Powers exercised

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

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

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

Commencement

C. This instrument comes into force on 1 August 2020, save for Part 1 of Annex 1, which comes into force on 26 July 2019.

Amendments to the Handbook

D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Glossary of definitions</td>
<td>Annex A</td>
</tr>
<tr>
<td>Conduct of Business sourcebook (COBS)</td>
<td>Annex B</td>
</tr>
<tr>
<td>Product Intervention and Product Governance sourcebook (PROD)</td>
<td>Annex C</td>
</tr>
</tbody>
</table>

Amendments to material outside the Handbook

E. The Perimeter Guidance manual (PERG) is amended in accordance with Annex D to this instrument.

Citation

F. This instrument may be cited as the Conduct of Business Sourcebook (Investment Pathways) Instrument 2019.

By order of the Board
25 July 2019
Annex A

Amendments to the Glossary of definitions

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

Part 1: Comes into force on 26 July 2019

Amend the following definition as shown.

\[
SFGB \quad \text{the single financial guidance body established under section 1 (Establishment of the single financial guidance body) of the Financial Guidance and Claims Act 2018, named the Money and Pensions Service pursuant to regulations made by the secretary of state.}
\]

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

\[
Money and Pensions Service \quad \text{the single financial guidance body (SFGB) established under section 1 of the Financial Guidance and Claims Act 2018.}
\]

Part 2: Comes into force on 1 August 2020

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

\[
capped drawdown pension fund \quad \text{in accordance with paragraph 8 of schedule 28 to the Finance Act 2004, sums or assets held in a personal pension scheme or stakeholder pension scheme and designated as available for the payment of capped income withdrawals.}
\]

\[
flexi-access drawdown pension fund \quad \text{in accordance with paragraph 8A of schedule 28 to the Finance Act 2004, sums or assets held in a personal pension scheme or stakeholder pension scheme and designated as available for the payment of unlimited income withdrawals.}
\]

\[
investment pathway \quad \text{the process set out in COBS 19.10.14R to 19.10.21R that a retail client can use to select a pathway investment for investing the sums and assets in their capped drawdown pension fund or flexi-access drawdown pension fund.}
\]

\[
pathway investment \quad \text{an investment that corresponds to the investment pathway options in COBS 19.10.17R(1).}
\]
Amend the following definitions as shown.

\[ \text{distribute} \] 

(3) (in relation to \textit{PROD 1.4.3AG, 1.4.3BR and 1.4.3CG, PROD 1.6.1R and PROD 6}) arranging a \textit{pathway investment}.

\[ \text{income} \text{ withdrawals} \] 

(a) (as defined in paragraph 7 of Schedule 28 to the Finance Act 2004) in relation to a member of a pension scheme, amounts (other than an annuity) which the member is entitled to be paid from the member’s:

(i) \textit{drawdown pension fund} (as defined in paragraph 8 of that Schedule) \textit{capped drawdown pension fund} in respect of an arrangement; or

(ii) \textit{flexi-access drawdown pension fund} (as defined in paragraph 8A of that Schedule) \textit{flexi-access drawdown pension fund} in respect of an arrangement; or

\[ \text{manufacture} \] 

(3) (in relation to \textit{COBS 19, PROD 1.6 and PROD 6}) creating, developing, designing, issuing, operating and/or underwriting a \textit{pathway investment}. 

Page 3 of 32
Annex B

Amendments to the Conduct of Business sourcebook (COBS)

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

9  Suitability (including basic advice) (other than MiFID and insurance-based investment products)

…

9.3  Guidance on assessing suitability

…

9.3.3A G (1) When a firm is making a personal recommendation to a retail client about the investment of funds in the client’s capped drawdown pension fund or flexi-access drawdown pension fund its suitability assessment under COBS 9.2.1R(1)(a) should include consideration of pathway investments.

(2) Pathway investments do not need to be considered where the personal recommendation is to purchase a fixed-term product that:

(a) provides a guaranteed income, a guaranteed capital return or both; and

(b) does not expose the client to investment risk, if the client remains in the product for the fixed term.

…

14  Providing product information to clients

…

14.2  Providing product information to clients

…

The provision rules for products other than PRIIPS

14.2.1 R …

14.2.1-A G If a retail client is invested in a pathway investment and makes a request falling within COBS 14.2.1R(3B) or (3E), but which is clearly incompatible with the investment pathway option selected by the client under COBS 19.10.17R(1), this should be brought to the client’s attention.
16 Reporting information to clients (non-MiFID provisions)

16.6 Communications to clients – life insurance, long term care insurance and income withdrawals drawdown pensions

Drawdown pensions: annual statements

16.6.7A R In the rest of COBS 16.6:

(1) “annual statement” is the information required to be provided to a retail client on an annual basis at COBS 16.6.8R;

(2) “cash terms” means pounds and pence;

(3) “cash-like investments” includes cash or near cash, units in a regulated money market fund, or units in a fund authorised as a money market fund for the purposes of the European Parliament and Council Regulation on money market funds (2017/1131/EU); and

(4) “drawdown fund” means either a capped drawdown pension fund or flexi-access drawdown pension fund;

(5) a retail client is a “non-advised retail client” if a firm has not determined on reasonable grounds that the client has received a personal recommendation in relation to how to invest the sums or assets in their drawdown fund, in accordance with COBS 19.10.10R (4);

