

Charges in workplace personal pension schemes

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We are asking for comments on this Consultation Paper by 31 December 2014.

You can send them to us using the form on our website at:
www.fca.org.uk/your-fca/documents/consultation-papers/cp14-24-response-form.

Or in writing to:

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

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

You can download this Consultation Paper from our website: www.fca.org.uk.

Abbreviations used in this paper

ABI	Association of British Insurers
AMD	active member discount
AUM	assets under management
CBA	cost benefit analysis
DWP	Department for Work and Pensions
FCA	Financial Conduct Authority
FSMA	Financial Services and Markets Act 2000
GAA	governance advisory arrangement
GPP	group personal pension
ICAEW	Institute of Chartered Accountants in England and Wales
IGC	independent governance committee
MiFID II	Markets in Financial Instruments Directive II
MIR	market investigation reference
NEST	National Employment Savings Trust
OFT	Office of Fair Trading
PRA	Prudential Regulation Authority
PRIIPs	Packaged Retail and Insurance-based Investment Products Directive
RAO	Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
SIPP	self-invested personal pension scheme
TPR	the Pensions Regulator
WPC	with-profits committee

1. Overview

Introduction

- 1.1** The UK has an ageing population, with many people not saving enough for their retirement¹. Automatic enrolment of employees into workplace pension schemes began in July 2012, with full rollout in October 2012, as part of the Government's policy response to this challenge. By 2018, when staging dates for automatic enrolment (the dates from when automatic enrolment duties come into force for businesses) will be complete, it is estimated that between eight and nine million people will be newly saving, or saving more, in a workplace pension scheme.² Many of these will be on low incomes and will not have made any active choice about how their pension savings are invested.
- 1.2** Automatic enrolment means that it is even more important to ensure that workplace pension schemes deliver the best possible value for money. However, the Office of Fair Trading (OFT) market study³ in 2013 highlighted problems with the existing workplace pension market, including poor outcomes for scheme members and a variety of unresolved conflicts of interest.
- 1.3** The Financial Conduct Authority (FCA) has been working with the Department for Work and Pensions (DWP) and the Pensions Regulator (TPR) to design a package of reform measures for implementation from 6 April 2015 that will help ensure that all workplace pension schemes are high quality and offer value for money. These measures include:
- new governance standards
 - a proposed charge cap on default funds
 - the banning of certain charging practices, and
 - measures to improve the disclosure of costs and charges
- 1.4** In August 2014 we consulted on new governance standards in relation to independent governance committees (IGCs) in CP14/16. In this paper we outline proposed new rules for a charge cap for default funds used for automatic enrolment in workplace pension schemes and for banning certain charging practices. The intention is to protect members from high charges and paying for advisory services that they do not need, or that are provided to their employer.

1 www.pensionspolicyinstitute.org.uk/publications/reports/what-level-of-pension-contribution-is-needed-to-obtain-an-adequate-retirement-income

2 *Transparency data – DWP business plan transparency measures*, July 2014, DWP
www.gov.uk/government/publications/dwp-business-plan-transparency-measures/dwp-business-plan-transparency-measures#number-of-employees-in-a-pension-scheme-sponsored-by-their-employer

3 *Defined contribution workplace pension market study* -
<http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.offt.gov.uk/OFTwork/markets-work/pension>

- 1.5** We will be responsible for new rules to implement these measures for the firms that we regulate, relating mainly to contract based workplace pension schemes (or ‘contract based schemes’ as referred to in this paper). The Department for Work and Pensions (DWP) are consulting on regulations for which the Pensions Regulator (TPR) will be responsible for on the trust based occupational scheme side of the market (or ‘trust based schemes’ as referred to in this paper).

Who does this consultation affect?

- 1.6** This consultation paper affects firms operating contract-based workplace personal pension schemes. Workplace personal pension schemes include personal pension schemes and stakeholder pension schemes which employers either use for automatic enrolment or otherwise make available to their employees.
- 1.7** In 2012, our data indicated that there were over 20 firms or groups that sold workplace personal pension schemes to employers in the UK. In addition, there are a number of other firms or groups that operate group pension schemes that are no longer being actively marketed to employers. Our proposed rules will affect a number of these as well.
- 1.8** This consultation paper will interest employers and their advisers in relation to the selection and ongoing monitoring of workplace personal pension schemes. It is also likely to interest fund managers and other third parties providing services to firms operating workplace personal pension schemes.

Is this of interest to consumers?

- 1.9** The charge cap and ban on certain charging practices are intended to act in the interests of relevant scheme members by restricting the charges they pay in workplace personal pension schemes. Therefore, this consultation will affect consumers who are members of workplace personal pension schemes. We would be interested in how firms intend to make scheme members aware of the proposed changes. It is also likely to interest consumer groups seeking better value for money for consumers with workplace personal pensions.

Context

- 1.10** In 2013, the OFT conducted a market study⁴ on defined contribution workplace pension schemes. The study covered both trust and contract based schemes, since employers can choose either type of scheme for their employees.
- 1.11** In its report⁵, published in September 2013, the OFT found that the market for buyers was ‘one of the weakest that the OFT has analysed in recent years’. Employers make most of the key decisions but may lack the capability and/or the incentive to ensure that members of their schemes receive value for money in the long term. Employees often take little interest in their pension savings and, with automatic enrolment, they make no active choice to join, are enrolled at a default

⁴ *Defined contribution workplace pension market study* - <http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.offt.gov.uk/OFTwork/markets-work/pensions/>

⁵ *Defined contribution workplace pension market study* - <http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.offt.gov.uk/OFTwork/markets-work/pensions/>

contribution level, and do not need to choose the fund into which they save. Neither employers nor employees can therefore be expected to drive effective competition between firms.

- 1.12** The weaknesses identified by the OFT may result in poor value for money in workplace pension schemes and/or funds either from outset or over the longer term. As a result, we have been working with the DWP to develop a package of measures to protect members from bad practices in workplace pension schemes.
- 1.13** In this paper, we propose new FCA rules requiring firms who operate workplace personal pension schemes used by employers to comply with automatic enrolment to implement a charge cap within the default funds of those schemes.
- 1.14** The rules would also introduce new measures to stop providers using differential charges (in particular Active Member Discounts or AMDs) based on contribution status in workplace personal pension schemes used by employers to comply with automatic enrolment. They also prevent providers from paying commission and other remuneration to advisers in relation to services not initiated by scheme members.
- 1.15** We believe that our proposals will protect consumers. A charge cap and the other measures proposed will protect the interests of relevant members of workplace pension schemes by restricting the levels of charges that providers can levy and, in conjunction with other proposed changes, such as the development of independent governance committees (IGCs) consulted on in CP14/16, will promote better value for money.

Summary of our proposals

- 1.16** In this CP we outline plans to introduce the following measures in workplace personal pension schemes, which are being used by employers to comply with automatic enrolment:
- A cap on the charges within default funds equivalent to 0.75% per annum of funds under management from April 2015.
 - Preventing firms from paying or receiving consultancy charges from April 2015.
 - Preventing firms from paying commission or other charges for advice which are not initiated by scheme members from April 2016.
 - Preventing firms from using differential charges based on whether the member is currently contributing or not from April 2016.

Equality and diversity considerations

- 1.17** We have assessed the likely equality and diversity impacts of the proposed rules and do not think they give rise to any concerns. We consider that the proposed rules should ensure that the interests of members who are potentially in vulnerable circumstances are represented and that concerns are raised on their behalf.

