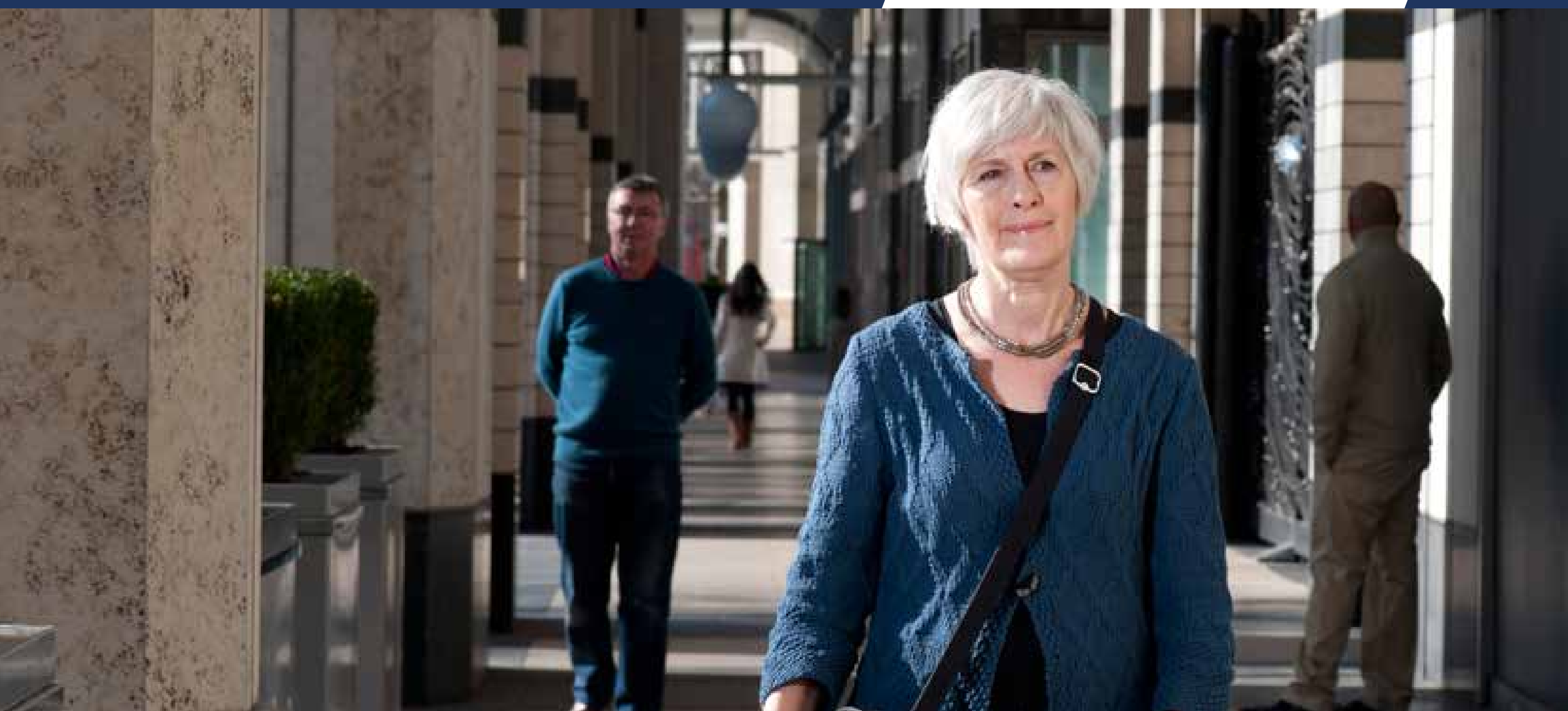
Financial Conduct Authority

Policy Statement PS14/17

Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11

November 2014



Contents

In this Policy Statement we report on the main issues arising from Consultation Paper 14/11 Retirement reforms and the Guidance Guarantee and publish the near final rules.

Please send any comments or queries to:

Emily Pinkerton
Policy Risk and Research Division
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 1450
Email: cp14-11@fca.org.uk

You can download this Policy Statement from our website: www.fca.org.uk.

Abbreviations used in this paper

CAB	Citizens Advice Bureau
CBA	Cost benefit analysis
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
MAS	Money Advice Service
TPAS	The Pensions Advisory Service
TPR	The Pensions Regulator

1. Overview

Introduction

1.1 In July we consulted on the standards for the bodies delivering the guidance guarantee, 'designated guidance providers'[1], and changes to our Handbook resulting from the wider pension reforms. Both aspects of this consultation are linked to the passage of the Pension Schemes Bill[2] (the Bill) currently going through Parliament.

1.2 This Policy Statement (PS) summarises the responses we received to our Consultation Paper (CP) CP14/11 and publishes near final standard and rule instruments. This Policy Statement and the near final instruments in it have been prepared on the basis that the Bill will be passed by Parliament and given Royal Assent in its current form. We propose to make these instruments as soon as possible after the Bill receives Royal Assent.

1.3 In CP 14/11 we also asked some questions on raising the levy to fund the pensions guidance service.[3] The responses to this have been taken into account in the proposals in the annual consultation on FCA fees CP 14/26.

1.4 This PS also contains further information on the monitoring role of the FCA in relation to the standards and about further work we intend to undertake as a result of the wider pension reforms. We expect to collect a separate levy from designated guidance providers to fund FCA monitoring of compliance with the standards.[4]

Who does this affect?

1.5 This PS will be relevant to all those with an interest in the pensions and retirement space, including:

- Providers of pensions and retirement income products.
- Designated guidance providers.
- Trustees of Defined Contribution (DC) pension schemes (and schemes with a DC element).
- Employer sponsors of DC schemes (and schemes with a DC element).

1 In our consultation paper we referred to 'delivery partners'. The Pension Schemes Bill uses the term 'designated guidance providers' to describe those who will be subject to the standards. Initially these will be The Pensions Advisory Service and Citizens Advice.

2 Pensions Schemes Bill 2014-15 http://services.parliament.uk/bills/2014-15/pensionschemes.html

3 If enacted, the Pension Schemes Bill will require us to collect a levy to fund the pensions guidance service.

4 If enacted, the Pension Schemes Bill will require us to recover the costs of our functions in relation to the pensions guidance service from designated guidance providers.

- 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?

1.6 The standards and rules will affect all consumers who have DC pension funds, and those who will have these pensions in the future. They will play a key role in determining the way in which consumers interact with the pensions and retirement markets in future.

Context

The Budget proposals

1.7 The 2014 Budget announced proposals for 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 (in one lump sum or in smaller amounts over time[5]), and/or
- buy an annuity (or other income generating guaranteed products that may emerge), and/or
- use drawdown without any limits applied, and/or
- use a combination of these

1.8 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. The Government announced in July that the Treasury would hold responsibility for overall service design and getting it up and running for April 2015, working with relevant experts and designated guidance providers. The objective of the pensions guidance service is to help empower consumers to make informed and confident decisions on how they use their pension savings in retirement.[6]

5 This is termed an 'uncrystallised pension fund lump sum', or 'UFPLS' within the Taxation of Pensions Bill 2014-15 http://services.parliament.uk/bills/2014-15/taxationofpensions.html.

6 Freedom and choice in pensions: government response to the consultation https://www.gov.uk/government/consultations/freedom-and-choice-in-pensions.

It will not be mandatory for people to take this guidance to access their pension savings, but they will be signposted to the pensions guidance service before they do. We would encourage consumers to seek appropriate guidance or advice to understand their choices at retirement.

1.9 To ensure the conduct of the designated guidance providers is subject to appropriate controls, the Government has brought forward legislation in the Bill to establish a separate FCA standards regime. This gives us duties and powers to set standards and monitor designated guidance providers compliance with those standards.

The roles of the Treasury and the FCA

1.10 The Treasury has strategic responsibility for delivering the pensions guidance service, including through designated guidance providers. This responsibility includes:

- setting the aims of the pensions guidance service
- defining the scope of the service and who it is aimed at
- deciding on the approach to different delivery channels, and
- designating the organisations that will deliver the guidance

1.11 The designated guidance providers that will initially deliver the pensions guidance service were announced by the Treasury in October 2014. The Pensions Advisory Service (TPAS) will deliver telephone guidance, and face-to-face guidance will be delivered through the Citizens Advice Bureaux (CAB). The Treasury will lead on the digital element of delivery of the guidance but will not be a designated guidance provider. The pensions guidance service will have a single identifiable brand and the Government's intention is that this will be seen as one service from the users' perspective and that the conversations and outcomes are consistent across the delivery channels.

1.12 The Treasury will have funding oversight of the designated guidance providers and responsibility for implementing the pensions guidance service. The Treasury will have responsibility for selecting and managing the designated guidance providers.

1.13 The FCA has designed the current standards at the implementation stage of the service. As the service develops, we will review how the standards are operating in practice. The pensions guidance service is a new type of service being delivered in a unique way in an area of the market that is in a state of change. It is almost inevitable that there will be a need to make changes to the standards as the service moves from initial implementation to steady state over time. A summary of responses to the consultation on the standards and our response to them is set out in chapter 2.

1.14 Where FCA monitoring identifies that a designated guidance provider has failed to comply with our standards, we will be able to recommend that the guidance partner take remedial steps. Should the provider continue to fail to comply with our standards, we can recommend that the Treasury give a direction to the designated guidance provider if necessary. We describe our initial thinking and next steps on monitoring in chapter 3.

Funding the pensions guidance service

1.15 The Bill sets out a levy on regulated financial services firms, which will be collected by the FCA on behalf of the Treasury. CP14/11 contained questions on how this levy should be apportioned. The responses to this element of the consultation have been taken into account in the proposals in the annual consultation on FCA fees CP 14/26.

Relationship between the Budget proposals and FCA requirements on firms

1.16 Our proposals in CP14/11 dealt with the immediate changes necessary for April 2015 in light of the guidance guarantee and firms providing pension and retirement products following the wider pension reforms. In particular we focused on the communications process as customers approach retirement.