Income withdrawals - Annual annual statements

16.6.8 R At intervals of no longer than 12 months, from beginning on the date a retail client first takes a pension commencement lump sum or an uncry stallised funds pension lump sum payment, or first makes an income withdrawals income withdrawal or one off, ad hoc or regular uncry stallised funds pension lump sum payments, the relevant operator of a personal pension scheme or stakeholder pension scheme must:

(1) provide the retail client with such information as is necessary for the retail client to review the decision, including where relevant the information required by COBS 13 Annex 2 2.9R (Additional requirements: drawdown pensions and regular uncry stallised funds pension lump sum payment), COBS 16.6.8AR (pathway
investments) and *COBS 16.6.10R* (costs and charges disclosure); and

---

### 16.6.8A R

**If a retail client is invested in a pathway investment** the annual statement must include the following:

1. A **short description of each pathway investment the retail client is invested in**, including the corresponding **investment pathway option** under *COBS 19.10.17R(1)* and the current value of each **pathway investment** in cash terms;

2. **For those retail clients invested in two or more pathway investments** how the retail client’s drawdown fund is split, in cash terms, across the different **pathway investments** and the corresponding **investment pathway options**;

3. **A short description of the investment pathway options the retail client is not currently invested in** (*COBS 19.10.17R(1)*)

4. **A statement reminding the retail client that they can, at any time:**
   - (a) select a different **investment pathway option and change their pathway investment**;
   - (b) select an **investment that is not a pathway investment**;
   - (c) (where this option is available) split their drawdown fund across two or more **pathway investments**;
   - (d) choose a different **product to access their pension savings**;
   - (e) **Shop around, with an explanation of how they may do so.**

### 16.6.8B G

**If a retail client has been invested in the same pathway investment** for 5 years (or a multiple of 5 years) a **firm should consider including in the retail client’s next annual statement:**

1. A **reminder of the number of years the retail client has been invested in the same pathway investment**; and

2. **A statement that the retail client should review the investment pathway option.**

### 16.6.9 G

**The information provided to the retail client in COBS 16.6.8R(1) is likely to be sufficient for the client to review the decision if it contains at least one of the following (in addition to the information required by COBS 16.6.8AR and COBS 16.6.10R, as relevant):**

---
### Personal or stakeholder pension schemes in decumulation: actual costs and charges disclosure

<table>
<thead>
<tr>
<th>16.6.10</th>
<th>R</th>
<th>(1)</th>
<th>The annual statement must include costs and charges information which must be:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(a)</td>
<td>based on actual costs and charges (including transaction costs and the cost of advice) charged by the operator or other parties, which have been paid out of the retail client’s:</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(i)</td>
<td>drawdown fund; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(ii)</td>
<td>personal pension scheme or stakeholder pension scheme from which an uncrystallised funds pension lump sum payment was paid;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b)</td>
<td>aggregated and totalled; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(c)</td>
<td>expressed in pounds and pence.</td>
</tr>
<tr>
<td>(2)</td>
<td>When a retail client’s personal pension scheme or stakeholder pension scheme is in partial drawdown, the operator:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a)</td>
<td>may include costs and charges information for the whole pension scheme; and</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b)</td>
<td>must make clear whether the costs and charges information relates to the whole pension scheme or only to the drawdown fund.</td>
</tr>
<tr>
<td>(3)</td>
<td>If the operator does not have the information necessary to comply with (1), it must take all reasonable steps to obtain it.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(4)</td>
<td>If the operator does not have exact figures for certain costs and charges, despite taking all reasonable steps to obtain them, the operator:</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(a)</td>
<td>must provide a reasonable estimate of such costs and charges when providing the costs and charges information; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(b)</td>
<td>if it is not possible to provide a reasonable estimate of such costs and charges, must include a written statement, with the costs and charges information, to explain which costs and charges are not included.</td>
</tr>
</tbody>
</table>
| (5) | The operator must include a written statement with the costs and charges information, stating whether any adviser remuneration, including adviser charges, consultancy charges, commission or
**commission equivalent**, is included in the aggregated costs and charges figure.

<table>
<thead>
<tr>
<th></th>
<th>(6)</th>
<th>The operator must make clear what period is covered by the costs and charges information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>16.6.11</td>
<td>R</td>
<td>COBS 16.6.10R does not apply where costs and charges are discharged by payment of the fixed price of a drawdown pension product, which has been clearly disclosed to the retail client.</td>
</tr>
<tr>
<td>16.6.12</td>
<td>G</td>
<td>Where COBS 16.6.10R(1)(a)(ii) applies, the annual statement must include costs and charges for the whole of the retail client’s personal pension scheme or stakeholder pension scheme.</td>
</tr>
<tr>
<td>16.6.13</td>
<td>G</td>
<td>The operator’s reasonable steps to obtain costs or charges information should include, where relevant, requesting this information from third parties that provide services relating to the retail client’s drawdown fund, personal pension scheme or stakeholder pension scheme.</td>
</tr>
</tbody>
</table>

After COBS 19.9 (Pension annuity comparison information) insert the following new section. The text is not underlined.