Q1: We would welcome views on the likely equality and diversity impacts of the proposed rules.

Next steps

What do you need to do next?

- 1.18** Please send us any comments you have on the new rules by 31 December 2014. The consultation period is two months.

How?

- 1.19** Please use the online response form on our website or write to us at the address on page two of this paper.

What will we do?

- 1.20** We will consider your feedback as we finalise the new rules. We intend to publish the rules in a Policy Statement in February 2015.
- 1.21** Our proposed rules for the charge cap and other provisions, if made following consultation, will come into force on 6 April 2015. Firms will be expected to comply from that date.

2. Applying a charge cap to workplace personal pension schemes

Why are we proposing new rules for firms?

- 2.1 Under the automatic enrolment regulations, employers are responsible for compliance where they have a clear line of responsibility and it is within their control, e.g. the duty to automatically enrol and the duty to make sure contributions to money purchase schemes are above certain levels. Employers are, however, less able to monitor and control on an ongoing basis the charges that pension schemes apply to members' pension funds and are reliant on the information provided to them by the firms who provide the pensions.
- 2.2 The Department for Work and Pensions (DWP) announced its intention to apply a charge cap of 0.75% per year of funds under management to Qualifying Schemes in their Command Paper, *Better workplace pensions: further measures for savers*, which was published on 27 March 2014. This followed its consultation in 2013 to consider the options available to introduce a cap.
- 2.3 Following the publication of the Command Paper in March, we have been working with DWP to consider the most effective way to implement the charge cap.
- 2.4 We propose to introduce new rules on firms providing workplace personal pension schemes. Our proposals require firms to implement a charge cap in schemes that employers use to comply with automatic enrolment requirements.
- 2.5 Separately, DWP will introduce new regulations that require trustees of occupational pension schemes to implement a charge cap, where their schemes are used to meet automatic enrolment requirements, to ensure consistency across all automatic enrolment schemes.

Q2: Do you agree that workplace personal pension scheme providers are best placed to ensure compliance with the charge cap?

Which schemes will the charge cap apply to?

- 2.6 We propose the charge cap will apply to all personal pension schemes and stakeholder pension schemes (in this document collectively referred to as personal pension schemes) used by employers as Qualifying Schemes for the purposes of automatic enrolment.
- 2.7 Detailed guidance on automatic enrolment and Qualifying Schemes is available on the Pensions Regulator's website at: www.thepensionsregulator.gov.uk/doc-library/automatic-enrolment-detailed-guidance.aspx#s11500.

- 2.8** A limited exemption applies for certain Defined Ambition (DA) schemes from the charge cap where a third party promise applies. This is described in sections 5 (meaning of pensions promise) and 9 (pensions promise obtained from a third party) of the Pension Schemes Bill (see: www.publications.parliament.uk/pa/bills/cbill/2014-2015/0012/15012.pdf). At this stage the charge cap will not apply to non workplace pensions, however we expect firms to consider value for money for members across all schemes and we will keep this under review.

The level of the charge cap

- 2.9** As outlined in the DWP's Command Paper published in March 2014, the Government intends for the charge cap to be equivalent to 0.75% p.a. of funds under management. The charge cap will apply to both new contributions and existing monies held in default investment arrangements from the date of its application.
- 2.10** Many workplace personal pension schemes charges are based on a percentage of funds under management. In such cases it will be straightforward for firms to measure their charges against a cap of 0.75% p.a.
- 2.11** Other schemes have additional charges, e.g. charges based on the amount of contributions received or flat rate fees, normally in combination with charges based on funds under management.
- 2.12** Flat rate fees or contribution charges may be desirable from a commercial perspective, to bring forward charges or smooth the level of charges throughout the lifetime of the scheme. This flexibility may be particularly important in the early years of schemes, when charges based on funds under management will be low.
- 2.13** We propose to allow firms to use two alternative types of charges – contributions charges and flat rate fees – which can be used in combination with a charge based on funds under management. No other combinations will be permitted in default arrangements.
- 2.14** Tables 1 and 2 show the proposed maximum amounts, aligned with those to be used in DWP regulations, that can be charged each year, where alternative charging structures are used:

Table 1: Alternative basis 1

Contribution charge rate (%)	Maximum accrued rights charge rate (%)
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

Table 2: Alternative basis 2

Flat fee charge Annual (£)	Maximum accrued rights charge rate (%)
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

- 2.15** So that all members of all workplace pension schemes receive the same protections under the charge cap, the level of the charge cap should remain equal across both occupational pension schemes and personal pension schemes.

- 2.16** Under proposed regulations, DWP will have the power to vary the charge cap in future. Should this occur, the maximum amounts shown in the tables above would need to vary accordingly. FCA rules would continue to align with any such variation applied to occupational pension schemes by future regulations made by DWP, to ensure consistency is maintained across both types of scheme. Independent Governance Committees will be tasked with monitoring providers' levels of costs and charges in relation to overall value for money.

The start date of the charge cap

- 2.17** We propose the charge cap should apply from the later of:

- 6 April 2015
- the date from which a scheme becomes a Qualifying Scheme for an employer

Firms can, of course, choose to comply earlier.

- 2.18** This means that for employers who are already subject to the automatic enrolment requirements before 6 April 2015, firms will be required to ensure compliance with the charge cap from this date onwards. For employers with a later staging date for automatic enrolment, the charge cap will apply from the date a scheme becomes a Qualifying Scheme for that employer.
- 2.19** All contributions to a default fund within a Qualifying Scheme will be protected by the charge cap.
- 2.20** On 6 April 2015, or the date on which the scheme became a qualifying scheme, a default arrangement will be assigned. The funds of any individual contributing to the default arrangement after this date will be subject to the charge cap.

The investment options to which the charge cap will apply

- 2.21** Firms will need to identify whether an employee is invested within a default investment option, in order to determine whether the charge cap will apply. In many cases it will be straight-forward for the provider to identify the default investment option. For instance, for members who are automatically enrolled, the default investment option will be the one which a member would be invested in if they did not make an active investment choice.
- 2.22** We are aware that some schemes may not have had a default investment option before automatic enrolment. In such cases, we propose that firms will be required to decide whether the investment options members are in should be treated as default funds.
- 2.23** In considering whether investment options should be deemed default funds for schemes at employer level, we would expect firms to have regard to the following:
- whether there was a clear default option
 - whether members were required to make a choice from a range of alternative investment choices and if so, whether 80% or more of members in the Qualifying Scheme made the same investment choice

- 2.24** Following a review of the considerations at 2.23, firms should determine whether members have exercised a truly active and informed investment choice. Where no active choice has been exercised, a member's investment choice should be deemed to be a default investment option and, subsequently, the charge cap should apply.
- 2.25** In some cases, members may have chosen to invest in what is or would otherwise be deemed to be a default investment option. In such cases, the charge cap should also apply. Firms may, of course, choose to operate non-default funds within this charge structure.

Q3: Do you think our proposed methodology for deeming default funds appropriately captures members who have not made active investment choices?