1.17 In the future, consumers are likely to use retirement products in different ways and there are new options for accessing money from a DC pension fund. Where there are product-specific rules relating to pension and retirement products they were designed for a different environment than that which will exist after April 2015.

1.18 In CP14/11 we signalled that our approach was to change rules to facilitate the introduction of the pension freedoms in April 2015 and that we expected to consult on further changes in due course. We will undertake a review of all the requirements in this area in the first half of 2015 and consult on changes as necessary. This work will take into account the results of the thematic review of annuity sales practices and the provisional findings of the Retirement Income Market Study.

1.19 We take our role in protecting consumers as they interact with financial services firms in the pensions and retirement market very seriously. This means both ensuring that appropriate requirements are placed on firms and also monitoring the behaviour of firms in this market. Pensions and retirement is a high priority area for the FCA both from a policy and supervisory perspective. We are gathering intelligence on the development of products, distribution propositions and the behaviour of firms in this market to inform our policy and supervisory approach.

1.20 We will be alert to scams in the new pensions and retirement income market, building on the focus we already have on pensions liberation and associated investment scams. We will actively monitor the market for firms falsely behaving in a way which indicates that they are giving a pensions guidance service under arrangements with the Treasury. We will take tough and meaningful action against such firms where appropriate, in line with our wider strategy of credible deterrence. When passed, the Bill will make it an offence, punishable by a maximum sentence of up to one year imprisonment[7], for a person to falsely for a person to falsely describe themselves or behave (or otherwise hold themselves out) in a manner which indicates that they are giving pensions guidance under arrangements with the Treasury.

1.21 We set out the next steps in this area alongside the responses to the consultation on Handbook changes in chapter 4.

Summary of feedback and our response

1.22 The majority of respondents broadly agreed with the proposed standards and rules set out in CP14/11.

7 Pension Schemes Bill 2014-15 http://parliament.uk/bills/2014-15/pensionschemes.html Schedule 4 amending The Financial Services and Markets Act 2000. Paragraph 2 proposed new section 333G in Part 20A.

1.23 The standards that received the most specific comments were 'professional standards' and 'content of the session' where respondents asked for more detail and prescription. We have made changes to the standards in the near final instrument. Further detail is contained in Chapter 2 which also summarises responses to the consultation on the standards, and provides further context on the standards as a whole.

1.24 We received many useful comments on the proposed rule changes. Overall, respondents agreed with the policy intention we had set out. The main areas of comment were:

- concerns about those receiving information from their provider before April 2015 needing to be told earlier about the guidance
- the information to be given by providers to customers approaching retirement with a number of respondents saying the proposed requirements were too broad
- the requirement for providers to refer to the pensions guidance service in all communications about retirement options with respondents feeling it was unclear when this would be required, and
- technical points raised around drawdown

1.25 We have made changes and provided clarification in these areas in the near final rules. Overall, the policy intention remains broadly the same.

1.26 Responses to the consultation and subsequent conversations with stakeholders have highlighted broader concerns about the risk of consumers making poor decisions, particularly where they do not take up the guidance. Some stakeholders have called for a 'backstop' or 'second line of defence' for those who do not take the guidance. We believe that there are existing requirements on firms that bite in this area and we are strengthening the proposed amendments in light of responses. We will undertake more analysis to identify whether further requirements on firms are necessary.

1.27 Further detail on this and the responses to our proposed rule changes and our response is included in chapter 4.

Next steps

What do you need to do next?

1.28 Firms that operate personal and stakeholder pensions will need to act to make the necessary changes to enable them to comply with the final rules once they are made and come into force. In order to facilitate this, we have published 'near final' rules in this Policy Statement.

1.29 Organisations designated by the Treasury as designated guidance providers need to ensure that they are designing their services in line with the near final standards published in this policy statement. The Treasury will play a key role in delivery of the service through delivering the digital channel. The Treasury itself is not a designated guidance provider. However, the Treasury has told us that it will act in line with the standards in the role it plays in implementing the pensions guidance service.

1.30 We will continue to engage with the Treasury and the designated guidance providers as the pensions guidance service is implemented. We will also engage with them as we develop our monitoring approach.

What will we do?

1.31 We anticipate formally making the standards and rules published as near final in Appendices 1 and 2 of this document as soon as possible if the Bill is passed in its current form. Royal Assent is currently expected in the new year before the end of this Parliamentary session.

1.32 We will undertake a thorough review of the rules in the pension and retirement area in 2015 as we seek to ensure there is appropriate consumer protection in place following the reforms to the pension and retirement market. We expect to publish the results of our thematic review of annuity sales practices and the provisional findings of our Retirement Income Market Study in due course. We will use the outputs from both pieces of work to inform our wider review.

1.33 The following table sets out the expected sequence of events over the next few months.

Date	Event
November 2014	Near final rules and standards published in this policy statement.
Q1 2015	Royal Assent expected. Pensions guidance service expected to become available. Final rules and standards to be made as soon as possible following Royal Assent. Requirements on firms to point customers to the pensions guidance service requirements come into force following Royal Assent (part 1 of rules instrument).
First half of 2015	Consultation on our policy for making recommendations to designated guidance providers and the Treasury as part of our monitoring approach. Development of monitoring approach in liaison with the Treasury and designated guidance providers. Wider review of FCA rules in the pensions and retirement area.
Second half of 2015	Full review of designated guidance providers' compliance with the standards.

2. Standards for designated guidance providers

2.1 In CP 14/11 we set out proposed standards for the designated guidance providers delivering the pensions guidance service. In this chapter we summarise the feedback to the proposed standards and provide our response to that feedback.

2.2 As set out in chapter 1, the Treasury has strategic responsibility for delivering the pensions guidance service including through designated guidance providers. As part of this role, the Treasury will set the aims of the pensions guidance service, define the scope of the service, and who it is aimed at, and decide on the approach to different delivery channels. The Treasury may also put in place cross-service processes or systems, which designated guidance providers can participate in, rather than putting in place their own. The Treasury has told us that it will ensure that any such cross-service processes or systems comply with the standards.

2.3 The Treasury will designate the organisations that are subject to the standards and will also deliver the digital element of the pensions guidance service itself but will not be a designated guidance provider. However, the Treasury has told us that it will act in line with the standards in the role it plays in implementing the pensions guidance service.

2.4 The FCA's role in relation to the pensions guidance service is to set the standards that the designated guidance providers must adhere to and monitor their compliance with the standards. While it is the Treasury that must ultimately give directions regarding compliance with the standards, we must monitor the compliance and make recommendations regarding compliance, to the designated guidance providers and the Treasury. We comment further on our monitoring role in chapter 3.

2.5 As set out in our consultation, 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 designated guidance providers 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.

2.6 The purpose of the standards is to set the framework within which the pensions guidance service must be delivered. The Treasury and the designated guidance providers will work together on the operational detail of the pensions guidance service and the designated guidance providers must deliver this in accordance with the standards.

2.7 Overall, there was broad agreement with the areas covered by the proposed standards. There were calls for more detail on some of the standards, in particular 'professional standards' and 'content of the session' as well as clarification of our intention. We have therefore made amendments to the standards to address these two broad issues. Some respondents questioned whether or not the consumer journey that we outlined in the consultation paper formed part of the standards and others felt it should be part of the standards. We did not intend the consumer journey to form part of the standards; rather, it was an illustration of how we saw the journey. However, based on the responses, in particular the calls for more detail, we have included some parts of the consumer journey in the standards.

2.8 Many of the comments we received on the standards indicated confusion about the different roles and responsibilities of the Treasury and the FCA in relation to the guidance guarantee, as well as confusion about the model for delivery of the guidance. Some respondents suggested that it would be for the provider or trustee to choose a designated guidance provider for their scheme or questioned how the consumer would be allocated a designated guidance provider. Other comments we received related to the operational detail of the pensions guidance service, for example detail about the types of systems and controls designated guidance providers should have in place. As implementation is a matter for the Treasury and designated guidance providers, we have shared these comments with the Treasury so they can consider them as they develop the pensions guidance service.

2.9 A few respondents felt that that the designated guidance providers should be subject to FCA authorisation. However, the Government has decided this would not be appropriate and announced its intention to clarify that organisations designated by the Treasury as official providers of the guidance, and subject to the standards, will not need to be authorised for this activity.

2.10 We asked for views on these standards.

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

2.11 We set out below the feedback[8] and our response to each standard that we proposed. It should be noted that the Pension Schemes Bill will require us to set standards for the designated guidance providers.

Free at the point of delivery

2.12 Of the respondents who commented on this standard, all supported the principle that the pensions guidance service must be free to consumers at the point of delivery.

2.13 One respondent commented that consumers should not incur call charges when telephoning the pensions guidance service and that the phone lines should be open in the evenings and weekends.

8 Please note that not all respondents to the consultation commented on the standards section of the paper. Therefore, in this section when we talk about the responses received on each of the standards this only relates to those respondents who commented.

Our response

We welcome the support for this standard and will not make any change to the standard. We have shared the comment regarding call charges with the Treasury.

Delivering the guidance

2.14 A number of respondents questioned how a designated guidance provider that is responsible for only one delivery channel would ensure that there was consistency across other delivery channels. In particular respondents were unsure how designated guidance providers would demonstrate compliance with this standard. Other respondents commented on the importance of ensuring consistency of service between the designated guidance providers.

2.15 One respondent suggested that the wording of the standard could be broadened to ensure that a service delivered by multiple partners is consistent and high quality across the delivery channels.

2.16 Several respondents commented on the ability of vulnerable consumers to access the guidance, with some suggesting this should be explicitly set out in the standard.

2.17 Some respondents felt that ensuring consumers had timely access to the service should also be included in this standard.

Our response

In part, we believe that some of the comments received in relation to this standard indicated a misunderstanding of the delivery model.

The intention of this standard was to set out at a high level how the guidance should be delivered to ensure that it was consistent and of good quality, as well as set out what the designated guidance provider could not do as part of the delivering the pensions guidance service. We agree that it is important that the consumer experience must be consistent and of a good quality across the delivery channels.