### 19.10 Drawdown, investment pathways and cash warnings

#### Definitions

<table>
<thead>
<tr>
<th>19.10.1</th>
<th>R</th>
<th>In COBS 19.10:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>“cash-like investments” includes cash or near cash, units in a regulated money market fund, or units in a fund authorised as a money market fund for the purposes of the European Parliament and Council Regulation on money market funds (2017/1131/EU);</td>
<td></td>
</tr>
<tr>
<td>(2)</td>
<td>“cash warning” is the warning in COBS 19.10.38R;</td>
<td></td>
</tr>
<tr>
<td>(3)</td>
<td>“drawdown fund” means either a capped drawdown pension fund or flexi-access drawdown pension fund;</td>
<td></td>
</tr>
<tr>
<td>(4)</td>
<td>a retail client is a “non-advised retail client” if a firm has not determined, on reasonable grounds, that the client has received a personal recommendation in relation to how to invest the sums or assets in their drawdown fund, in accordance with COBS 19.10.10R(4);</td>
<td></td>
</tr>
<tr>
<td>(5)</td>
<td>“pathway investments exempt firm” is a firm which:</td>
<td></td>
</tr>
<tr>
<td>(a)</td>
<td>has elected not to offer pathway investments; and</td>
<td></td>
</tr>
<tr>
<td>(b)</td>
<td>is satisfied on reasonable grounds that it is more likely than not to have fewer than 500 of its non-advised retail clients</td>
<td></td>
</tr>
</tbody>
</table>
designate funds to a drawdown fund in the 12 months following the date of the election in (a), taking into account:

(i) the number of non-advised retail clients who designated funds to a drawdown fund in the preceding 12 months;

(ii) the potential impact of any change in the firm’s business plans over the next 12 months; and

(iii) any other relevant factors;

(6) references to a firm “offering” the retail client a pathway investment mean that the investments are either:

(a) manufactured by the firm (F1); or

(b) manufactured by another firm (F2);

and are available for investment in the drawdown fund operated by F1.

(7) references to a firm (F1) “referring” the retail client to a firm (F2) offering a pathway investment mean that F1 arranges for F2 to give the retail client the opportunity to invest in a pathway investment available through transfer to the drawdown fund operated by F2, where F2 offers pathway investments in accordance with (6)(a) above.

Who?

19.10.2 R This section applies to an operator of a retail client’s personal pension scheme or stakeholder pension scheme.

19.10.3 G The application of this section is modified for a pathway investments exempt firm.

19.10.4 R (1) A pathway investments exempt firm must review its status at least once every 12 months.

(2) Any change to a firm’s status as a pathway investments exempt firm must take effect within 12 months of the review date.

Purpose

19.10.5 G The purpose of this section is to help non-advised retail clients designating some or all of the funds in their pension schemes into a drawdown fund to make an active decision about how to invest those drawdown funds to achieve their retirement objectives.
19.10.6 G This section specifies the circumstances where a firm dealing with a non-advised retail client in relation to the investment of the sums or assets in their drawdown fund must:

1. give the retail client the opportunity to use the investment pathways;
2. offer the retail client a pathway investment or refer the retail client to a firm that offers pathway investments;
3. ensure that retail clients investing wholly or predominantly in cash-like investments make an active decision to do so; and
4. provide warnings to retail clients investing wholly or predominantly in cash-like investments;
5. remind clients about their option to shop around and use pensions guidance.

19.10.7 G This section does not absolve firms of their obligation, when communicating with retail clients about their drawdown fund options, to provide such information as is necessary for the retail client to make an informed decision, including (where relevant) the information listed in COBS 19.4.14R.

When?

19.10.8 R Subject to COBS 19.10.10R, a firm must take the steps in this section when a retail client requests to:

1. designate some, or all, of the sums or assets in their pension scheme to a drawdown fund; or
2. transfer sums or assets already in drawdown into a drawdown arrangement provided by the firm.

19.10.9 G COBS 19.10.8R(2) applies to a drawdown provider when a retail client requests to transfer sums to the drawdown provider from another provider. It also applies, for example, when a retail client requests to transfer sums into a new drawdown arrangement at the end of a fixed-term arrangement with the same drawdown provider.

19.10.10 R The requirements in this section do not apply to a firm:

1. in relation to sums or assets in a retail client’s pension scheme that the retail client requests to use to purchase a fixed-term product that:
   a. provides a guaranteed income, a guaranteed capital return or both, to the retail client or the retail client’s beneficiary; and
   b. does not involve any investment risk to the retail client if the retail client remains in the product for the fixed term;
(2) when the firm carries out the retail client’s previous instructions to designate their funds on a regular basis into a drawdown fund;

(3) when the retail client has been taken through the investment pathways by another firm (F1) and has been referred to the firm’s (F2’s) drawdown fund to invest in one of the pathway investments that the firm (F2) offers (see COBS 19.10.1R(7)); or

(4) when the firm has determined, on reasonable grounds, that the retail client has received a personal recommendation in relation to the action referred to in COBS 19.10.8R(1) or (2).

19.10.11 G COBS 19.10.10R(1) applies where a retail client requests to purchase a fixed-term product, in which the only income or return is intended to be regular income, a capital return or both (payable to the client or the client’s beneficiary), with amounts guaranteed and specified at the time the product is purchased. Firms may nonetheless agree terms permitting ad hoc withdrawals or early exit, which may or may not be subject to guarantees, with retail clients purchasing these products.

19.10.12 G A firm will not have reasonable grounds for the purpose of COBS 19.10.10R(4) if the determination is based solely on information that:

(1) is over 12 months old;

(2) the retail client is in, or transferring from, an advised product; or

(3) the retail client continues to provide remuneration to an adviser in relation to their pension scheme or drawdown fund.