Measuring charges against the cap

- 2.26** Firms will be required to assess the costs and charges levied on members' funds against the charge cap to ensure compliance. It is proposed that the charge cap will operate at a member level and firms will therefore need to ensure compliance with the charge cap for each member to whom it applies across the default arrangement as a whole.
- 2.27** We do not expect firms to carry out individual calculations on a member by member basis to assess against the charge cap, but we would expect sufficient levels of monitoring and controls to provide certainty that the charge cap is not exceeded. For combination charges, each member should be subject to a permitted charge as outlined in Tables 1 and 2 at 2.14.
- 2.28** We recognise that firms' current charging arrangements and systems may place constraints on changing when charges are applied to members' funds. With the introduction of the charge cap planned from April 2015, we want our rules to be sufficiently flexible to allow firms to comply with the charge cap.
- 2.29** We propose that firms should be able to assess the cap over a period of up to one year. Firms will be able to choose the end of the period to coincide with any existing annual processes, e.g. periods covered by annual benefit statements, accounting years, etc.
- 2.30** Firms may ideally want to align their measurement period to annual processes. These could occur shortly after the charge cap becomes effective. This would result in a short first measurement period. To enable firms to align the measurement period to suit their other business processes, we propose to allow an initial measurement period of up to 18 months from April 2015, after which assessments will need to be carried out at least annually.
- 2.31** Where firms choose to adopt a measurement period that is not a year, the limits must be pro-rated from the annual limits.
- 2.32** Where members leave a scheme during an annual measurement period, e.g. transfer out or access their benefits, the assessment of the charges they pay should be made against a pro-rated charge cap reflecting their shorter period of membership.

Q4: Do you believe our proposals in relation to the period over which charges will be measured against the cap are proportionate?

- 2.33** To assess charges based on funds under management, it will be necessary for firms to attribute a fund value on an annual basis. We propose the fund valuation for this purpose should be based on the average value over the course of the year. Further, we propose the average should be calculated using at least four reference points spread evenly across the year, e.g. daily, monthly or quarterly.
- 2.34** Applying reference points throughout the year will help to ensure that the charge cap is representative of members' fund values throughout the course of the year and not at just one point in time, e.g. at the end of year when the value could be at its highest. This potentially provides a fairer solution for consumers.

Q5: Do you agree that our proposed calculation measurement of average funds under management during the course of the year is the most appropriate method? If not, what would be a fairer solution for consumers?

The charges to be assessed against the cap

- 2.35** We propose the charge cap will apply to all charges and deductions made from members' pension funds, with three exceptions.
- 2.36** The first exception is for transaction costs, which include but are not limited to:
- dealing charges, such as brokerage commission and fees
 - bid-offer spreads, which are applied by investment managers wholly and exclusively to meet the costs of investment transactions
 - transaction taxes (including stamp duty)
 - foreign exchange commissions
 - fees relating to stock lending or stock borrowing
 - transaction costs relating to investments held in underlying funds (for funds of funds)
- Transaction costs will be subject to further consideration by DWP and FCA in relation to how they are disclosed going forward.
- 2.37** Members may also enter into agreements with providers to receive non-standard services under a scheme that are not provided within the standard charging structure of the scheme. For example, a member might enter into a drawdown arrangement to access their benefits from the scheme or pay separate premiums to receive life cover.
- 2.38** Such arrangements can be in the interests of members and we would not want to prevent them being provided by including charges for them within the charge cap.
- 2.39** We therefore propose a second exception, where a member explicitly agrees to non-standard services being provided. In such cases, additional charges will be permissible if they are disclosed to the member as additional, discrete charges.

- 2.40** In such cases, the agreement needs to be in writing and contain an acknowledgement that the charges incurred may be in excess of the charge cap. Also such arrangements:
- cannot be required as a condition of becoming or remaining a member of the scheme or fund
 - cannot apply to services which the provider is required by law to provide
 - cannot apply to core services
- 2.41** The third exception is in respect of charges incurred in complying with a court order and costs incurred in pension sharing.

Q6: Are there any other charges you believe should be excluded from the charge cap?

Considerations for firms in implementing the charge cap

Identifying which members the charge cap should apply to

- 2.42** We are aware of providers' concerns that they may not be able to identify all cases where a scheme is being used as a Qualifying Scheme. Where a personal pension scheme is used to meet automatic enrolment requirements, the employer is under an obligation to enter into an agreement with the provider to pay minimum levels of contributions to a scheme.⁶ While agreements may already exist for employers to pay into a scheme, specific agreement is required to be entered into to comply with automatic enrolment requirements. We believe that in most cases this agreement should be sufficient for providers to know that a scheme is a Qualifying Scheme.
- 2.43** Based on feedback from industry, we are aware that automatic enrolment agreements are often not in place. We expect firms to be pro-active in checking with employers whether the employer intends to use the scheme as a Qualifying Scheme. We would not expect to see firms transfer charges from areas that would be within the charge cap to areas that are exempt. A core focus for IGCs will be to assess value for money within and without the charge cap.
- #### Making changes to comply with the charge cap
- 2.44** Where default funds within Qualifying Workplace Personal Pension Schemes do not currently comply with the charge cap, firms will need to take action to make them compliant. We believe that the simplest solution will be for firms to reduce the level of their charges, but this option will depend on whether it is commercially viable for firms.
- 2.45** Where it is not commercially viable for firms to offer the same product to policyholders within the charge cap, firms will need to agree with employers what actions to take. Options include:
- making changes to schemes, e.g. the default fund is changed to a lower charging investment fund before the introduction of the charge cap
 - firms no longer accepting contributions to schemes that will not comply with the charge cap and offering an alternative arrangement to the employer, before the later of:

⁶ s26(4) Pensions Act 2008. S26(6) requires an agreement between the provider and the jobholder to make up any shortfall between the employer's contribution and the automatic enrolment minimum.

1) 6 April 2015

2) the date on which the scheme becomes a Qualifying Scheme for an employer

In such circumstances the cap would only apply to investments in the new default arrangement, with past investments remaining in the previous scheme and subject to the previous charge rates. If a firm decided to change the new default arrangement at a later date, however, the charge cap would continue to apply to the arrangement even if closed.

- informing the employer that the scheme can no longer be used and that they will need to make alternative arrangements

2.46 Some schemes with charges above the current cap provide additional features such as life assurance, guarantees (for example guaranteed bonuses on death or maturity, guaranteed annuity rates or options), bonuses (for example loyalty bonuses) or additional benefits (such as additional lump sum death benefit or Waiver of Premium). We recognise that it may not be in the policyholder's interest to lose such features. In such cases, we expect firms and employers to work together to find an appropriate solution, which may include:

- introducing a new default investment fund for existing members who have not previously made an active choice, but with the option of allowing members to make an active decision to remain in their existing investment fund with its benefits
- using another scheme as a Qualifying Scheme, but with members who have made an active decision and/or employers paying into a separate scheme to maintain the additional benefits

2.47 In either case, the 80% test for default funds set out in paragraph 2.23 will not apply.

2.48 The choice of options available will depend on policy terms and conditions and/or employers' and policyholders' willingness to pay contributions in addition to the minimum levels required under automatic enrolment. Providers offering a new default arrangement to consumers should also make it clear that they can move all of their invested funds into this new default fund and what the implications of such a move could be, including any charges that might apply.

Q7: Will clarifying the option of moving all their invested funds into a new default arrangement achieve the objective of moving consumers to lower charging options where suitable? If not, what other measures could be taken to achieve this?

2.49 Some providers of schemes with such additional features or benefits (where charges currently above the level of the cap apply) may encounter difficulties in contacting members regarding the proposed changes and/or obtaining responses from them. In such circumstances, providers should consider the following:

- The primary obligation is to ensure that customers are treated fairly.⁷
- Providers will need to make all reasonable and appropriate attempts to contact the member (and be able to demonstrate this if required).