The responses received indicate that this standard could be clearer. Therefore, we have amended the wording and brought together the areas where we believe the designated guidance providers should co-operate and work together. In this regard, we believe that ensuring the service is of a good quality should be the responsibility of each designated guidance provider individually. We have separated our 'quality' standard from the standards designed to ensure that designated guidance providers should work together.

We believe it is essential to safeguard the interests of consumers and, where possible, the consumer should have the experience of a single journey through the pensions guidance service, even if they use multiple channels. We have included requirements on the designated guidance providers to reflect this.

We agree that the service must be accessible by consumers, and therefore have included a requirement that it is accessible in accordance with relevant equalities legislation.

We also agree that designated guidance providers must ensure consumers have timely access to the service and have added a requirement to reflect this.

We have amended the standard that sets out what a designated guidance provider can and cannot do in their role of providing guidance. We want to make clear that the designated guidance provider cannot sell, arrange, or facilitate the sale of, or explicitly or implicitly recommend a financial service or product or introduce or explicitly or implicitly recommend a provider of a financial service or product or a financial adviser. In doing so, we also want to ensure that the designated guidance provider is not prevented from delivering the guidance envisaged and have included wording to this effect.

In reviewing this standard post-consultation, we also felt that the designated guidance provider should not receive any incentives, whether financial or otherwise (excluding the funding from the Treasury provided for in the Pensions Schemes Bill), and we have included a standard to reflect this.

Professional standards

2.18 Overall, comments focused on whether there should be more detail about what is expected of the guides regarding the level of experience and qualification required. Some respondents felt that this should be set out in detail; other respondents felt that more detail could be given without being prescriptive. These responses recognised that competence can be delivered in a number of ways and therefore the standard should be flexible to accommodate this.

2.19 Some respondents questioned how this standard would be monitored and one respondent questioned whether the standard applied to web-based delivery, for example web chats.

Our response

We agree that competence can be demonstrated in a number of ways and recognise that the pensions guidance service is a new service with different designated guidance providers responsible for different elements of delivery. Furthermore, new qualifications for pension professionals more generally are also being developed to take account of the new pension flexibilities. At this stage we do not intend to prescribe the specific qualifications or years of experience that should apply.

In the context of the pensions guidance service, we believe competence means having the necessary skills, knowledge and expertise to deliver guidance. This includes both those delivering the guidance and where relevant, those designing or approving any processes, models or tools, including internet-based material. Specifically, both those individuals involved in delivering the guidance and those designing or approving processes, models or tools must have certain technical knowledge, including understanding what designated guidance providers can and cannot do in accordance with standards 8 and 9. In addition, those individuals delivering the guidance should also have appropriate interpersonal skills. We have added detail to the standard to reflect this.

It was not our intention to exclude any web-based delivery, for example web chat from the standard; we have changed the wording of the standard to clarify this.

Communications

2.20 Overall, respondents agreed with this standard. One respondent felt that clarity should be added so that designated guidance providers understood the meaning of fair, clear and not misleading. Another respondent suggested that the standard should be re-worded to require the designated guidance providers to have due regard to the needs of individual consumers, to take account of communicating, for example, in braille or large print.

Our response

While we believe the standard is set at the right level, we have made a minor drafting change to clarify that fair, clear and not misleading applies when the designated guidance provider communicates information to the consumer.

As noted in our response to the standard on delivering the guidance, we have inserted a requirement to ensure that the service is accessible in accordance with relevant equalities legislation.

Systems and controls

2.21 Overall, respondents agreed with this standard, with some respondents suggesting more detail that should be added to the standard. For example, that systems should allow the sharing of information between designated guidance providers, that designated guidance providers should use the same online system to record data and produce reports, and that designated guidance providers should have a third party authorisation system in place so that consumers can nominate a third party to act on their behalf.

Our response

We believe the suggestions regarding additional detail that could be added to this standard, for example putting in place a third party authorisation system, are implementation issues. We have shared these comments with the Treasury so it can consider them as it develops the pensions guidance service.

To allow appropriate monitoring of compliance with the standards, we have added a requirement for designated guidance providers to maintain orderly records regarding the provision of the service.

Complaint management

2.22 Of the respondents who commented on this standard, the majority agreed that designated guidance providers should have in place a system to investigate complaints. Some respondents expressed caution about making this an onerous process while others felt that more detail should be added to the standard. For example, setting out what consumers can complain about, how complaints should be made, the timeframe for dealing with complaints, and the redress available should a complaint be upheld.

2.23 Some respondents suggested that the complaint process should be standardised across designated guidance providers.

2.24 Some respondents commented on redress, calling for clarity about what redress is available and that any redress should be paid out of the designated guidance providers existing budget and not at an additional cost to the industry.

Our response

We do not intend to be prescriptive about the complaints process in this standard. However, we want to ensure that consumers have access to a complaint management system that is fair, consistent and prompt and that at appropriate times, the availability of the complaints process must be communicated to the consumer. We intend to make changes to the standard to reflect this. The change to this standard is also needed to take account of any cross-service systems and processes that the Treasury may develop and therefore flexibility is needed.

To allow appropriate monitoring of compliance with this standard, we will also require the designated guidance providers to maintain a record, with appropriate details of the complaints received.

Guidance input

2.25 Responses on this standard were focused on two areas. Firstly, that the 'guidance input' should be consistent across the designated guidance providers, with one respondent suggesting that the FCA and Government should agree the information and develop a template. Secondly, respondents commented on the timing of when consumers should be told about the information they would need for the session. Those respondents that commented suggested that this should be done in advance of the session, with consumers encouraged to collect the information. Some respondents suggested that consumers should have the opportunity to pre-populate and possibly upload a form with their information before the session.

Our response

We intend to add detail into the 'content of the guidance session' standard regarding the areas of information that the designated guidance providers should request from the consumer during the guidance session.

Given this, there is no need for the designated guidance providers to agree the information that will be requested from the consumer so we have deleted this standard.

We acknowledge there are potential benefits in informing consumers in advance of the session about the information, or type of information, they will need for the session. In practice, the responsibility to supply information will fall to a number of parties including providers, trustees and the designated guidance providers. Ultimately, these parties will need to work together to ensure that the right information is given to consumers at the right time – both as they approach retirement and on request when they have booked a retirement guidance session. Furthermore, there is a balance to be struck between informing consumers in advance so they can make the most of the session and overwhelming consumers to the point of putting them off taking the guidance. While designated guidance providers may do so if they wish, at this stage we do not intend to require the designated guidance providers to inform consumers before the session about the type of information the consumer may wish to gather before the session, we will keep this under review.

Content of the guidance session

2.26 Of the respondents who commented on this section, most gave examples of detail that they felt should be covered in the guidance session, for example investment risk, inflation risk and capital preservation.

2.27 In line with the comments received on the guidance input standard, many respondents commented on the timing of requesting relevant information from the consumer at the beginning of the session, noting that this did not allow time for the consumer to prepare for the session.

Our response

We agree that further clarity should be added to this standard. We have therefore set out, as an example, the information that we believe should be requested from the consumer during the guidance session regarding their accumulated pension pot(s) and their financial and personal circumstances. This information follows the outline of the consumer journey in the consultation.

As noted above in our response on the guidance input, we acknowledge there are potential benefits of informing customers in advance of the session about the information, or type of information, they would need for the session. However, given that in practice there are multiple parties involved in the process, at this stage we do not intend to require the designated guidance providers to inform consumers before the session about the type of information the consumer may wish to gather before the session. We will keep this under review.

Next steps

2.28 Many respondents commented that the designated guidance provider must make the next steps clear in order to equip the consumer to take action. Some respondents felt that consumers should be told they can use the pensions guidance service again, while acknowledging that the purpose, scope and limitations of the guidance would remain the same.

2.29 Some respondents felt that standards should be set for any directory to which the designated guidance providers may refer a consumer.

Our response

We agree that the next steps for the consumer should be as clear as possible and believe that the standard is set at the right level to achieve this.

While not changing the intention of this standard, we have amended the wording of the standard to remove duplication with other standards, and ensure that the requirements on designated guidance providers are clear.

Regarding the standards for any directory that the designated guidance providers may refer to, there is an obligation on the designated guidance providers to periodically assess that the destinations of the referrals are of good quality.

We also believe that the issue of whether consumers are allowed multiple visits to the pensions guidance service is, at this stage, better considered as an implementation issue and therefore we do not intend to change the standard. We have shared the comment with the Treasury.

Finally, we have made a change to the standard to clarify our intention that the sources of further information, guidance, advice, support tools and directories that the designated guidance provider signposts to and not the signpost itself, should be relevant and are periodically assessed to be of a good quality.

Guidance output

2.30 Many of the responses to this standard focused on the content of the output and suggested extra detail that should be included. For example, a list of the key information provided by the consumer and on which the guidance was based, illustrations on key factors such as longevity and a health and wealth ‘resilience score’.

2.31 Other comments questioned how the output would be given to the consumer when the session is completed online and over the phone, whether the designated guidance provider needs to retain a copy of the output and, if so, for how long.

2.32 One respondent commented that, while consumers should be given the opportunity to shop around, it was important that the consumer is not led to believe that options provided by their own scheme or provider are inferior to those available on the open market.

Our response

It was our intention that the output would be standardised across the designated guidance providers and channels; we have clarified our intention in the standard. The method of arriving at that output may vary by medium.

We also agree that the output should include the key information provided by the consumer and on which the guidance was based. We have amended the wording of the standard to reflect this. We have also renamed this standard to 'record of guidance session' to accurately reflect what the output of the session is.

We believe the more detailed suggestions of information to be included in the guidance output and the questions regarding how the consumer will receive the output are implementation issues. We have shared these comments with the Treasury.

3.
FCA monitoring role

FCA role set out in legislation

3.1 The Bill sets out our new function to set standards for designated guidance providers and to monitor their compliance. Strategic responsibility for delivery of the service in line with the wider Government policy lies with the Treasury. The FCA role supports the delivery of the service by creating the framework within which the guidance will operate.