19.10.13 G However, a firm could have reasonable grounds for the purpose of COBS 19.10.10R(4) if the retail client continues to provide remuneration to an adviser in relation to their pension scheme or drawdown fund and the firm has reminded the retail client of this:

(1) including an explanation of what this means in the context of the retail client’s request referred to in COBS 19.10.8R;

(2) in a durable medium; and

(3) within a reasonable time before the firm carries out the retail client’s request referred to in COBS 19.10.8R.

Step 1: offer use of investment pathways

19.10.14 R The first step is to ask the retail client how they want to select the investment for their drawdown fund from the following options:

(1) use the investment pathways (option 1);
(2) select investments without using the investment pathways (option 2); or

(3) (where applicable) remain invested in their current investments (option 3).

19.10.15 R The option to use investment pathways must be presented with equal prominence to options 2 and 3.

19.10.16 R If a retail client selects option 1, or the retail client is unsure about the option to select, or the firm is unsure about which option the retail client has selected, the firm must proceed to step 2.

Step 2: present investment pathway options

19.10.17 R The second step is to:

(1) present the retail client with the following investment pathway options:

   (a) Option 1: I have no plans to touch my money in the next 5 years;

   (b) Option 2: I plan to use my money to set up a guaranteed income (annuity) within the next 5 years;

   (c) Option 3: I plan to start taking my money as a long-term income within the next 5 years;

   (d) Option 4: I plan to take out all my money within the next 5 years; and

(2) ask the retail client to select an investment pathway option that corresponds most closely to their current intentions.

19.10.18 R A firm must not present any other investment options to the retail client during step 2 of investment pathways.

19.10.19 R If a retail client selects an investment pathway option, the firm must proceed to step 3.

19.10.20 G If, after the firm completes step 2, the retail client does not select an investment pathway option the firm should:

(1) consider providing the retail client with the opportunity to view the investment pathways options again or ask if the retail client requires further information to make a decision;

(2) provide a clear and prominent statement about the availability of advice and pensions guidance; and
(3) provide the retail client with the information in COBS 19.10.30R, if applicable.

Step 3: offer pathway investments

19.10.21 R (1) The third step is for the firm to:

(a) (i) offer the retail client a pathway investment that corresponds to the investment pathway option selected in step 2; or

(ii) refer the retail client to a firm that offers a pathway investment that corresponds to the investment pathway option selected in step 2; or

(iii) (for pathway investments exempt firms only) refer the retail client to the Money and Pensions Service drawdown comparator;

(b) describe to the retail client, using plain language, the level of riskiness of each pathway investment (whether offered by that firm or by a firm to which they refer retail clients); and

(c) provide the retail client with a clear and prominent statement:

(i) that other firms offer pathway investments for the investment pathway option selected by the retail client and that the retail client may benefit from shopping around, with an explanation of how they may do so; and

(ii) that the Money and Pensions Service is available to assist the retail client with shopping around for pathway investments with an explanation of how they may access the Money and Pensions Service and the Money and Pensions Service drawdown comparator.

(2) A pathway investment exempt firm need only do (1)(a)(ii) or (iii) and (1)(b) and (c).

19.10.22 G If after the firm completes step 3 the retail client does not select a pathway investment the firm should:

(1) consider providing the retail client with the opportunity to view the investment pathways options again or ask if the retail client requires further information to make their decision;

(2) remind the retail client that they can shop around and explain how they can do that;
(3) provide a clear and prominent statement about the availability of advice and pensions guidance; and

(4) provide the retail client with the information in COBS 19.10.30R, if applicable.

19.10.23 G If after the firm completes step 3 the retail client does not select a pathway investment the firm may offer other investments and tools the client may use when deciding how to invest their drawdown fund.

Preparing for step 3

19.10.24 R To prepare for step 3:

(1) a firm (excluding pathway investments exempt firms) must be in a position to:

(a) offer, or refer to other firms offering, a pathway investment for each of the investment pathway options (see COBS 19.10.1R(7) on referring); and

(b) offer pathway investments for at least two investment pathway options;

(2) firms may offer, or refer to other firms offering, the same pathway investment for more than one investment pathway option, but must not offer, or refer the retail client to other firms that offer, the same pathway investment for all investment pathway options;

(3) firms must be in a position to describe the level of riskiness of each pathway investment, whether offered by them or by a firm to which they refer retail clients; and

(4) pathway investments exempt firms must be in a position to either:

(a) refer clients to pathway investments offered at other firms; or

(b) refer clients to the Money and Pensions Service drawdown comparator.

19.10.25 R Firms must not offer a retail client more than one pathway investment, nor refer a retail client to more than one firm offering a pathway investment, for any investment pathway option.

19.10.26 G Firms do not have to offer the same pathway investment to all retail clients who select the same investment pathway option. Example F(33) in PERG 8 Annex 1 sets out some considerations for firms that offer different pathway investments in relation to the same investment pathway option.

19.10.27 G (1) Where a firm decides to change the pathway investment it offers in relation to a particular investment pathway option, the firm may need
to consider whether it would be appropriate to transfer existing clients to that new investment.

(2) This may be the case, for example, if the transfer is required to prevent consumer harm and avoid risking a breach of our rules, for example Principle 6. This could be the case where the firm has determined that the pathway investment is no longer an appropriate investment for the investment pathway option and the client is likely to suffer harm as a result.

(3) If firms decide to transfer existing clients to a new pathway investment, firms will need to consider the information needs of their clients, and communicate to them appropriately and in good time, in a manner that is clear, fair and not misleading.

(4) Firms are required to have appropriate arrangements in place (including contractual powers that are fair and transparent and comply with the CRA) to enable them to comply with their obligations under the regulatory system.