⁷ FCA Principle 6

- If having made all such attempts the member cannot be contacted and/or a response has not been received, the provider will need to assess the level of additional benefits currently provided and make a judgment on how to proceed.
- The proposed rules may in normal circumstances enable the provider to place the member into a new default fund subject to the charge cap going forward.
- Where the additional benefits are clearly significant compared with the level of charges over and above the charge cap, and no active investment choice has been made by the member regarding them, it may be appropriate to leave them in the current scheme (and outside the charge cap) in future. The provider will need to discuss their proposed approach with us when they determine the most appropriate course of action for this group of customers.
- Where members respond, they will be able to: move to a new default fund or make an active decision to stay in their existing fund with its additional benefits, or potentially move to another Qualifying Scheme or make an active decision to pay (and/or their employer paying) into a separate scheme to maintain the additional benefits.

2.50 Early engagement between firms and employers ahead of implementing the charge cap is essential. Where members may be suffer detriment from changes, we would encourage firms and employers to work together to find appropriate solutions. In some circumstances employers may need to consult with employees before making the changes.

2.51 We anticipate that independent governance committees (IGCs) will play an increasing role in reviewing and assessing compliance with the charge cap and bans on charging practices going forward. This in turn will involve firms ensuring that appropriate governance systems controls and management information are put in place to help. However, we recognise that IGCs will also require the flexibility to assess value for money from these schemes in a way that is also appropriate to the characteristics of the workplace personal pension schemes operated by firms.

3.

Differential charges for active members

Background

- 3.1** In some workplace personal pension schemes, providers use a charging structure where members pay lower charges while they continue to contribute through their employer. However, employees who are no longer receiving employer contributions – either because they stop paying contributions through their employer or they leave employment – are subject to higher charges. Higher charges may be levied either within the existing scheme or through a move to a new pension scheme.
- 3.2** As outlined in DWP’s Command Paper in March 2014, the Government intends to stop all practices that result in higher charges based solely on whether members continue to make contributions to the scheme.
- 3.3** We propose rules that will stop providers of workplace personal pensions taking actions that will increase member charges, based solely on whether a member continues to make contributions to the scheme.

Which schemes will the ban on differential charges apply to?

- 3.4** As with the charge cap, we propose the ban on differential charges should apply to personal pension schemes and stakeholder pension schemes used by employers as Qualifying Schemes for automatic enrolment. The ban relates to differential charging between scheme members based on contribution status (that is, between active and deferred members, all other things being equal) and not to other forms of differential charging, for example lower charges for funds under management above a particular value, or for members who have remained invested for longer than a specific period.
- 3.5** We propose that the ban on differential charging should apply to all members of personal pension schemes used as a Qualifying Scheme and not be limited to those in default funds. The ban applies to the funds of individuals who have made contributions into a Qualifying Scheme on or after 6 April 2016. We are not banning employers from paying some charges on their members’ behalf.

Q8: Do you agree that all members in Qualifying Schemes should be covered by the protections from differential charges?

Commencement date for rules on differential charges

- 3.6** We propose that the new rules preventing differential charges should come into effect from 6 April 2016.
- 3.7** The ban will apply to the schemes of any members:
- who stop paying contributions through their employer's payroll, or
 - in respect of whom employer contributions are still being paid
- on or after 6 April 2016.

Considerations for firms when removing differential charging structures

- 3.8** Using active member discounts in many cases leads to a cross-subsidy, whereby employees who continue to pay contributions receive lower charges than would usually be available on a commercial basis. To compensate for the low charges levied on contributing members, the provider applies higher charges for members for whom contributions are no longer being paid.
- 3.9** Providers are unlikely to be able to offer the charges paid by contributing members to those who have stopped contributing. Providers currently using active member discounts will need to introduce a new single charge for both contributing and non-contributing members. We anticipate that this will often be at a level between the two levels of charges currently in place, but this will be subject to the charge cap in default funds for automatic enrolment with effect from 6 April 2015. Providers will also need to ensure that changes in charges are disclosed appropriately to members in accordance with existing rule requirements.
- 3.10** We expect that most providers are able to amend charges in the event of changes to regulations. Where providers have this ability, we expect them to calculate the terms they are able to offer on a single charging basis and implement the new charges structure on or before 6 April 2016.
- 3.11** Provided there are no differential charges from providers based on contribution status, and the charges are below the charge cap with effect from 6 April 2015, we do not intend to stop employers from choosing to subsidise existing employees through additional contributions.
- 3.12** Where providers do not have the flexibility to amend the charges in existing schemes, we expect them to inform employers that the schemes will no longer be available to be used as a Qualifying Scheme. In such cases, providers may choose to offer an alternative scheme to the employer with a charging structure which is compliant.

Q9: Do you think moving from differential charging structures, based on whether members are paying contributions, will create any major difficulties for firms or employers?

4. Adviser remuneration

Background

- 4.1** Many employers receive advice when setting up a workplace personal pension scheme. Before 2013, it was common for firms advising employers to receive remuneration in the form of commission. From 31 December 2012, following the introduction of the Retail Distribution Review (RDR), it has not been possible to set up new group personal pension schemes on a commission basis.
- 4.2** Following the RDR, from 31 December 2012, our rules allowed advisers setting up group personal pension schemes to be remunerated through consultancy charges. In September 2013, the Government introduced regulations that prevented the use of consultancy charges in Qualifying Schemes, except where there was a legally enforceable agreement in place before 10 May 2013. These regulatory and rule changes have left some schemes that continue to pay either commission or consultancy charges within a Qualifying Scheme, which these measures will now address.

Schemes will be prevented from paying commission, consultancy charges, etc.

- 4.3** The rules will apply to firms where an employer is using their scheme as a Qualifying Scheme in relation to one or more employees.
- 4.4** As outlined in DWP's Command Paper in March 2014, the Government intends for all Qualifying Schemes to be free of commission and consultancy charges.
- 4.5** Based on discussions with industry, we understand that some firms are looking to replace these payments with other forms of remuneration, such as the use of adviser charging. Firms adopting alternative mechanisms through which members effectively pay for advice to employers or for services they do not want or need, is not in line with the spirit of our proposed rules.
- 4.6** We accept that there are benefits for members being able to use their pension funds to fund advice in certain circumstances. For instance, where they cannot afford to pay a fee to an adviser, but require advice.
- 4.7** We do not propose to ban payments from schemes to advisers completely. Instead, we propose to require that any services provided to a member by an adviser can only be paid for from the member's fund where the member has explicitly agreed to provision of those services as covered at 2.39 – 2.40. This will help to ensure that members only pay for services that they require.

Q10: Do you agree that members' funds should only be used to pay for advice where the member has explicitly agreed to the services provided by the adviser?

The commencement date of the rules

- 4.8** As outlined in DWP's Command Paper in March 2014, we propose rules preventing firms from paying consultancy charges will become effective from 6 April 2015.
- 4.9** Based on discussions with industry, we understand there are a small number of Qualifying Schemes that have been set up to incorporate consultancy charges. This is largely because of the short window between RDR becoming effective on 31 December 2012 and the DWP's ban on the use of consultancy charges under agreements made after 10 May 2013.
- 4.10** As a result of the small number of Qualifying Schemes using consultancy charges, we believe it is achievable for firms to remove this feature from schemes from 6 April 2015.

Q11: Do you agree that it is achievable for firms to remove consultancy charges from Qualifying Schemes by 6 April 2015?