3.2 Where our monitoring of designated guidance providers indicates a failure to comply with the standards we will have the power to recommend steps they should take to ensure they are complying and rectifying any breaches quickly. Following a recommendation to the designated pension guidance provider, we can make a recommendations to the Treasury. The FCA will not have any enforcement power, as such, over designated guidance providers. These recommendations must be published unless publication would be against the public interest or otherwise inappropriate. The Treasury will be able to 'direct' the designated guidance provider where we have made a recommendation to them.[9]

Designing a monitoring approach

3.3 We are drawing on expertise and experience across the FCA to develop a proportionate and robust approach to monitoring designated guidance providers. We already use a diverse range of monitoring and supervisory tools in our existing roles.

3.4 However, monitoring of the designated guidance providers will be a very different activity to the supervision of regulated firms. The incentives on these organisations are different to regulated firms. Some supervisory and monitoring tools will not be practical or appropriate for monitoring designated guidance providers. However, others are likely to be adaptable for monitoring designated guidance providers. For example:

- Developing a suite of appropriate monitoring data which we will require designated guidance providers to supply on a regular basis.
- Developing a series of questions and carrying out a self-assessment process with designated guidance providers to understand their view on their own compliance with the standards.
- Consumer research (user experience, mystery shopping).
- Call listening.

9 Pension Schemes Bill 2014-15 http://services.parliament.uk/bills/2014-15/pensionschemes.html Schedule 4 amending The Financial Services and Markets Act 2000. Paragraph 2, proposed new sections 333J, 333K and 333M in Part 20A.

- Detailed reviews of specific issues (similar to thematic supervision approach).

3.5 While we have the power to make formal recommendations to designated guidance providers, we expect (as is the case for our supervision of regulated firms) the majority of our activity to involve conversations with designated guidance providers on a regular basis. The community of designated guidance providers is small, therefore facilitating discussions across all organisations, where appropriate, will be possible.

Policy on making recommendations

3.6 The Bill will require us to develop, consult on and publish a 'policy' on our approach to making formal recommendations to designate guidance providers and the Treasury.[10] We expect this 'policy' to include:

- examples of when we would make and publish recommendations to designated guidance providers and the Treasury, and
- the process for making formal recommendations to designated guidance providers and the Treasury including the mechanisms or firms to make representations before such recommendations are made

3.7 This will help to set expectations for designated guidance providers that do not have experience of acting within a regulatory framework.

Funding the FCA's monitoring role

3.8 The monitoring of designated guidance providers is a new function that is separate from our responsibilities for regulating and supervising authorised firms. As such, the Bill will allow us to collect a separate levy from designated guidance providers to fund our activities in relation to this new function. When we set out our approach to monitoring and policy on recommendations we will include information on cost expectations.

Next steps

3.9 We expect to publish a consultation on the FCA policy for making recommendations to designated guidance providers and the Treasury in the first half of 2015. This will also set out, and invite feedback on, our approach to monitoring more broadly and will include further detail on the resources and budget for this activity.

3.10 Like the standards themselves, our monitoring approach will develop over time through the implementation phase and on into ongoing delivery of pensions guidance. For example, in the implementation phase the Treasury will play a central role in designing the service and managing the designated guidance providers. In the future designated guidance providers may change and/or may take on more autonomy and responsibility.

10 Pension Schemes Bill 2014-15 http://services.parliament.uk/bills/2014-15/pensionschemes.html Schedule 4 amending The Financial Services and Markets Act 2000. Paragraph 2 proposed new section 333L in Part 20A.

4.
FCA requirements of firms in light of the reforms

4.1 In CP 14/11 we set out proposals on how the rules in the Conduct of Business Sourcebook (COBS) relating to pension and retirement provision will be amended to support the implementation of the pensions guidance service and to provide consumer protection in the new landscape. In this chapter we summarise the responses to our proposals and set out how we intend to take these forward.

4.2 We explained in CP14/11 that the proposed changes were aimed at implementation of the wider pension reforms and the introduction of the pensions guidance service. We flagged that we would consider wider changes as the market develops. We intend to undertake a thorough review of all the requirements on firms in the pension and retirement markets in 2015. This work will take into account the results of the thematic review of annuity sales practices and provisional findings of the Retirement Income Market Study. It will also build on work that is already underway with the Treasury, industry and occupational pension scheme representatives on developing standardised, consumer-tested, communications documents.

Overarching issues

4.3 Responses to the consultation, and subsequent discussions with stakeholders raised five overarching issues outlined below.

Risks to consumers in the new environment

4.4 Some responses to the consultation (and subsequent remarks by stakeholders) commented on the risks to consumers in the new environment. The particular concerns are broadly around the following two scenarios:

- Consumers, who choose not to take up the offer of the pensions guidance service, might go on to access the funds in their pension without understanding the implications of their decision and with no check of whether they have considered all relevant factors. This concern is heightened for consumers who go back to their existing pension provider, and do not shop around.
- Consumers who do take the guidance then seeking to buy a product from their existing provider, or a new provider, that doesn't meet their needs.

4.5 The budget changes give individuals the freedom to make decisions about how they use their own pension funds. The pensions guidance service aims to support that freedom by equipping people to make their own decisions. However, individuals have the right to choose not to take up the pensions guidance service offer and as a result may end up making a decision without having considered all the relevant factors for their situation. Some stakeholders have called for a 'backstop' or 'second line of defence' particularly for those who do not take the guidance.

4.6 The pensions guidance service will play an important role in helping consumers make decisions at retirement. However, it will not make recommendations about specific pension products or the consumer's retirement options and consumers will still need to think about the issues for themselves and make their own decisions. The pensions guidance service should be viewed as part of a package of measures that support consumer decision-making across the spectrum, from the information provided by the pension provider to full regulated financial advice. For many the appropriate route will still be to take regulated financial advice. Others will be able to make their own decisions with or without advice.

4.7 Where a consumer does not take up the pensions guidance service offer they will have received some information, before their chosen date for retirement or when they seek to access their benefits. This information should tell the consumer about their retirement options and that they can exercise these on the open market. Expectations of what information providers should give consumers exploring retirement options have been set out in previous work we have undertaken on provider communication at retirement[11], the work of the Open Market Option group and the ABI retirement code.[12] This sets out that it is good practice for providers to make it clear to their customers that there are other products available on the open market which may better meet their needs. For example, if a firm does not sell enhanced annuities, we would consider it poor practice if they do not make this clear and inform customers that, if they have health issues or lifestyle factors that may impact on their life expectancy, other providers offer these types of annuities which may give them a better outcome. More generally, we expect firms to encourage their customers to shop around and to tell their customers they may be able to get a higher income on the open market.

4.8 In addition, before buying a new retirement income product, an individual will receive a key features document (KFD), which covers the aims and risks of that product.[13] In some cases there will be a variation of an existing contract rather than a new product (e.g. income drawdown from an existing pension). In these cases, firms are also required to provide sufficient information for the customer to be able to make an informed decision about whether to go ahead with the variation.[14] The information provided in both of these scenarios must include the risks of the product or variation. This would include, where relevant, that the customer's income is not secure and, depending on investment returns, may not last for the rest of the customer's life.

4.9 Therefore customers should receive information about the consequences of their choices before the purchase or variation occurs. However, we know that many customers do not engage with this information and that this does not, by itself, mean they will make informed decisions. The timing of customers receiving this information may not always align with their decision point to carry out the purchase or variation.

4.10 In our consultation paper we said that we did not expect providers to check whether those purchasing a product from them have taken the guidance. A number of respondents to the consultation, including some provider firms, suggested that providers should ask whether individuals buying a product from them have taken the guidance, and remind them and encourage them to do so if they have not.

11 FSA conducted a review of the wake-up packs sent by firms in 2008. Detailed feedback was provided to the 14 firms in the sample and a statement of overall results was issued to the industry. http://www.fsa.gov.uk/pages/Library/Other_publications/Pensions/2008/omo.shtml

12 *Code of conduct on retirement choices* - ABI https://www.abi.org.uk/Insurance-and-savings/Products/Pensions/Retirement-and-your-pension/Code-of-Conduct-on-Retirement-Choices

13 COBS 14.2.1R (1)

14 COBS 14.2.1R (3) and (3B)

In light of these responses and subsequent discussions with stakeholders, we will require firms to refer clients to the pensions guidance and encourage them to seek guidance or advice on their retirement options, unless the customer has already received advice from a regulated firm or has used the pensions guidance service. This means that firms will have to ask whether their customer has taken pensions guidance or regulated financial advice, and if not to encourage them to do so.

4.11 We will consider whether it is appropriate to place further requirements on providers in relation to the process of carrying out customer instructions when we review the rules relating to pensions and retirement in 2015.

4.12 We are aware that some provider firms have questioned what they are able to do to draw potential inconsistencies to their customer's attention without crossing the boundary into regulated financial advice. We believe it is possible for firms to draw information to the attention of their customers in this way. Firms should review the guidance we consulted on in GC14/3 and the finalised guidance expected to be published next year, and consider how this can be applied in the pensions and retirement space.

Requirements on occupational trust-based schemes

4.13 Some respondents appeared to believe that our conduct of business rules would apply to occupational trust-based pension schemes, particularly the requirements for signposting. This is not the case. The FCA regulates firms that establish, operate or wind up personal and stakeholder pension schemes. The Department for Work and Pensions (DWP) will be amending its existing regulations on the information trustees and schemes must provide to their members, to ensure members are sign-posted to the pensions guidance service as they approach retirement. The DWP and FCA will work together to ensure consistency between the rules imposed on occupational and personal pensions, and this is provided for in the Bill currently before Parliament.[15] The DWP will continue to work with stakeholders to ensure the amended regulations are appropriate and are both consistent with the requirements placed on providers and, where necessary, reflect the differing circumstances of trust-based schemes. We will also be working with the DWP and the Pensions Regulator (TPR) on the regulation of income drawdown and uncrystallised pension fund lump sums as these may also become a feature of the occupational pensions landscape.