19.10.28 R (1) Firms must label pathway investments clearly using the corresponding option listed in COBS 19.10.17R(1).

(2) Firms must not label any other investments as pathway investments or mislead a retail client into thinking that another investment is a pathway investment.

Information, including cash warnings, for clients who have not decided to invest at least 50% of their drawdown fund in pathway investments

19.10.29 R COBS 19.10.30R applies if a retail client has:

(1) been taken through the investment pathway (whether or not they proceeded to steps 2 or 3); and

(2) not decided to invest at least 50% of their drawdown fund in one or more pathway investments.

19.10.30 R Before carrying out the retail client's request referred to in COBS 19.10.8R, the firm must:

(1) if the retail client has chosen to remain in their current investments, remind the retail client:

(a) of their current investment strategy (where this is known to the firm); and

(b) to check that their current investment strategy meets their current investment objectives;

(2) subject to COBS 19.10.32R, if carrying out the retail client's request referred to in COBS 19.10.8R would result in more than 50% of the
retail client’s drawdown fund being invested in cash-like investments:

(a) ensure that the retail client has made an active decision to invest in cash-like investments; and

(b) provide the retail client with a cash warning;

(3) remind the retail client that they can shop around and how to do that, including the option of using the Money and Pensions Service drawdown comparator; and

(4) provide a clear and prominent statement about the availability of advice and pensions guidance.

19.10.31 G A retail client’s signature on a pre-populated form, whether in paper or electronic format, is not, by itself, sufficient evidence of an active decision to invest in cash-like investments.

19.10.32 R (1) COBS 19.10.30R(2) does not apply where a retail client has given a discretionary investment manager or a financial adviser permission to execute investment decisions, and the sums or assets covered by this permission comprise more than 50% of the retail client’s drawdown fund.

(2) When ascertaining whether more than 50% of the retail client’s drawdown fund is invested in cash-like investments, a firm may ignore sums or assets in relation to which a discretionary investment manager or a financial adviser has permission to execute investment decisions. A firm exercising this option must take the steps in COBS 19.10.30R(2) if the client’s decision would result in more than 50% of the remainder of the drawdown fund being invested in cash-like investments.

(3) If it is not possible for the firm to identify the assets in a retail client’s drawdown fund, despite making all reasonable efforts, a firm may take into account all investments in the retail client’s personal pension scheme or stakeholder pension scheme. In such a case, a firm must take the steps in COBS 19.10.30R(2) if the client’s decision would result in more than 50% of the value of the client’s personal pension scheme or stakeholder pension scheme being invested in cash-like investments.

19.10.33 G To ascertain whether more than 50% of a retail client’s drawdown fund is invested in cash-like investments, a firm should take reasonable steps to obtain up-to-date information, and should use the most recent information it has access to.

Ongoing cash warnings

19.10.34 R When a firm has given a retail client a cash warning pursuant to COBS 19.10.30R(2)(b) or TP 2.8GR, the firm must give the client a cash warning
at least annually thereafter, while the client remains so invested and remains
a non-advised client.

19.10.35 G When considering whether to send an annual cash warning, a firm may, but
is not obligated to, reassess whether a retail client has received a personal
recommendation in relation to how to invest the sums or assets in their
drawdown fund, in accordance with COBS 19.10.10R(4).

Product governance

19.10.36 G A firm should ensure that it complies with the product governance
requirements in PROD in relation to the pathway investments they offer.

<table>
<thead>
<tr>
<th>Cash warnings</th>
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<tbody>
<tr>
<td>19.10.37 G</td>
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<tr>
<td>19.10.38 R</td>
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<tr>
<td>(1)</td>
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<td>(a)</td>
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<td>(4)</td>
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<td>19.10.39 G</td>
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<tr>
<td>(1) (if appropriate)</td>
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<td>(a)</td>
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<tr>
<td>(b)</td>
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<td>(2)</td>
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</table>
(3) provide the retail client with a statement to the effect that (to the extent applicable) the firm offers pathway investments and other investments; and

(4) remind the retail client (in line with the requirements in COBS 19.4) that the retail client can:

(a) shop around (with an explanation of how to do that);

(b) seek advice from a FCA-regulated financial adviser; and

(c) review information on the Money and Pensions Service’s website.

19.10.40 G In the FCA’s view, the Consumer Prices Index is a national index of retail prices and so may be used as a measure of the current inflation rate for the purposes of COBS 19.10.38R(3).

Warning on expiry of a fixed-term product

19.10.41 G This section sets out when and how warnings must be given to retail clients who have purchased certain fixed-term products, and what the warnings should include.

19.10.42 R COBS 19.10.43R applies where:

(1) a non-advised retail client has purchased a fixed-term product within a personal pension scheme or stakeholder pension scheme;

(2) at the end of the fixed term, that product has a fixed cash value payable to the retail client or the retail client’s beneficiary; and

(3) the retail client has not given the firm instructions to transfer the full value out of the product.

19.10.43 R The firm must provide the retail client with a warning, which must:

(1) be provided:

(a) in a durable medium;

(b) within 28 days of the end of the fixed term; and

(c) at least annually thereafter for so long as the value remains in the product; and

(2) in plain language, warn the client that:

(a) the fixed term of the product has expired;
(b) if applicable, no interest will accrue on the value remaining in the product; and

(c) the value remaining in the product is at risk of being eroded by inflation; and

(3) include a generic example (provided as an explanation, an illustration or both) of how inflation erosion would affect a £10,000 pot over 5 years, assuming 0% interest and using a measure of inflation generally accepted in the United Kingdom.