- 4.11** There are a large number of schemes that were set up before the RDR incorporating commission payments. We recognise that due to the volume of schemes set up on this basis, it is likely to take the industry longer to make the changes required to remove commission. Stopping payment of commission will also affect the incomes of the advisers who currently receive it.
- 4.12** As a result of these factors, we propose to allow firms a further year to remove from Qualifying Schemes all other mechanisms for members paying for services they have not initiated. Our rules preventing them will therefore be introduced from 6 April 2016.

Q12: Do you agree commission and the remaining banned remuneration payments should be removed from Qualifying Schemes by 6 April 2016?

Considerations for firms when removing adviser remuneration

- 4.13** Currently, where firms pay consultancy charges and adviser charges, the charges paid by members should be documented in a separate agreement to the pensions policy. Where consultancy charges are used, it will be the employer who has entered into an agreement with the advisers. Where adviser charges are used it will be the member who has entered into an agreement with the adviser.
- 4.14** Bans on these types of charges will mean that providers will no longer make deductions from members' funds and/or contributions to meet them. As a result, members may ultimately pay lower charges.
- 4.15** Commission agreements are between the pension provider and the adviser. An allowance is built into providers' charges, to enable them to meet the commission payments.
- 4.16** Following the removal of commission payments from Qualifying Schemes, providers' costs in relation to policies which are written on a commission basis will reduce. Ahead of April 2016, we expect firms to review the levels of charges being paid by those members for whom commission has been removed. In most cases, we would expect firms to pass on the savings made to the members, by reducing the charges they pay.

Annex 1

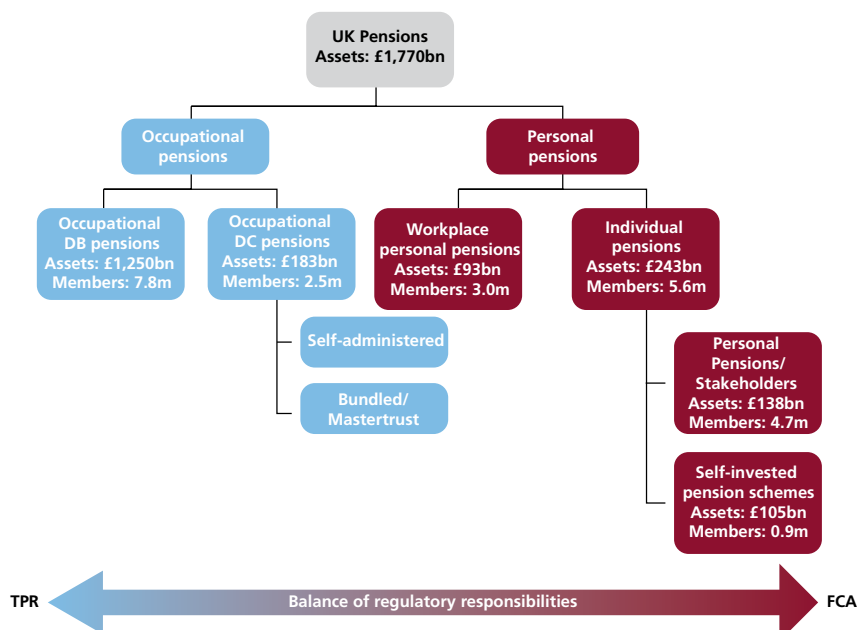
Market failure and cost benefit analysis

1. The Financial Services and Markets Act 2000, as amended by the Financial Services Act (2012), requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as ‘an analysis of the costs together with an analysis of the benefits’ that will arise if the proposed rules are made. It also requires us to quantify these costs and benefits, unless they cannot reasonably be estimated or it is not reasonably practicable to produce an estimate.

The market and affected firms

2. Chart 1 below illustrates the size of the overall UK pensions market in 2012. The market for workplace personal pensions, which is the relevant market for the measures proposed, had £93bn in assets under management and 3 million members.
3. FCA product sales data from 2013 suggested 21 pension providers, or groups of pension providers, set up workplace personal pensions in the UK in that year. These firms will be affected by the proposed new rules outlined in this consultation. There are likely to be a number of other pension providers who operate group pension schemes in the market, despite making no sales in 2013. We estimate that there may be as many as 10 further groups in this category. The total premiums received by these firms was approximately £2bn in that year (according to our product sales data).

Chart 1: Current UK pension's market¹



¹ Excluding DC decumulation assets. Total UK pension assets including DC decumulation assets equates to c.£1960bn, accumulation assets make up £1,770bn of this. Sources: Chart taken from Investment Management Association

Market failure analysis

4. Automatic enrolment will generate an extra £11 billion a year in pension savings, with around eight to nine million people newly saving or saving more into a pension.² In most cases people will be automatically enrolled into a defined-contribution (DC) pension scheme. These schemes must deliver the best possible value for money and good outcomes for scheme members.
5. The recent Office of Fair Trading (OFT) DC market study³, found that competition alone cannot be relied on to drive value for money in the DC workplace pension market due to weaknesses in the market for buyers and the complexity of the product. The study concluded that the market for buyers was one of the weakest that the OFT had analysed in recent years. As a consequence, the operators of workplace pension schemes (both trust and contract based) are not under sufficient competitive pressure to deliver good value for money pensions or to ensure that pensions remain good value over time.
6. To illustrate the potential for poor value for money, the OFT noted that around £30 billion of contract and bundled trust-based assets (approximately one quarter of total assets in workplace pension schemes) remain in schemes with charges at risk of being poor value for money. The OFT estimated that the average annual management charge (AMC) on schemes sold before 2001 (so-called 'legacy schemes') was around one-quarter to one-third higher than on those sold after April 2001.⁴
7. FCA intervention is necessary to ensure all individuals automatically enrolled into the default funds in contract based qualifying schemes get value for money. This intervention is based on ensuring charges are fair and appropriate. This will help maintain confidence in automatic enrolment and the pensions industry it supports.
8. There are a number of features of the market that contribute to significant buyer side weaknesses and market failure. The key features include:
 - Product complexity and information asymmetries: the lack of transparency of pension scheme charges creates information asymmetry in the pensions market whereby the employer or scheme member often does not have the necessary information on or understanding of what is a good value scheme.
 - A lack of alignment of incentives between employer and employee: there is a clear principal/agent problem in the automatic enrolment market, where the employer selects the scheme on behalf of its employees but may not understand or act in the employees' best interests potentially automatically enrolling employees into poor value schemes.
 - Barriers to switching pension provider, which in group schemes must be instigated by the employer rather than employee.
9. We consider each of these key features in turn below.