Regulation of drawdown and taking money directly from a pension scheme

4.14 The July Consultation Paper did not cover the new ability for consumers to withdraw money directly from their pension scheme over time (uncrystallised pension fund lump sum or UFPLS). We are discussing how we should regulate this form of withdrawing money from a pension with stakeholders. Our view is that the risks and issues for consumers are broadly similar to those with income drawdown products. Our intended approach will therefore be to treat these options consistently in our regulation of income drawdown products and we urge firms to treat it as such as we work with the industry on developing the rules.

4.15 Drawdown itself may be used quite differently in the new environment. As we assess the impact on the requirements that relate to drawdown, we will consider how to ensure consistent protection for consumers and review requirements on firms where money is taken directly from the pension. One particular area we will explore is non-advised sales of income drawdown and uncrystallised pension fund lump sums. A number of respondents raised concerns here as currently most drawdown products are sold with regulated advice.

15 Pension Schemes Bill 2014-15 http://services.parliament.uk/bills/2014-15/pensionschemes.html Schedule 4 amending The Financial Services and Markets Act 2000. Paragraph 4 proposed new section 137FB.

4.16 Our discussions with industry have identified an immediate issue in relation to the projection requirements for drawdown products. Our current projection rules assume a regular income is being taken over time and may therefore produce confusing or irrelevant information for customers using products more flexibly. We have been working with the industry on a short-term solution to this issue. We intend to offer a modification of our rules by consent[16] so that we can test how the projection rules work for the new flexibilities. We invite any firms who want to find out more about this to get in touch with us.

Review of requirements for pensions and retirement market

4.17 Most respondents agreed with the approach we have taken to propose minimum changes ahead of the implementation of the wider pension reforms, in particular the roll-out of the pensions guidance service, and to follow this with a fuller review of our pensions rules as the market develops following the wider reforms.

4.18 We intend to review the rules in the Handbook that impact on pensions and retirement products including those around advice, sales and product provision. We will seek to identify any areas where clarification is needed on how rules apply in the new environment and where further changes may be needed to provide appropriate consumer protection.

4.19 One particular area where we expect requirements to be more prescriptive in the future is on the standardisation of information about the pensions guidance service and open market options. There is work underway led by the Treasury which we are closely involved in, which also has input from the DWP, TPR, the industry and occupational pension scheme representatives. We expect this work to lead to agreed standardised wording, templates and/or information factsheets that firms and trustees will agree to use for 'at retirement' communications. We agree with the majority of respondents that standardisation of this kind should be set out in our Handbook. We will ensure any requirements for standardisation are appropriately tested before implementation. We encourage the industry to engage with the work currently underway to design these standard documents as this work will inform the future regulatory approach.

4.20 More broadly, we are encouraging firms and their advisers to consider how disclosures can be made as effective possible. As part of Project Innovate, we are inviting firms to trial new ideas or techniques that could better support customer understanding of financial products and improve engagement. We may even consider waiving or modifying certain disclosure rules to allow testing that could produce more effective regulatory solutions.[17]

Continued supervisory focus

4.21 We take a holistic approach to the pensions and retirement market encompassing supervision of firms and ensuring appropriate requirements are in place, as well as understanding consumer behaviour in the new environment. Development of the policy approach is taking account of the Retirement Income Market Study and Thematic Review of annuity sales practices as they move towards publication. We are also gathering intelligence on the impact of the reforms themselves on provider behaviour. Pensions and retirement will continue to be areas of focus in our supervisory work.

16 FCA information on modifications by consent http://www.fca.org.uk/firms/being-regulated/waiver/waiver-by-consent

17 Firms that would like to talk to us about testing ideas can find more information here: http://www.fca.org.uk/firms/firm-types/project-innovate/test-ideas

Consultation responses

Content and format of the signpost

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?

4.22 The majority of respondents agreed with our proposals. There was some concern that simply requiring firms to provide a customer with the information they will need to make an informed decision about that pension pot was too broad. Providers felt that they would not have, for example, information about other pension savings the individual might have which would also be relevant to the customer making an informed decision. Others commented that this requirement would duplicate existing requirements on providing information at retirement.

4.23 Some respondents suggested the signpost should make it clear that the service would provide guidance, and not regulated financial advice, to manage consumer expectations. Some respondents suggested that the availability of regulated financial advice should also be highlighted at this point.

4.24 Some respondents suggested that more detail be added to the signpost content such as the opening hours of the service and accessibility information. A small number of respondents suggested that the signpost requirement should be stronger, requiring firms to actively promote the pensions guidance service.

4.25 The majority of respondents favoured the use of a standardised template for the signpost as something to aim for in the short to medium term but appreciated that it was not possible to achieve within the regulatory framework for April 2015. Respondents were keen that any standardised template is subject to thorough consumer testing and cost benefit analysis. A small number of respondents were in favour of standardisation for April. There were strong calls for a complete review of the communications sent by provider firms at retirement. A number of respondents commented that the packs provided were currently too long and this would lead to the signpost being lost or ignored.

Our response

The proposed requirement in CP14/11 for firms to provide customers with 'any other information relevant' to the customer making a decision about their retirement options was intended to relate to information about the specific pension pot the individual holds with that particular provider. Information about an individual's wider options on the open market is already required as part of the open market option statement through the provision of the Money Advice Service (MAS) factsheet or an equivalent communication. In response to the consultation we have clarified that the requirement in the open market options statement (now in new COBS 19.4.1AR (3)) is to provide information about the pension that customer holds with the provider. This requirement forms part of the requirements for the information to be sent at retirement.

We have also added a requirement for firms to recommend that the customer seeks appropriate advice or guidance to understand their options at retirement. This requirement will apply whenever a firm must signpost or refer customers to the guidance service.

We have been working with the Treasury, the industry and trust-based schemes as they seek to develop a standardised template for the signpost. We have fed the responses that relate to the content of the signpost into this process. We will consider whether, in the future, the template that is produced by this work should be explicitly required by our rules. We agree that some level of standardisation is desirable and that the template should be designed with encouraging consumer engagement as the driving principle. This will include testing the template to assess the impact of different ways of communicating the information. We will continue to work closely with the Treasury and the industry as this work develops.

Broader comments received on the pack of information provided in the run-up to retirement will be considered as we undertake a thorough review of the rules in this area in 2015. This work will build on the standardisation work being undertaken with the Treasury and industry. It will also take into account the results of the Thematic Review of annuity sales practices and the provional findings of the Retirement Income Market Study, which will be published shortly.

Timing of signposting

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?

4.26 The majority of respondents agreed with these proposals. A number of respondents commented that, in the future, the signpost provided and the pensions guidance service should be available at an earlier stage before retirement.

4.27 Again, a number of respondents recommended a complete review of the communications sent by provider firms at retirement. A small number of respondents recommended that the signpost be sent separately to the existing information that is sent, or that firms should be given the option to do this.

4.28 Some respondents commented on the practicality of a trigger based on a selected retirement date when retirement is now a much more fluid concept.

4.29 A significant number of respondents commented that the transitional requirements were important and should be brought forward to ensure those receiving information in the period before April 2015 were also made aware that guidance would become available. Some respondents commented that only the signpost information, rather than the whole pack, should be sent again; stating that sending the whole pack was costly, unnecessary and might lessen the impact of the signpost.

4.30 A few respondents commented that receiving a signpost to the guidance for the first time in the six-week reminder letter would be too late as people were likely to have already made decisions by this point. A small number of respondents noted that there may not always be a six-week reminder triggered before a customer takes action (e.g. they may have requested to take action significantly before their nominated retirement date).

4.31 A small number of respondents suggested that a transitional requirement was unnecessary and that guidelines and existing requirements would be appropriate.

Our response

We intend to retain the link with the timing of other communications in the run-up to retirement. The rules currently require the information in COBS 19.4.1 to be sent out four to six months before the customer's selected retirement age or earlier if they request a retirement quotation (COBS 19.4.2R and 19.4.3R). In order to treat their customers fairly from April 2015, we believe any request to access the money from a pension scheme should be treated as a request for a retirement quotation and firms should provide an open market options statement with the contents specified in COBS 19.4.1A R.

We agree that the requirements for communications around retirement need a broader review and this should include the timing of communications. This is particularly important as the way people move from employment into taking money from their pension savings has changed and will continue to change. We will look at this as part of the review we will undertake next year.

The work being undertaken by the Treasury in conjunction with us, providers and trust-based schemes on standardised communication documents will also feed into this wider review.

We agree that it is important for those making retirement decisions between now and April to have information about the options that will be available to them from April 2015. As we set out in FG14/3[18] (April 2014), we expect firms to have updated the information they send out to their customers. As part of this, some providers may have already referred to the pensions guidance service that is being developed. The Money Advice Service (MAS) factsheet referred to in COBS 19.4.1R (which will be new COBS 19.4.1A R) was updated in June 2014 to cover the pension freedoms and mentions that a pensions guidance service will be coming. We have therefore amended the transitional provision so that the wider information on retirement options only needs to be resent with the six-week reminder letter if the original information was sent before the MAS leaflet was updated. We have also included in this transitional provision the requirement to recommend that the customer seeks appropriate advice or guidance to understand their options at retirement. This is also included in the six-week reminder where the transitional requirement no longer applies.

18 FG14/3 - Budget 2014 – Pension reforms: guidance to firms in the interim period – FCA http://www.fca.org.uk/your-fca/documents/finalised-guidance/fg14-03

The Treasury have indicated that they expect to begin rollout of the pensions guidance service to begin offering guidance online and with limited capacity via other channels before April 2015. We have amended our proposed rules to require provider firms to signpost their customers to the guidance, where they are communicating about retirement options, from the date that the Pension Scheme Bill receives Royal Assent.

