:	
		(a)	~~where relevant the maximum initial income specified in the tables published by the Government Actuaries Department for a *drawdown pension*;~~ [deleted]
		…	

…

19.4 ~~Open market~~ Retirement options

19.4.1 R In this section:

…

(2) '~~open market option~~' 'retirement options' means the options available to a scheme member to use the proceeds of a *personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* ~~to purchase an annuity on the open market~~ at retirement, including that the proceeds can be used on the open market; and

(3) '~~open market~~ retirement option statement' means information provided in a *durable medium* to assist the *retail client* to make an informed decision about their retirement options and must include:

(a) the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a written statement that gives materially the same information; ~~together with a written summary of the *retail client's* open market option, which is sufficient for the *client* to be able to make an informed decision about whether to exercise, or to decline to exercise, an open market option; or~~

(b) ~~a written statement that gives materially the same information~~ information about the *retail client's personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* together with a statement of:

(i) the current value of the pension;

(ii) whether any guarantees apply; and

(iii) any other relevant special features, restrictions, or conditions that apply, such as (for *with-profits funds*) any market value reduction conditions in place;

(c) any other information relevant to the exercise of the *retail client's* retirement options; and

(d) a clear and prominent statement about the availability of the guidance service including:

(i) how to access the service and its contact details;

(ii) that the service can be provided face to face; and

(iii) that the service is a free impartial service to help consumers to understand their options at retirement.

19.4.2 R (1) If a *retail client* asks a *firm* for a retirement quotation more than four *months* before the *client's* intended retirement date, the *firm* must give the *client* ~~an open market~~ a retirement option statement with or as part of its reply, unless the *firm* has given the *client* such a statement in the last 12 *months*.

(2) If a *firm* does not receive such a request, it must provide a *retail client* with ~~an open market~~ a retirement option statement between four and six *months* before the *client's* intended retirement date.

19.4.3 R The *firm* must:

(1) remind the *retail client* about the ~~open market~~ retirement option statement; and

(2) tell the *client* what sum of money will be available to ~~purchase an annuity on the open market~~ exercise a retirement option;

at least six weeks before the *client's* intended retirement date.

19.4.4 R If a *retail client* with ~~an open market~~ a retirement option tells a *firm* that he is considering, or has decided:

(1) to discontinue an *income withdrawal* arrangement; or

(2) to take a further sum of money from his pension ~~to buy an *annuity* as part of a phased retirement~~ to exercise a retirement option,

the *firm* must give the *client* ~~an open market~~ a retirement option statement, unless the *firm* has given the *client* such a statement in the last 12 *months*.

19.4.5 G An example of behaviour that is likely to contravene the *client's best interests rule* or *Principle* 6 and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from using the guidance service referred to in *COBS* 19.4.1R(3)(d), including by:

(1) holding itself out as providing, or referring the *client* to another person who holds itself out as providing, an equivalent service;

(2) leading the client to believe that using the guidance service is unnecessary or would not be beneficial; or

(3) obscuring the statement about the availability of the guidance service or any other information relevant to the exercise of the retirement options.

19.4.6 R If a *firm* communicates with a *retail client* about that *client's* retirement options, the *firm* must refer in that communication to the availability of the guidance service referred to in *COBS* 19.4.1R(3)(d) and offer to provide the *client* with the information about how to access that service under *COBS* 19.4.1R(3)(d).

19.4.7 R If a *firm* receives an application from a *retail client* to access some or all of the proceeds of a *personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract*, the *firm* must provide the *client* with a description of the tax implications of doing so before the *client* accesses those proceeds.

…

TP 2 Other Transitional Provisions

(1)	**(2)**	**(3)**	**(4)**	**(5)**	**(6)**
	Material to which the transitional provision applies		Transitional provision	Transitional provision: dates in force	Handbook provisions: coming into force
…					
2.24	*COBS* 19.4.3R	R	If a *firm* has provided the *retail client* with an open market option statement in accordance with *COBS* 19.4.2R but has not provided a 6 week reminder before 6 April 2015, the *firm* must: (1) tell the *client* what sum of money will be available to exercise a retirement option; and (2) provide the *client* with a retirement option statement; at least six weeks before the *client's* intended retirement date.	From 6 April 2015 to 5 August 2016	6 April 2015

Financial Conduct Authority

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