2 <https://www.gov.uk/government/publications/dwp-business-plan-transparency-measures/dwp-business-plan-transparency-measures#number-of-employees-in-a-pension-scheme-sponsored-by-their-employer>

3 *Defined contribution workplace pension market study* – <http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.of.gov.uk/OFTwork/markets-work/pensions/>

4 http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.of.gov.uk/shared_of/market-studies/of1505 – para 1.19

Product complexity and information asymmetries⁵

10. There is evidence that customers (employers and scheme members) do not sufficiently engage with workplace pension products.⁶ In particular, scheme members rarely scrutinise fees charged to their fund, finding it difficult to assess the impact of charges on their net returns. This is due to a number of factors:
- Pensions are complicated products, so both their costs and quality are hard to observe and outcomes may not be apparent for some years, making decision making on value for money very difficult.⁷ There is evidence that when faced with complex decisions, individuals often tend to put off making a decision or accept the status quo. Where decisions are made, they are often aided by simple rules of thumb that result in sub-optimal outcomes.⁸
 - The complexity of charging structures makes it challenging for employers/scheme members to compare offerings across pension providers effectively.
 - A lack of transparency of charges, and of transaction costs in particular, makes it difficult for employers/scheme members to assess whether funds are good value for money.
11. Because of these factors, scheme members may rely on the employer to ensure value for money, despite employer incentives often not being aligned with those of the individual scheme members (see below). Moreover, even if scheme members consider their scheme to be poor value for money, they are unable to switch to another provider without losing employer contributions.
12. Product complexity and information asymmetries contribute to the potential for poor market outcomes. These outcomes include scheme members being subject to higher charges (which affect net returns) and worse service standards (e.g. financial transactions not being processed promptly and accurately) compared to a market that works well.⁹

Lack of alignment of incentives

13. Employers have an incentive to minimise the costs that they bear, including the cost of setting up the scheme and some of the ongoing administration costs. However, employers do not have sufficient incentive to ensure that the ongoing charges falling on scheme members (both active and deferred members) are minimised.
14. In addition, a lack of transparency of costs and charges means that scheme members may not be aware of the levels of charges and/or their impact on their future pension pot and may not sufficiently scrutinise decisions, made on their behalf by employers, that affect the charges incurred or returns achieved.
15. As a consequence, there is a risk that such charges are excessive (i.e., they do not reflect costs associated with the ongoing costs of running a pension scheme) and that decisions are made that are not in the best interest of scheme members.

5 More detail on information asymmetry is included in FCA's Occasional Paper 1 – <http://www.fca.org.uk/static/documents/occasional-papers/occasional-paper-1.pdf>

6 Only one third of employers are aware that members paid any charges on the pension – see https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193451/rrep804.pdf

7 Occasional Paper 1: Applying behavioural economics at the FCA describes this as 'present bias' see page 17

8 see Occasional Paper 1: Applying behavioural economics at the FCA

9 http://webarchive.nationalarchives.gov.uk/20140402142426/http://www.offt.gov.uk/shared_offt/market-studies/oft1505

16. Further, employers have an incentive to favour current over past employees, with the pension as part of a remuneration package aimed at attracting and retaining staff. Lower charges for existing staff may be subsidised by higher charges for deferred members no longer employed by the firm – Active Member Discount (AMD).

Barriers to switching

17. Employers face significant barriers to switching. Setting up a pension scheme is likely to involve significant initial costs, including the procurement of external advice on an appropriate scheme and other set-up costs such as arranging payment from payroll. To the extent that employers bear set up costs, not least of external advice, this will act as a disincentive to switching to a scheme offering better value for money for their employees.
18. For the employees (scheme members), there is little opportunity to switch to an alternative pension scheme, where the existing scheme has become less competitive, without losing employer contributions (unless they move jobs).
19. These barriers to switching pension provider, faced by employers and scheme members, mean there is a serious lack of constraint on the level of fees or quality of service offered by workplace pension providers.

Cost benefit analysis

20. In this CP we outline plans to introduce the following measures in workplace personal pension schemes, which are being used by employers to comply with automatic enrolment:
- A cap on the charges within default funds equivalent to 0.75% per annum of funds under management from April 2015.
 - Preventing firms from paying consultancy charges from April 2015.
 - Preventing firms from paying commission and charges for advice which is not initiated by scheme members from April 2016.
 - Preventing firms from using differential charges based on the contributing status of a member e.g. active member discounts from April 2016.
21. When assessing the costs and benefits of our proposed intervention, we consider these against the case were no intervention to take place (the baseline).

Nature of benefits

22. The main beneficiaries from our proposals will be individuals who are, or will in future be, saving in a workplace personal pension used as a Qualifying Scheme for automatic enrolment. Benefits for each of the proposals are considered in turn. Additional benefits might be considered to arise for firms in avoiding the potential for a competition enquiry from the Competition and Markets Authority, though we have not attempted to measure these benefits here.

23. **Charge cap** – the principal benefits will be through reduced charges to individuals saving in default funds for schemes used as the automatic enrolment workplace personal pension where the charges on their pension are currently higher than the 0.75% cap. We would expect that lower charges would in turn lead to an increase in pension saving, providing benefits both of a greater retirement income for those saving and greater assets under management for pension providers.
24. We do not believe that providers with charges below the cap would be likely to level up their charges to the 0.75% cap level. Existing competitive pressure that leads to charges below the cap level would be expected to remain after a cap is introduced. A cap may also stimulate competition to lower charges, even in those schemes already charging less than the cap – as those already charging below the cap are forced to compete for business with new providers offering charges below the cap.
25. The impact of the measure may be reduced if some providers choose to close existing schemes where the charge rate is above the cap. In such circumstances the cap would only apply to new investments, with past investments remaining in the previous scheme and subject to the previous charge rates. Equally, investments in non-default funds will not be subject to the charge cap, nor will investments in schemes that are not being used by employers for automatic enrolment.
26. **Commission ban** – removing commission payments will initially benefit providers as the charges they pass on to intermediaries are ended. Benefits to providers should be passed onto consumers through lower deductions from their pensions, as they will no longer receive the services associated with the commission payments. We will be monitoring provider behaviour to ensure that consumers are treated fairly.
27. **Consultancy charge ban** – consultancy charges are paid by employers directly, so a ban on consultancy charges for qualifying schemes may reduce pension scheme administration costs for those schemes. Some employers may view this reduction in scheme costs as an opportunity to increase payments to their employees.
28. **Ban on differential charges based on contribution status e.g. AMDs** – this will reduce the level of pension charges for individuals who are no longer actively saving in their workplace personal pensions. Consumers who are currently saving in schemes with AMDs or other differential charges based on contribution status would be likely to see their charges increase. But, in many cases any increase will be capped, as they are likely to be in default funds.

Scale of benefits

29. Of the measures proposed in this consultation paper the majority of benefits are likely to arise in regard of the proposed charge cap. In this area we have drawn on data from the Department for Work and Pensions (DWP), collected to help develop their white paper and its impact assessment, and information from the OFT's market study.

- 30. Charge cap** – the charge cap will predominantly affect those providers whose charges on default funds are currently greater than 0.75%. OFT analysis suggested that the average AMC (weighted for membership) for contract and bundled trust based schemes set up in 2012 was 0.51%¹⁰, significantly below the charge cap (although comparison based on current AMC level may not necessarily compare like for like in all cases). Any more detailed impact of the charge cap as it affects providers' capital resource requirements would need to be assessed by the Prudential Regulation Authority (PRA).
- 31.** This rate has fallen significantly over recent years (the same study found the equivalent figure was 0.79% in 2001) and hides significant variation, particularly by scheme size. Smaller schemes are generally subject to much higher charges than large schemes – the OFT noted that a simple average (not weighting by scheme membership) of new scheme charges in 2012 gives an average charge rate of 0.75%.
- 32.** The DWP estimated the benefit to consumers through introducing a charge cap would be a net present value of £195m over a ten-year period.¹¹ This is spread over revenue lost from contract and trust based schemes. Some industry experts have suggested that the benefits to consumers could be greater¹², though we expect measures taken by providers to close older, higher charging schemes will result in a more limited impact, making benefits achieved closer to DWP forecasts.
- 33.** While the DWP estimates were calculated for Qualifying Schemes in the overall DC pensions market, our rules only apply to contract based DC pension schemes. It is not possible reliably to break down benefits between those arising in trust based schemes and those in contract based schemes. The OFT noted in their study that the DWP calculated an average AMC of 0.71% for trust based schemes in 2011 and 0.95% for contract based schemes. However, this took no account of the size of the schemes, which would have a significant impact when splitting the benefits.
- 34.** Overall market data (see Chart 1 above) shows that assets under management are roughly twice as high in occupational DC, while there are a similar number of savers in contract based group personal pensions to those in occupational DC pensions. Over time we expect faster growth in the contract based market, shifting the balance of assets and members away from trust based schemes. Given this, we estimate that the benefit to consumers would fall somewhere between one half (£97m) and one third (£65m) of DWP estimates over 10 years.¹³
- 35.** Although these benefits to consumers come from revenue that would have gone to firms in the baseline case, the overall effect will be net beneficial. Further societal benefits will occur, as currently pension scheme operators can charge higher fees than economically optimal due to the weak demand side. These higher charges currently result in deadweight loss, due to lower saving, and following the charge cap we would expect an increase in saving to a more optimal level.
- 36.** To some extent the expected benefits could be offset by a potential reduction in the choice of providers, particular for smaller employers, who will be less attractive at a lower charge rate. Smaller employers may need to change provider where their existing provider is unable