We have amended our rules so that when providers are communicating with their pension customers before April 2015 where the purpose is to talk about retirement options or accessing their funds, they will be required to signpost those customers to the pensions guidance service (see new rule COBS 19.4.5R in part 1 of the instrument).

This would mean that all customers receiving information about their retirement options from their provider in the period between the guidance being available and 6 April 2015 would receive information about the pensions guidance service and how to access it.

We expect the work being undertaken on designing a standardised signposting letter to have produced a template, or standardised wording which firms can use by this time. The intention is that firms using this in their communications will comply with the signposting requirement.

Preventing the guidance being undermined

Q10: Do you agree with the proposal to add this guidance (on behaviour that undermines the pensions guidance service)?

4.32 The majority of respondents agreed with this proposal. A number of respondents commented that it was important that this would still allow providers and trustees to provide information or guidance to their customers. These comments were concerned that the draft guidance refers to providing an 'equivalent service'.

4.33 A small number of respondents thought that this guidance was unnecessary and that the higher level treating customers fairly and acting in the client's best interests requirements were sufficient.

4.34 A small number of respondents questioned whether this guidance also applied to advisers. They were concerned that this would prevent advisers from telling clients or potential clients that advice would go further than the pensions guidance service does and lead to a personal recommendation.

4.35 A small number of respondents also referred to the need for the FCA to monitor providers' behaviour in communicating the signpost. It was recommended the FCA compares take up of the guidance from firms as one indicator of the effectiveness of providers' communication.

Our response

It was not our intention to prevent firms, trustees, employers or others from providing information or guidance to help consumers make decisions about their retirement. The intention is that pension providers should not dissuade their customers from using the pensions guidance service by suggesting that they do not need, or should not use, the pensions guidance service because the firm provides the same service. Nor should they undermine the value of the guidance when they interact with a customer who has received the guidance. Indeed, we now require providers to recommend that the client seeks appropriate guidance or advice to understand their retirement options (see for example, in COBS 19.4.5R). Firms may therefore choose to recommend their customers use the pensions guidance service.

We have made the drafting of all the new and changed rules and guidance in COBS 19 that, like the existing rules in this section of COBS, the new requirements apply to providers of pension schemes. However, the Principles apply to all firms and we will explore whether explicit wider application of similar guidance is appropriate to others in this market when we undertake the review of rules in this area in early 2015.

Since the publication of the consultation paper, the Government has brought forward proposed legislation that makes it an offence to describe yourself, to behave in a manner which indicates, or otherwise hold yourself out as a designated guidance provider when you are not.[19] As a result we have removed the first part of this guidance we consulted on, as the second two parts of 19.4.6G cover behaviour that seeks to dissuade consumers from seeking the guidance.

Communications outside the wake-up process

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?

4.36 The majority of respondents agreed with this proposal. A number of respondents asked for clarity on what would be considered to be a communication about retirement options and were concerned that this could lead to overloading the customer with a signpost in every communication throughout the life of a pension product.

4.37 Some respondents questioned whether this applied to verbal as well as written communications. There was a split of those who thought that it should and those who thought that it shouldn't.

4.38 A few respondents also asked whether this requirement applied only to pension providers or whether it covered advisers and intermediaries as well.

19 Pension Schemes Bill 2014-15 http://services.parliament.uk/bills/2014-15/pensionschemes.html Schedule 4 amending The Financial Services and Markets Act 2000. Paragraph 2 proposed new section 333G in Part 20A.

Our response

The intention of this requirement is that customers are signposted to the availability of the pensions guidance service and how to access it at a time that is relevant for them. The guidance will be relevant to those who are, or are likely to be, actively considering what to do with their pension savings. This requirement applies to verbal and written communications by provider firms whether the communication was instigated by the customer or the firm.

We have amended the drafting of this requirement, in new COBS 19.4.5R, to clarify that firms do not need to refer to the guidance where the communication is not for the purpose of encouraging customers to think about their open market options or accessing the proceeds of their pension fund, where the customer has used the pensions guidance service, taken financial advice or if the communication also involves the provision of information under COBS 19.4.2R, COBS 19.4.3R or COBS 19.4.4.R. We have also added the requirement for firms to recommend that the customer seeks appropriate advice or guidance to understand their options at retirement.

As we said in the introduction to this chapter, this means that firms will have to ask whether their customer has taken pensions guidance or regulated financial advice and, if not, to encourage them to do so and remind them of the pensions guidance service.

Pension providers' communications with their customers

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?

4.39 The majority of respondents agreed with this proposal and did not comment on further requirements for providers' communications at this time.

4.40 Some respondents suggested adding further detail to the communications. Suggestions included adding information about the options and services available within the existing pension arrangement, and information about what would happen if the customer does not take any action (for example, where there are contractual obligations for the firm to annuitise the pension at a certain point). Some respondents also suggested requiring all the information to be provided in a standardised format.

4.41 A small number of respondents were concerned about the level of detail being required at this stage, in particular on information about Guaranteed Annuity Rates (GARs).

4.42 The majority of respondents had no immediate comments on further requirements within providers' communications. They reiterated previous comments that communications at retirement should be reviewed more widely and that work should be done to reduce the volume of information and to standardise its presentation. Some respondents also commented that it was important to supervise the existing requirements effectively, as well as any new requirements placed on firms in the future.

Our response

Firms are already required to give sufficient information about the retail client's open market option to enable them to make an informed decision about whether to exercise this option or not. As we said in our consultation paper, we believe the information we have now specified in COBS 19.4.1A (3) should already be being provided under the existing requirement as it is vital for customers to be able to consider their retirement options. In addition, the ABI code on retirement choices sets out that the current value of the pension and information on GARs or other guarantees should be included. We are concerned, therefore, that some respondents raise difficulties in complying with the code. Some respondents queried the level of detail required on GARs. The information on GARs does not require a quote based on the GAR, simply the fact of whether there is a GAR on the policy or not and how that GAR works (e.g. whether there are restrictions or conditions on when the GAR is available).

We will make this rule as proposed in CP 14/11 as (new) COBS 19.4.1A.

The work the Treasury are doing with the industry and trust-based schemes is also looking at the information customers have about their existing pension scheme. The results of this work will feed into our wider review of the requirements on firms. We therefore encourage firms to engage with the work the Treasury have underway.

Advice and illustrations for income withdrawals

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?

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

4.43 The majority of respondents agreed with these proposals. Some referred to the continued existence of capped drawdown and therefore the continued relevance of these requirements. A few respondents commented that the statement of sustainability should also apply to non-advised sales of drawdown and should be accompanied by illustrations of the impact of taking money out. This would include, for example, showing the date at which the fund might run out given a specified level of income taken.

Our response

The change to guidance for suitability reports will replace the specific reference to maximum withdrawals with a more general statement on the sustainability of the intended withdrawal rates over the expected lifetime of the individual. This covers the scenario in the existing guidance and broadens it. We intend to make this guidance as proposed. Our consultation did not cover requirements on advisers or providers when a client takes an uncrystallised pension fund lump sum. As set out in the introduction to this chapter, we see the risks for consumers to be similar to those for drawdown. Therefore we would expect advisers to take sustainability of income into account where they are advising clients to take uncrystallised pension fund lump sums to ensure they are providing suitable advice.

The consultation proposals were made before the intention was made clear in the Taxation of Pension Schemes Bill how the new flexibilities for drawdown would be implemented (i.e. that capped drawdown would remain for those already using it). Given that the projection requirement in COBS 13 Annex 2 2.9R requires maximum withdrawal levels to be referred to 'where relevant' we intend to leave this requirement in the rules and not make the proposed deletion.

Planning for retirement

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?

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?

4.44 The majority of respondents agreed with these proposals. A number of respondents commented that the content of the key features documents (KFD) would need to change as a result of the reforms, not the rules.

4.45 A number of respondents recommended that the projection requirements should be reviewed in the future. They commented that new products will develop and the current projection requirements are not equivalent between pensions and different ways of taking money from a pension.

Our response

We highlighted in CP14/11 that, under the existing rules, firms would need to change the contents of key features documents (KFD) as a result of the reforms. We do not intend to make any changes to the rules relating to the KFD or projection requirements at this time. This is something that we will include in our wider review of this area early next year.

Following the publication of CP14/11, the Taxation of Pensions Bill set out that individuals would be able to withdraw money directly from a pension. We have been discussing with industry how this should be regulated and, in particular, how the projection requirements should apply to people taking their funds from either a drawdown arrangement or by UFPLS, by considering different payment patterns. We have been working with the industry on a 'modification by consent' (modified FCA rules) that firms will be able to apply for to enable them to provide sensible and consistent projections to customers.

Customers taking action with their pension fund

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?

4.46 The majority of respondents agreed with this proposal. Most of them added that this information should be generic and not based on the individual's personal circumstances. Very few suggested that a personal calculation should be made. Some respondents suggested that providing an example would help to communicate this to customers. One respondent commented that this was unnecessary as tax implications would be covered in the KFD for the new product.

4.47 Some respondents were concerned that this signalled a potential expectation on firms to monitor the decisions that customers make, for example, whether their decision was in line with the guidance they received. A small number of respondents suggested that customers should also be told about the implications on the annual allowance on pension contributions when taking action with an existing pension fund.

4.48 As noted in the introduction, a number of respondents commented more generally that providers should be required to ask whether someone has taken pensions guidance before they buy a retirement product.

Our response

Our intention is for firms to give a generic description of the tax implications of the option selected. However, in order that such communications are clear for the consumer, we encourage firms to illustrate the impact in a way that is relevant to the customer.

The pensions guidance service website will have a calculator that consumers can use to get an indication of the tax they would pay when taking a lump sum.

We agree that, where a new product is being purchased, this rule could be met through the information provided in the KFD. We have made it clear in the rule that it can be met through existing communications that cover the tax implications. However, where someone is taking money directly from a pension fund, the KFD rules will not apply.

Firms can find our new requirements in COBS 19.4.7R and 19.4.8R.