19.10.44 G The firm should also:

(1) if appropriate, inform the retail client that this warning is not advice or a substitute for it;

(2) remind the retail client (in line with the requirements in COBS 19.4) that they can:

(a) shop around (with an explanation of how to do that);

(b) seek advice from a FCA-regulated financial adviser; and

(c) review information on the Money and Pensions Service’s website.

19.10.45 G In the FCA’s view, the Consumer Prices Index is a national index of retail prices and so may be used as a measure of the current inflation rate for the purposes of COBS 19.10.43R(3).

Record keeping

19.10.46 R A pathway investments exempt firm must maintain a record of:

(1) the dates its exemption applies; and

(2) how the firm assessed that it meets the requirements for the exemption with reference to the criteria in COBS 19.10.1R(5)(b).

19.10.47 G A firm to which the record-keeping rules in SYSC 3 (Systems and controls) or SYSC 9 (Record-keeping) apply should maintain a record of its compliance with the requirements in this section including:

(1) the number of advised and non-advised retail clients entering into drawdown arrangements with the firm;

(2) a record of how the firm determined, on reasonable grounds, that a retail client had received a personal recommendation, in accordance with COBS 19.10.10R(4) (where relevant);
(3) the number of retail clients who chose each of the 3 options at step 1 of investment pathways;

(4) the number of retail clients who selected each investment pathway option at step 2;

(5) the total number of retail clients who did not select an investment pathway option after step 2;

(6) in relation to retail clients who did not select an investment pathway option after step 2, the number who:
   
   (a) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;
   
   (b) moved sums or assets into drawdown but remained invested in their previous investments;
   
   (c) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected another investment offered by the firm.

(7) the number of retail clients offered each pathway investment at step 3;

(8) the number of retail clients who selected each pathway investment at step 3;

(9) the total number of retail clients who did not select the pathway investment offered;

(10) in relation to retail clients who did not select the pathway investment offered, the number who:
   
   (a) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;
   
   (b) moved sums or assets into drawdown but remained invested in their previous investments;
   
   (c) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected another investment offered by the firm;
   
   (d) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a pathway investment different to that offered by the firm in step 3;

(11) where a firm refers retail clients to another firm’s pathway investment at step 3:
(a) the number of retail clients referred to another firm’s pathway investment, broken down by pathway investment if more than one;

(b) the number who transferred to that firm;

(c) the number who did not transfer to that firm;

(d) in relation to retail clients who did not transfer, the number who:

   (i) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;

   (ii) moved sums or assets into drawdown but remained invested in their previous investments;

   (iii) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a non-pathway investment offered by the firm;

   (iv) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a pathway investment that did not require transferring to another firm;

(12) where a pathway investment exempt firm refers retail clients to the Money and Pensions Service drawdown comparator at step 3:

   (a) the number of retail clients directed to the Money and Pensions Service drawdown comparator;

   (b) the numbers of those retail clients who then transferred to another firm;

   (c) the number of retail clients who did not transfer to another firm;

   (d) in relation to retail clients who did not transfer, the number who:

      (i) did not, as originally requested, move sums or assets into drawdown or transfer sum or assets already in drawdown;

      (ii) moved sums or assets into drawdown but remained invested in their previous investments;

      (iii) moved sums or assets into drawdown or transferred sum or assets already in drawdown, but selected a non-pathway investment offered by the firm;
(13) the number of retail clients who received a cash warning pursuant to COBS 19.10.30R(2)(b) (initial cash warning);

(14) the number of retail clients who received a cash warning pursuant to COBS 19.10.34R (ongoing cash warning);

(15) in relation to retail clients who received an initial cash warning, the number of clients who did not receive an ongoing cash warning because:

(a) they were no longer holding more than 50% of their drawdown fund in cash-like investments;

(b) they closed their drawdown fund or transferred to another firm;

(c) the firm assessed that the retail client was no longer non-advised;

(16) evidence of how each retail client who received an initial cash warning made an active choice, in accordance with COBS 19.10.30R(2)(a), to invest more than 50% of their drawdown fund in cash-like investments;

(17) the number of retail clients who received a warning pursuant to COBS 19.10.43R(1)(b) (initial warning on expiry of fixed-term fixed-income product); and

(18) the number of retail clients who received a warning pursuant to COBS 19.10.43R(1)(c) (ongoing warning on expiry of fixed-term fixed-income product).

19.10.48 G PROD 6.2.2G and 6.3.4G contain further guidance on record-keeping for firms manufacturing or distributing pathway investments.

Amend the following as shown.