¹⁰ http://webarchive.nationalarchives.gov.uk/20131101164215/http://www.of.gov.uk/shared_of/market-studies/of1505, paragraph 6.7

¹¹ www.gov.uk/government/uploads/system/uploads/attachment_data/file/298302/ia-charges-qualifying-pension-schemes-feb-2014.pdf

¹² www.telegraph.co.uk/finance/personalfinance/pensions/11044779/Pension-fees-cap-could-add-1bn-to-savers-pots.html

¹³ Given the OFT found current charges in contract based schemes are on average higher than trust based schemes, it is likely that the benefit will be proportionately larger than the 33% market share of assets held by contract based group personal pensions. DWP estimate total benefits for the whole pensions market to be £195m over 10 years which we have used as a benchmark for our calculation.

(or unwilling) to offer a small scheme below the charge cap. However, due to the National Employment Savings Trust (NEST), there will not be any problem of employers not being able to find a charge cap compliant scheme.

37. Smaller employers may find that in future they have less choice of providers, reducing variety and potentially the quality of schemes available. A further problem for consumers may be a reduction in the additional benefits offered to many as part of their pension scheme (e.g. life insurance) as firms reduce added benefits to ensure charges fall below the cap.
38. **Commission ban** – we do not have data that would allow us to estimate the size of the benefits resulting from the commission ban. Given this, it is not reasonably practicable to estimate the benefits in the absence of data available on the prevalence of commission in group pension products. The scale of benefits will depend firstly on existing use of commission within Qualifying Schemes – where we expect there to be significant use among those schemes which have been in place for a number of years. The split of benefits resulting from ending commission in these schemes will depend on decisions by firms on the proportion of the commission savings passed onto consumers.
39. There is a risk that benefits will be offset by a reduction in the availability of advice services to consumers. Generally it is not clear that current commission charges that remain on older pension products are actually associated with any ongoing services. It is possible that some advisers who lose commission in this way may exit the market, reducing the availability of advice on all schemes.
40. **Consultancy charge ban** – we do not have data that would allow us to estimate the size of benefits resulting from the consultancy charge ban and it would not be reasonably practicable to estimate the benefits. We do not believe that the use of consultancy charges is widespread and so expect the benefits from the ban to be limited.
41. **Ban on differential charges based on contribution status** – we do not have data that would allow us to estimate the size of benefits resulting from the differential charges ban, nor would it be reasonably practicable to estimate this. The use of differential charges, particularly active member discounts, is believed to be fairly widespread practice in the sector.
42. In practice, benefits to consumers may be fairly small. Savings to consumers no longer paying higher charges on leaving an employer will be offset by firms placing a higher charge on active savers. FCA supervisors will be monitoring provider behaviour to ensure that consumers are treated fairly in schemes where AMDs are removed and we expect this to result in a broadly neutral effect on the charges that consumers face overall.

Benefits to the FCA

43. We expect to see some benefits arising from the presence of the charge cap and consultancy charge, differential charging and commission bans, namely improving the consumer focus of providers and reducing the need for supervision. We have not sought to quantify these benefits.

Direct costs to the FCA

- 44.** We expect the direct costs to us to be low. The supervision of the charge cap and charge bans proposed would fall within our existing supervisory framework while we monitor their set up and implementation. There may be some additional costs to us, in particular if we undertake a thematic review or have direct discussions with firms and IGCs (who will be monitoring compliance with charge caps).
- 45.** In early years of the changes we expect there to be some additional monitoring costs required to ensure the smooth transition of schemes to new rules e.g. treatment of commission and active member discounts. Any enforcement action on firms would result in further costs but would be low in the context of our overall enforcement budget. We have not sought to quantify these costs.

Compliance costs to firms

- 46.** These changes are expected to result in significant compliance costs for firms. The most significant cost will be in complying with the charge cap, where the costs through reduced receipts from charges will mirror the benefits expected for consumers. In addition firms may have to make significant changes to the pension schemes they offer to ensure that all schemes used for automatic enrolment have default funds which are compliant with the charge cap. This could require the closing of some schemes, significant customer communications and system changes. Some of these transitional compliance costs will fall on employers, who will be forced to bear some of the administrative costs of moving to compliant schemes or changing schemes to achieve compliance.
- 47.** In their cost benefit analysis, the DWP estimated that the transitional costs would be £55.4m across a four year period for the whole market¹⁴. As before, our rules only apply to the contract based group personal pensions market, so the cost is less. The DWP estimates were also based on an original policy of making employers responsible for ensuring compliance, whether by changing schemes, renegotiating with firms or when setting up a scheme in the first instance. By imposing the requirement on firms rather than employers we believe that the overall costs estimated by the DWP could be reduced.
- 48.** In seeking to comply with requirements (where existing default funds used for automatic enrolment have charges above the charge cap) firms have three options: reduce the charges; change the default fund; close the scheme. Inevitably, firms would face costs in taking forward any of these options, and given the OFT analysis of charge rates in schemes, there are significant numbers of schemes that would need to be changed to ensure compliance with the charge cap.
- 49.** Firms changing charges on a scheme would have to communicate these changes to the scheme members, which in itself would impose some cost. Where firms make more substantial changes to schemes, whether changing the default fund, or closing a scheme, costs would include both customer communications and other significant costs. Equally, employers who are forced to seek an alternative pension provider would face significant costs in supporting the change – finding a suitable provider, setting up the systems to enable payment from employees etc.
- 50.** Given the uncertainty over the number of schemes that require significant change we would expect transitional costs for the charge cap based on DWP figures of £18.5m to £27.7m in

¹⁴ www.gov.uk/government/uploads/system/uploads/attachment_data/file/298302/ia-charges-qualifying-pension-schemes-feb-2014.pdf

2013/14 prices over a four year period.¹⁵ Though we expect this to be at the high end of potential costs, given these costs were calculated with the assumption that employers would be made responsible for compliance.

51. We do not have sufficient data to estimate the compliance costs to firms in the other areas covered in this CBA. The proposed bans on adviser commissions and consultancy charging mean that in the future, the cost of external advice will need to be covered by the employer, rather than being incorporated within the overall product charge. Other initial costs will continue to be absorbed by the employer and/or by reducing other employee costs. As with ensuring compliance with the charge cap, pension providers and (to some degree) employers will face some costs in ensuring existing schemes are compliant as Qualifying Schemes for automatic enrolment. These provider costs are expected to be significantly lower than those experienced in ensuring compliance with the charge cap.