Annex 1
List of non-confidential respondents

Advantage IFA Ltd

Aegon

AFH Independent Financial Services Limited

Age UK

Alister Bowen

Altus Ltd

Aon Hewitt

Aquilaheywood

Ask Money Ltd

Asset Investment Management Ltd

Association of Consulting Actuaries

Association of Investment Companies

Association of Member Nominated Trustees

Association of Member-Directed Pension Schemes

Association of Pension Lawyers

Association of Professional Financial Advisers

Association of Professional Pension Trustees

AXA Investment Managers

AXA Wealth Management

B&CE The People's Pension

BlackRock

BP PLC

BPH Wealth Management LLP

Brian Shearing and Partners Limited

Bryan J Hollingsworth, Chartered Financial Planner

Buck Consultants Limited

CAERUS Financial Limited

Campbell & McConnachie

Capita

Capital Tower Ltd

Charlton Frank

Chartered Insurance Institute

Citizens Advice

City & Trust Finance Ltd

Complete Compliance Support Limited

Council of Mortgage Lenders

Creative Wealth Management

Crescent Independent (Financial Service) Ltd

CTC Software

DATA

Davies Financial Ltd

Devonshire Asset Management LLP

Eldon Financial Planning

Equity Release Council

Fidelity Worldwide Investment

Financial Reporting Council

Financial Services Consumer Panel

Forty Two Financial Planning Ltd

Frary financial Planning

Friends Life

Hargreaves Lansdown

Horbury Financial Services Ltd

ICAS Pensions Committee

Independent Age

Independent Trustee Service Limited

Institute and Faculty of Actuaries

Institute of Financial Planning

International Financial Data Service Ltd

International Longevity Centre

Intrinsic Financial Services Group Limited

Investment & Life Assurance Group Limited

Investment Management Association

Jelf Employee Benefits

JLT Employee Benefits

John Rippon

Johnston Financial Services Ltd

Jon Wooller

Jones Sheridan Financial Consulting

JPRS (South West) Ltd

Just Retirement Group PLC

Keith Marsden

Key Retirement Solutions

Legal and General

Lloyds Banking Group

Low Income Tax Reforms Group

LV=

Marine and General Mutial

Mercer

MetLife Europe Limited

MGM Advantage

Money Advice Service

Moody's Analytics

Morgan Ash

Now Pensions

Old Mutual Wealth

Openwork Limited

Partnership Life Assurance Company Limited

Pen-Life Chartred Financial Planners

Pension PlayPen Ltd

Pensions & Actuarial Services Limited

Pensions Management Institute

Professional Pensions and Investments Ltd

Prudential

ReAssure

Richard Baron

Royal London Group

Sabre Financial Ltd

Sacker & Partners LLP

Sesame Bankhall Group

Simon Kershaw and Associates Ltd

SimplyBiz

Smith & Pinching Financial Service Ltd

Society of Later Life Advisers (SOLLA)

Sodexo

St James' Place Group

Standard Life

Sun Life Financial of Canada

Tax Incentivised Savings Association

Taylor Made Financial Planning LLP

The Money Charity

The National Association of Pension Funds Limited

The Pensions Advisory Service

The Prestwood Group

The Society of Pension Professionals

Towers Watsons

Trent Motor Traction Company Ltd

UK Sustainable Investment and Finance Association

Unbiased.co.uk

Universities Superannuation Scheme Limited

Wealth Management & Growth Ltd

Which?

Whiting & Partners Wealth Management Ltd

Wilson Chambers Limited

Xafinity

Yvonee Goodwin Wealth Management Ltd

Zurich Insurance Group

Annex 2
Feedback to our approach on Cost Benefit Analysis

1. The majority of respondents made no comment on our approach not to complete a cost benefit analysis (CBA). Those that did made the following points:

   - A number of respondents commented that there needed to be an analysis of the costs and benefits of the pensions guidance service. However, the implementation of a service to provide pensions guidance is part of the Government's wider pension reforms and therefore outside the scope of the proposals made by the FCA.

   - Other respondents, who agreed with our approach, had recognised that the implementation of the wider reforms and the guidance would lead to costs that were separate from the costs of the standards and rules being proposed.

   - Some respondents had concerns about the proposed rule to include a reference to the guidance in all communications about retirement options. This linked to their comments set out in chapter 4, which noted that this requirement was too broad and could therefore lead to increased costs. We have amended this proposed rule to make the definition tighter, which we believe will address this issue.

2. A number of changes have been made to the proposed instrument following consultation. The main purpose of these changes is to clarify the application of the requirements on firms including to address their concerns about potential costs. We have concluded that the instrument now published as near final will result in increased costs but that increases will be of minimal significance. Consequently the FCA is not required to publish a CBA (s138L of FSMA).

3. We did not undertake a CBA of the proposed Standards in CP14/2. There was no requirement triggered under s138I of FSMA at the time. The Bill has now been laid before Parliament and this would require us to publish a cost benefit analysis of the standards when they are made. We expect to make the standards instrument following Royal Assent of the Bill and will publish a CBA statement at that time.

Appendix 1
Near final standards (legal instrument)

STANDARDS FOR DESIGNATED GUIDANCE PROVIDERS INSTRUMENT 2014

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the power under section 333H (Standards for giving of pensions guidance by designated guidance providers) of the Financial Services and Markets Act 2000 ("the Act").

B. The standard-making power referred to above is specified for the purpose of section 138G(2) (Rule-making instruments) of the Act as modified by section 333H(6) of the Act.

Commencement

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

Standards for designated guidance providers

D. The standards for giving of pensions guidance by designated guidance providers (as defined in section 333E of the Act) are set out in the Annex to this instrument.

Citation

E. This instrument may be cited as the Standards for Designated Guidance Providers Instrument 2014.

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

Annex

Standards for giving of pensions guidance by designated guidance providers

Part 1

Background

A These Standards are set by the Financial Conduct Authority for the giving of pensions guidance by *designated guidance providers*.

The Financial Conduct Authority must set and monitor compliance with the Standards and can make recommendations to HM Treasury if it considers that a *designated guidance provider* has not complied with a Standard.

Definitions

B In these Standards the definitions in Part 2 apply. Expressions which are defined in Part 2 appear in the text in italic type.

Application

C These Standards apply to *designated guidance providers* in respect of the provision of the *service* to *consumers* through any of the *delivery channels.*

The Standards

Free at point of delivery

1 A *designated guidance provider* must not charge a *consumer* for the *service*.

Delivering the guidance

2 A *designated guidance provider* must co-operate and work with other *designated guidance providers* to deliver the *service* in accordance with the Standards.

3 A *designated guidance provider* must, by itself, or where appropriate, working with other *designated guidance providers,* ensure that:

(a) the delivery of the *service* is consistent across all the *delivery channels* in accordance with Standard 19;

(b) *consumers* using the *service* are able to change to a different *delivery channel*;

(c) where *consumers* change *delivery* channels, duplication of the content set out in Standard 20 is minimised; and

(d) the *service* is accessible by *consumers* in accordance with relevant equalities legislation.

4 A *designated guidance provider* must ensure that the *service* is available to *consumers* in a timely manner.

5 A *designated guidance provider* must deliver the *service* with due skill, care and diligence.

6 A *designated guidance provider* must ensure that the *service* it delivers is of a good quality.

7 *A designated guidance provider* must not receive any financial or other incentive in connection with the *service* (other than funding under Part 20A of the *Act*).

8 When providing a *consumer* with information about their retirement options, a *designated guidance provider* may:

(a) provide the *consumer* with information about particular types of financial products or services that may be relevant to those retirement options and the potential advantages and disadvantages of those options;

(b) refer a *consumer* to a directory or other list of financial advisers or providers of financial services or products;

(c) refer a *consumer* to their existing pension product provider where the *consumer* needs that provider to take action in order to implement one of the retirement options.

9 A *designated guidance provider* must not:

(a) except as set out in Standard 8(b) or (c), introduce or, explicitly or implicitly recommend, a provider of a financial service or product or a financial adviser;

(b) except as set out in Standard 8(a), sell, arrange or facilitate the sale of, or explicitly or implicitly recommend, a financial service or product.

Professional standards

10 A *designated guidance provider* must ensure that its personnel who:

(a) deliver the *service* over the phone, in person or through the internet; or

(b) design or approve any processes, models or tools, including internet based material, related to the *service*,

have the skills, knowledge and expertise necessary for the discharge of the responsibilities allocated to them.

11 A *designated guidance provider* must ensure that the personnel who are referred to in Standard 10 have knowledge which includes the following:

(a) the different types of pension schemes;

(b) the impact of fees and charges for both accumulation and decumulation pension products;

(c) the options available to *consumers* when accessing their pension savings;

(d) the factors relevant to the selection of options when accessing pension savings, including the impact of guarantees, special features, restrictions or conditions, protected rights, and exit charges;

(e) the tax treatment of pensions and income generally;

(f) the circumstances when a *consumer* may require further specialist help, for example debt advice, or *regulated advice*;

(g) other issues that are relevant to *consumers* considering their retirement options, for example long-term care needs, sustainability of income in retirement and life expectancy; and

(h) the conduct that a *designated guidance provider* may engage in under Standard 8 and must not engage in under Standard 9.

12 A *designated guidance provider* must ensure that the personnel who are referred to in Standard 10(a) have good interpersonal skills including listening skills and verbal communication skills.

Communications

13 A *designated guidance provider* must pay due regard to the information needs of *consumers* using the *service* and communicate information to them in a way that is clear, fair and not misleading.

Systems and controls

14 A *designated guidance provider* must establish and maintain such systems and controls as are appropriate to ensure compliance with the Standards, and for its operations more generally, including the protection of *consumer* information in compliance with legislation including the Data Protection Act 1998 and the Computer Misuse Act 1990.

15 A *designated guidance provider* must arrange for orderly records in respect of its provision of the *service*, which must be sufficient to enable the Financial Conduct Authority to monitor the *designated guidance provider's* compliance with these Standards, to be kept for a period of 5 years.