**TP 2 Other Transitional Provisions**

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Material to which the transitional provision applies</td>
<td>Transitional provision</td>
<td>Transitional provision: dates in force</td>
<td>Handbook provisions: coming into force</td>
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<tr>
<td>2.8G</td>
<td><strong>COBS 19.10.30R(2) and 19.10.34R</strong></td>
<td><strong>R</strong></td>
<td>An operator of a personal pension scheme or stakeholder pension scheme must, within 6 months of 1 August 2020, identify which of its non-advised retail clients have more than 50% of their drawdown fund invested in cash-like investments (subject to COBS 19.10.32R) and provide those retail clients with a cash warning.</td>
<td>1 August 2020 to 1 February 2021</td>
<td>1 August 2020</td>
</tr>
<tr>
<td>2.8H</td>
<td><strong>COBS 19.10.43R</strong></td>
<td><strong>R</strong></td>
<td>An operator of a personal pension scheme or stakeholder pension scheme must, within 6 months of 1 August 2020, identify which of its retail clients have value remaining in an expired fixed term product, such that COBS 19.10.43R applies, and provide those retail clients with warnings as set out in that rule.</td>
<td>1 August 2020 to 1 February 2021</td>
<td>1 August 2020</td>
</tr>
<tr>
<td>2.8I</td>
<td><strong>COBS 19.10.47G(13)</strong></td>
<td><strong>G</strong></td>
<td>A firm to which TP 2.8GR applies should maintain a record of the number of retail clients provided with a cash warning in accordance with COBS TP 2.8GR.</td>
<td>1 August 2020 to 1 February 2021</td>
<td>1 August 2020</td>
</tr>
<tr>
<td>2.8J</td>
<td><strong>COBS 19.10.47G(17) and (18)</strong></td>
<td><strong>G</strong></td>
<td>A firm to which TP 2.8HR applies should maintain a record of the number of retail clients provided with a warning in accordance with COBS TP 2.8HR.</td>
<td>1 August 2020 to 1 February 2021</td>
<td>1 August 2020</td>
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</table>
Annex C

Amendments to the Product Intervention and Product Governance sourcebook (PROD)

In this Annex underlining indicates new text, unless otherwise stated.

1 Product intervention and Product Governance Sourcebook (PROD)

... 

1.3 Application of PROD 3

... 

Manufacturing pathway investments

1.3.16 A firm that is within the scope of PROD 3 (Product governance: MiFID) when it manufactures pathway investments other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, is also subject to PROD 6 (Product governance: additional provisions for pathway investments) as guidance with respect to that manufacturing activity (see PROD 1.6.1R(3)).

... 

1.4 Application of PROD 4

... 

Manufacturing and distributing pathway investments

1.4.3A A firm that is within the scope of PROD 4 (Product governance: IDD) when manufactures pathway investments other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, is also subject to PROD 6 (Product governance: additional provisions for pathway investments) as guidance with respect to that manufacturing activity (see PROD 1.6.1R(2)).

1.4.3B Where a firm:

(1) manufactures or distributes pathway investments in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme; and

(2) is not otherwise within the scope of the rules or EU regulations in PROD in relation to that manufacturing or distribution activity, then:

(a) PROD 4 and PROD 1.4.10G apply; and
(b) **PROD 1.4.4EU applies as a rule,**

with respect to that *manufacturing or distribution* activity.

1.4.3C  **G**  The effect of **PROD 1.4.3BR** is to apply **PROD 4** to any *firm*, such as a *SIPP* operator, which:

(1) *manufactures or distributes pathway investments* in connection with its operating of a *retail client’s personal pension scheme* or *stakeholder pension scheme*; and

(2) before the entry into force of **PROD 1.4.3BR**, was not subject to the *rules* or *EU regulations* in **PROD**.

... Effect of provisions marked “EU” for certain manufacturers and distributors of insurance products

1.4.6  **R**  ... Effect and interpretation of **PROD 1.4** and **PROD 4** for certain manufacturers and distributors of pathway investments

1.4.6A  **R**  A *firm* to which **PROD 1.4.3BR** applies must:

(1) comply with provisions marked “EU” in **PROD 1.4** and **PROD 4** as if they were *rules*; and

(2) read terms or phrases found in **PROD 1.4** or **PROD 4** as follows:

(a) terms referred to in column (1) of the table below have the meaning indicated in the same row of column (2) of the table;

(b) terms relating to insurance or insurance products have the meaning of the corresponding term relevant in the context of *pathway investments*; and

(c) terms or phrases which are only relevant to *firms manufacturing or distributing* insurance products may be disregarded.

This table belongs to **PROD 1.4.6AR(2)(a).**

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<tr>
<td>“Article 17(1) of Directive (EU) 2016/97”</td>
<td>COBS 2.1.1R</td>
</tr>
</tbody>
</table>
After PROD 1.5 (Application of PROD 5) insert the following new section, PROD 1.6. The text is not underlined.

### 1.6 Application of PROD 6

1.6.1 R PROD 6 applies to a firm:

1. that manufactures or distributes pathway investments in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme;

2. within the scope of PROD 4 when manufacturing pathway investments, other than in connection with its operating of a retail
client’s personal pension scheme or stakeholder pension scheme, as guidance with respect to that manufacturing activity;

(3) within the scope of PROD 3 when manufacturing pathway investments, other than in connection with its operating of a retail client’s personal pension scheme or stakeholder pension scheme, as guidance with respect to that manufacturing activity.

Amend the following as shown.

4 Product governance: IDD and pathway investments

…

After PROD 5 (Extended warranties sold with rent-to-own agreements: customer information and deferred opt-in) insert the following new chapter, PROD 6. The text is not underlined.

6 Product governance: additional provisions for pathway investments

6.1 General

6.1.1 R This chapter does not affect the application of other requirements in the FCA Handbook or EU regulations applying to firms within the scope of this chapter. Firms within the scope of PROD 1.3 (Application of PROD 3), PROD 1.4 (Application of PROD 4), PROD 3 (Product governance: MiFID) and PROD 4 (Product governance: IDD) must continue to comply with those provisions.