Complaints management

16 A *designated guidance provider* must ensure that *consumers* have access to a complaint management system that fairly, consistently and promptly investigates complaints arising in connection with the delivery of the *service* by the *designated guidance provider*.

17 A *designated guidance provider* must ensure that:

(a) *consumers* are informed of the availability of the complaint management system; and

(b) details of the complaints handling procedures are made available to *consumers* on a website and that copies of those details are supplied to *consumers* who either request them or make a complaint.

18 A *designated guidance provider* must ensure that a record of each complaint received and the measures taken for its resolution is kept and retained for at least 5 years from the date the complaint was received.

Content of the guidance session

19 *Designated guidance providers* must work together to establish a consistent process for delivering the content of the guidance session, including the content specified in Standard 20.

20 A guidance session must do the following:

(a) inform *consumers* of the scope, purpose and limitations of the session;

(b) inform *consumers* about the pension entitlement and other personal and financial information that the *designated guidance provider* may request from them during the session;

(c) request information from the *consumer* about their accumulated pension pots including, for example, the information specified in Part 3;

(d) request information about the *consumer's* financial and personal circumstances that is relevant to their retirement options including, for example, the information specified in Part 3;

(e) alert the *consumer* to other sources of information and advice as appropriate and at relevant points during the session;

(f) identify for the *consumer* and provide them with information about:

(i) the options relevant to the *consumer*;

(ii) to the extent that they are relevant to the *consumer's* options, the factors set out in Standard 11(d) and the other issues set out in Standard 11(g); and

(iii) the potential tax implications or debt obligations;

(g) set out the next steps for the *consumer* to take in accordance with Standard 21; and

(h) provide *consumers* with a record of their guidance session in accordance with Standard 23.

Next steps

21 At the end of the guidance session a *designated guidance provider* must:

(a) subject to Standard 9, refer the *consumer* to relevant sources of further information, guidance, specialist advice, *regulated advice*, support tools or directories;

(b) draw the *consumer's* attention to the importance of shopping around when making decisions about retirement options; and

(d) draw the *consumer's* attention to the potential tax implications or debt obligations in accordance with Standard 20(f)(iii) and refer them to support services, as appropriate.

22 A *designated guidance provider* must ensure that sources of further information, guidance, specialist advice, *regulated advice*, support tools and directories referred to in Standard 21 have been periodically assessed to be of a good quality.

Record of guidance session

23 A *designated guidance provider* must provide a *consumer* with a record of the guidance session in the standard format set out in Standard 24.

24 *Designated guidance providers* must work together to agree a standard format for providing records of guidance sessions which includes the following:

(a) information provided by the *consumer* during the session;

(b) the options discussed with the *consumer*;

(c) the factors relevant to the exercise of the *consumer's* options as identified during the session;

(d) sources of information or specialist advice;

(e) information on how to shop around for any products that are relevant to the *consumer's* retirement options; and

(f) a statement that the *consumer* is responsible for any decisions they make.

Part 2

Term	Definition
Act	the Financial Services and Markets Act 2000
consumer	a person who is a recipient of, or potential recipient of, the *service*
delivery channel	any of the delivery channels through which the *service* is provided including, telephone, online and face to face
designated guidance provider	the meaning given in section 333E of the *Act*
regulated advice	the activity specified in Article 53 of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
service	the guidance service provided by *designated guidance providers* for the purpose of helping a member of a pension scheme to make decisions about what to do with the flexible benefits that may be provided to the member

Part 3

This Part relates to Standard 20.

Information about accumulated pension pots
Relevant information from the *consumer* about their accumulated pension pots includes information about:

- the sum of money that will be available to exercise options in retirement;
- whether any guarantees apply;
- any benefits, exit fees and ongoing charges;
- any other relevant special features, restrictions, or conditions that apply, such as (for with-profits funds) any market value reduction conditions in place; and
- any other information relevant to the exercise of the *consumer's* options.

Relevant information about the *consumer's* financial and personal circumstances includes:

Financial information

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

Appendix 2
Near final rules (legal instrument)

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); and
(d) section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance); 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. (1) Annex A and Part 1 of Annex B to this instrument come into force on [the date that the Pension Schemes Act 2015 comes into force].
(2) Part 2 of Annex B to this instrument comes into force on 6 April 2015.

Amendments to the FCA Handbook

D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

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

Citation

F. This instrument may be cited as the Conduct of Business (Retirement Guidance Guarantee) Instrument 2014.

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

Annex A

Amendments to the Glossary of definitions

Comes into force on [the date that the Pensions Schemes Act 2015 comes into force]

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

designated guidance providers	the bodies listed in section 333E(1) of the *Act* to provide the *pensions guidance*.
pensions guidance	is the guidance made available by HM Treasury in accordance with section 333B of the *Act*.

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

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

Part 1: **Comes into force on [the date that the Pensions Schemes Act 2015 comes into force]**

19.4 Open market options

…

19.4.5 R (1) Where a *firm* communicates with a *retail client* about the *retail client's personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* which is provided by the *firm*, unless the circumstances in (2) apply, the *firm* must provide the *client* with a clear and prominent statement about the availability of the *pensions guidance* including:

(a) how to access the *pensions guidance* and its contact details;

(b) that the *pensions guidance* can be accessed on the internet, telephone, or face to face;

(c) that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and

(d) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

(2) A *firm* is not required to provide the *client* with the statement required in (1) where:

(a) the *firm* communicates with the *client* for a purpose other than:

(i) encouraging the *client* to think about their open market option; or

(ii) facilitating access to the proceeds of the *client's personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract*; or

(b) the *client* has already accessed the *pensions guidance*.

Part 2: Comes into force on 6 April 2015.

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.

…

19.4 Open market options

Definitions

19.4.1 R In this section:

…

(2) 'open market ~~option~~ options' means the ~~option~~ 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; and

(3) 'open market ~~option~~ options statement' means the information specified in *COBS* 19.4.1AR which is provided in a *durable medium* to assist the *retail client* to make an informed decision about their open market options. ~~and must include:~~

~~(a)~~ ~~the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk; 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.~~

Contents of open market options statement

19.4.1A R An open market options statement must include:

(1) the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a statement that gives materially the same information;

(2) a summary of the *retail client's* open market options, which is sufficient for the *client* to be able to make an informed decision about whether to exercise, or to decline to exercise, open market options;

(3) information about the *retail client's personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* provided by the *firm* including:

(a) the sum of money that will be available to exercise open market options;

(b) whether any guarantees apply and, if so, information about how the guarantees work;

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

(d) any other information relevant to the exercise of the *retail client's* open market options; and

(4) a clear and prominent statement about the availability of the *pensions guidance* including:

(a) how to access the *pensions guidance* and its contact details;

(b) that the *pensions guidance* can be accessed on the internet, telephone, or face to face;

(c) that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and

(d) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

When to send open market options statement and six-week reminder

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 ~~option~~ options 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 ~~option~~ options 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 ~~option~~ options statement; ~~and~~

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

(3) remind the *client* about the availability of the *pensions guidance*; and

(4) make a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement;

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

19.4.4 R If a *retail client* with ~~an~~ open market ~~option~~ options 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 open market options~~,~~;

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

Signposting pensions guidance

19.4.5 R (1) Where a *firm* communicates with a *retail client* about the *retail client's personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract* which is provided by the *firm*, unless the circumstances in (2) apply, the *firm* must ~~provide the *client* with a clear and prominent statement about the availability of the *pensions guidance* including~~:

(a) ~~how to access the *pensions guidance* and its contact details;~~ refer to the availability of the *pensions guidance*;

(b) ~~that the *pensions guidance* can be accessed on the internet, telephone, or face to face~~ offer to provide the *client* with information about how to access the *pensions guidance*; and

(c) ~~that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and~~ [deleted]

(d) include a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement.

(2) A *firm* is not required to provide the *client* with the statement required in (1) where:

(a) the *firm* communicates with the *client* for a purpose other than:

(i) encouraging the *client* to think about their open market ~~option~~ options; or

(ii) facilitating access to the proceeds of their *personal pension scheme*, *stakeholder pension scheme*, *FSAVC*, *retirement annuity* contract or *pension buy-out contract*; or

(b) the *client* has already accessed the *pensions guidance*; or

(c) the *client* has already received advice from a *firm* on their open market options, for example from an independent financial adviser; or

(d) the *firm* is providing the *client* with an open market options statement or 6 week reminder in accordance with *COBS* 19.4.2R, 19.4.3R or 19.4.4R.

19.4.6 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 *pensions guidance*, for example by:

(1) leading the *client* to believe that using the *pensions guidance* is unnecessary or would not be beneficial; or

(2) obscuring the statement about the availability of the *pensions guidance* or any other information relevant to the exercise of open market options.

Tax implications

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 before the *client* accesses those proceeds.

19.4.8 R A *firm* is not required to provide the information specified in *COBS* 19.4.7R where it is provided in accordance with *COBS* 14.2.1R.

…

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	(1) Where 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 six-week reminder before 6 April 2015 the rules in *COBS* 19.4.3R do not apply. (2) Where (1) applies, the *firm* must: (a) tell the *client* what sum of money will be available to exercise open market options; and (b) provide the *client* with the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org.uk or a statement in a *durable medium* that gives materially the same information; (c) provide the *client* with a clear and prominent statement about the availability of the *pensions guidance* including: (i) how to access the *pensions guidance* and its contact details; (ii) that the *pensions guidance* can be provided on the internet, telephone, or face to face;	From 6 April 2015 to 5 August 2016	6 April 2015

			(iii) that the *pensions guidance* is a free impartial service to help *consumers* to understand their options at retirement; and (iv) a recommendation that the *client* seeks appropriate guidance or advice to understand their options at retirement; at least six weeks before the *client's* intended retirement date. (3) If a *firm* has provided the *retail client* with a version of the fact sheet "Your pension: it's time to choose" available on www.moneyadviceservice.org dated June 2014 or later, or a statement in a *durable medium* that gives materially the same information, the requirement in (2)(b) does not apply.		

Financial Conduct Authority

PUB REF: 004975

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