6.2 Manufacture of pathway investments

6.2.1 R A manufacturer must review its pathway investments at least annually to ensure that the pathway investments:

(1) remain consistent with the needs, characteristics and objectives of their identified target market, taking into account the investment pathway options in COBS 19.10.17R(1); and

(2) are being distributed to their target market.

6.2.2 G A firm to which the record-keeping rules in SYSC 3 (Systems and controls) or SYSC 9 (Record-keeping) apply should maintain, in relation to its manufacture of pathway investments, a record of the process undertaken to approve each pathway investment, and of the review conducted for each pathway investment to comply with PROD 6.2.1R.

6.3 Distribution of pathway investments

6.3.1 R A firm must not distribute a pathway investment unless it is compatible with the needs, characteristics and objectives of those retail clients that fall
within the *pathway investment*’s target market, taking into account the *investment pathway* options in COBS 19.10.17R(1).

### 6.3.2 R

When carrying out the compatibility assessment referred to in *PROD 6.3.1R*, **firms** must take into account:

1. the price and complexity of the *pathway investment*; and

2. where the **firm** is referring **retail clients** to be transferred to the *personal pension scheme* or *stakeholder pension scheme* operated by another **firm**, they must also take into account:
   
   a. the charges and other product features of that other **firm**’s drawdown product;

   b. the financial strength of that other **firm**; and

   c. the reliability and efficiency of that other **firm** in relation to its dealings with **retail clients**.

### 6.3.3 R

A **firm** must review the distribution arrangements for the *pathway investments* it distributes at least on a two-yearly basis to ensure:

1. the distribution arrangements are still valid and up to date; and

2. the *pathway investments* remain compatible with, and are being *distributed* to, their target market in accordance with *PROD 6.3.1R*.

### 6.3.4 G

A **firm** to which the record-keeping rules in *SYSC 3* or *SYSC 9* apply should maintain, in relation to its *distribution* of *pathway investments*, a record of the process undertaken to select each *pathway investment*, and of the review conducted for each *pathway investment* to comply with *PROD 6.3.3R*.

#### Obligations on firms where retail clients are not acting in their interests

### 6.3.5 R

Where a **firm** (A) refers **retail clients** to another **firm** (B), where B can offer a *pathway investment* to the **retail client** if the **retail client** transfers to the *personal pension scheme* or *stakeholder pension scheme* operated by B, both A and B must comply with *PROD 6.3.6R*.

### 6.3.6 R

Where:

1. A becomes aware of a pattern of **retail clients** choosing to stay with A and not transferring to B; and

2. A considers that this choice is unlikely to be in the interests of those **retail clients**, having regard to their objectives and characteristics; then

3. A must promptly inform B of its concerns in (1) and (2); and
(4) A and B must each take reasonable steps to minimise the potential harm to retail clients.

6.3.7 G Reasonable steps for the purposes of PROD 6.3.6R may include A and B making it easier for retail clients to transfer to the personal pension scheme or stakeholder pension scheme operated by B.
8 Financial promotion and related activities

... 8 Annex Examples of what is and is not a personal recommendation and advice 1

...  

<table>
<thead>
<tr>
<th>(F) Miscellaneous</th>
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<tbody>
<tr>
<td>Example</td>
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<tr>
<td>(31) A firm offers pathway investments in accordance with the requirements in COBS 19.10.14R to 19.10.21R. The firm interacts with the customer online or in writing. At step 3 the firm offers the customer a pathway investment that it manufactures.</td>
</tr>
<tr>
<td>(32) Same as (31) except the firm offers the customer a pathway investment manufactured by another firm and available for investment in the retail client’s drawdown fund.</td>
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</table>
(33) Same as (31) except that a firm offers pathway investments that have been designed for retail clients in various age groups. The firm offers different pathway investments to retail clients who select the same investment pathway option, based on the age of each retail client.

The firm informs the retail client that this is the pathway investment for the relevant investment pathway option and it has been designed for people in the relevant age range. The firm makes clear to the retail client that it is describing the pathway investment’s design and investment objectives, and is not presenting the pathway investment as suitable for the retail client.

No, so long as the firm is merely describing the design and investment objectives of the investment and is not presenting the investment as suitable for the retail client.

This process involves the firm filtering its investment products based on the investment objectives and target age range of the fund. This will generally not be regulated advice for the reasons in PERG 8.30A.12G, so long as the firm is merely describing the design and investment objectives of the investment and is not presenting the investment as suitable for the retail client.

(34) A firm offers pathway investments in accordance with the requirements in COBS 19.10.14R to 19.10.21R.

The firm interacts with the customer on the telephone or face to face.

At step 3 the firm offers the customer a pathway investment that it manufactures.

See the answer to example F(24)

See the answer to example F(24)

(35) Same as (34) except that a firm offers the customer a pathway investment manufactured by another firm and available for investment in the retail client’s drawdown fund.

See the answer to example F(24)

See the answer to example F(24)
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<tr>
<td>(36) A <strong>firm</strong> gives a cash <strong>warning</strong> to a <strong>retail client</strong> in accordance with the requirements in <strong>COBS 19.10.38R</strong> and the <strong>guidance</strong> in <strong>COBS 19.10.39G.</strong></td>
<td>No. This is not a recommendation to <strong>buy, sell, subscribe for, exchange, redeem, hold or underwrite a particular investment; or exercise or not exercise any right conferred by such an investment to buy, sell, subscribe for, exchange or redeem such an investment.</strong></td>
</tr>
</tbody>
</table>

No. This is not advice on the merits of **buying, holding or selling** a particular **investment.**