Summary of costs and benefits

52. The table below summarises the costs and benefits of our proposals. It provides estimated costs of the following measures in workplace personal pension schemes, which are being used by employers to comply with automatic enrolment:

- A cap on the charges within default funds equivalent to 0.75% per annum of funds under management from April 2015.
- Preventing firms from paying consultancy charges from April 2015.
- Preventing firms from paying commission and charges for advice which is not initiated by scheme members from April 2016.
- Preventing firms from using differential charges based on the contributing status of a member e.g. active member discounts, from April 2016.

	One-off £m	Central estimate £m	Ongoing £m	Central estimate £m
Firm costs	18.5-27.7	23.1	65.0-97.0	81.0
FCA costs	-	-	-	-
Benefits			65.0-97.0	81.0

Costs and benefits estimated as 1/3-1/2 of figures estimated in DWP impact assessment.¹⁶

53. Although the benefits to consumers are shown as being a direct transfer from firms in the table above, we expect that the overall effect would be a net benefit due to a reduction in the deadweight loss that occurs due to market failure. In other words, the new rules should encourage more people to stay enrolled in default funds (as opposed to opting out), which will be a significant benefit to many people. As this benefit is ongoing, while firm costs are one-off, we expect the overall effect of the policy to be net beneficial.

¹⁵ www.gov.uk/government/uploads/system/uploads/attachment_data/file/298302/ia-charges-qualifying-pension-schemes-feb-2014.pdf - as before we have estimated that between one third and one half of costs estimated for the total market would fall on providers of group personal pensions.

¹⁶ www.gov.uk/government/uploads/system/uploads/attachment_data/file/298302/ia-charges-qualifying-pension-schemes-feb-2014.pdf

54. As a response to the charge cap some pension providers may limit the services available to consumers under the default option. We have not been able to assess the extent of any such changes or quantify the impact on consumers. Given that we are implementing the changes through rules on providers rather than employers (as in the DWP impact assessment) we expect the one-off provider costs to represent an upper bound on these initial costs. This is likely for a number of reasons:
- There are fewer providers impacted by the policy (than employers) leading to economies of scale in implementation of the changes.
 - Employers may have faced financial penalties in breaking existing contracts (where these costs could reasonably be expected to be lower for providers).
 - Providers have more experience and capacity to make the changes required.

The impact on the market

55. The expected overall impact of the changes assessed in this CBA for consumers when choosing whether to save in their automatic enrolment, contract-based group personal, pension is of greater assurance of the value for money that they offer. We would expect this assurance to increase confidence in pension saving and so lead to an increase in pension saving.
56. But, this increased assurance of quality may come at an economic cost. The changes may reduce competition in the provision of financial advice. Removing commission payments and restricting payments to circumstances where there is explicit consumer consent will reduce payments to advisers and for some, lead to them no longer offering advice. Given the number of advisers in the market and that adviser charging has already been introduced through the Retail Distribution Review, we expect the impact on reducing competition in the adviser market to be minimal.
57. A further impact is that, for small employers in particular, there may be a reduction in the number, variety and quality of the schemes from which they can choose. However, the presence of a guaranteed low-charging alternative, i.e. NEST, which is already in the market, will mitigate this impact to some extent.

Estimate of costs

58. Where we have not been able to estimate costs, this is because in our opinion it has not been reasonably practicable to do so. There would be difficulties and delay if we took steps to gather additional data. There would be limited incremental value of new evidence that we could generate from such data relative to the information we already have. Moreover, the evidence indicating that delay would allow consumer detriment from existing charging practices in qualifying schemes to continue and to grow, all combine to mean that it would not be reasonably practicable to undertake more work to estimate costs.

Q13: Do you agree that our proposed method of implementing the proposed changes in line with Government policy is proportionate?

Annex 2

Compatibility statement

Compatibility with the FCA's general duties

1. We are required by section 138I(2)(d) of the Financial Services and Markets Act 2000 (FSMA) to explain why we believe our proposed rules are compatible with our strategic objective, advance one or more of our operational objectives and have regard to the regulatory principles in section 3B of FSMA. We are also required by section 138K(2) of FSMA to state whether the proposed rules will have a significantly different impact on mutual societies, as opposed to other authorised persons.
2. This annex also sets out our view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way that promotes effective competition in the interests of consumers (section 1B(4) of FSMA). This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives.

Compatibility with the FCA's regulatory objectives

3. The proposals in this consultation paper are compatible with our strategic objective of ensuring that the relevant markets function well, since they are designed to ensure that scheme members' interests are effectively represented within firms.
4. Our proposals are intended to help advance our operational objective of consumer protection. A charge cap on default funds and the proposed bans on charging practices will protect members from high charges and from paying for advisory services they do not need or which are provided to their employer. An effective charge cap and bans on these charging practices should improve confidence in pension schemes and over time may help increase the level of pensions saving.
5. Our proposals are also intended to help advance our operational objective of promoting effective competition in the interests of consumers. Firms will report on compliance with the charge cap and bans on charging practices. This will increase the amount of information available to employers and employees and may improve competition between firms providing workplace personal pension schemes. This may also help counter low levels of consumer understanding and engagement with how their pension assets are managed and invested.

Compatibility with the FCA's regulatory principles

6. In preparing the proposals set out in this consultation, we have had regard to the regulatory principles set out in section 3B FSMA. We set out below how our proposals demonstrate such regard for each of the regulatory principles.

- The need to use our resources in the most efficient and economical way**
7. Our proposed approach is to capture the charge cap and charge bans proposed within our existing supervisory framework while we monitor their set up and implementation. We believe that the resource costs to the FCA are small compared with the benefits of implementing the proposed charge cap and charge bans.
- The principle that a burden or restriction should be proportionate to the benefits**
8. We believe that the additional costs to the sector of establishing and maintaining compliance with the charge cap and charge bans proposed are proportionate to the benefits. The cost benefit analysis set out in Annex 1 provides more detail.
- The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term**
9. Our proposals support the government's policy objective of people saving more for their retirement and thereby relieving the tax burden on future generations. Automatic enrolment is likely to drive significant growth in pension assets under management in the medium to long term, which will be available to invest in the UK economy. The success of automatic enrolment depends on consumers being confident in saving for their pension which, in turn, depends on the ongoing value for money delivered by the pension scheme into which they invest.
- The general principle that consumers should take responsibility for their decisions**
10. While we believe that consumers should take responsibility for their decisions, in this instance consumers may be automatically enrolled into the default fund of their employer's scheme without making any decision. In addition, information asymmetries and the complexity of assessing value for money may deter consumers from making choices about how their pension assets are invested.
11. Since many scheme members are unlikely to be willing or able to take responsibility for decisions about how their pension assets are managed and invested, our proposals are for a charge cap and bans on certain charging practices that will act in their interests.
- The responsibilities of senior management**
12. Our proposals place obligations on the senior management and governing bodies of firms to ensure that compliance with the charge cap and consultancy charge, differential charging and commission bans is effective and that firms act in the interests of members. We consider these obligations necessary to ensure that the interests of policyholders are properly represented within firms.
- The desirability of exercising our functions in a way that recognises differences in the nature and objectives of businesses carried on by different persons**
13. We recognise that different firms may operate workplace personal pension schemes with very different characteristics. Therefore, our proposals seek to give Independent Governance Committees (IGCs) the flexibility to assess value for money in the way most appropriate to the characteristics of the workplace personal pension schemes operated by the firm.
- The desirability of publishing information relating to persons**
14. We believe that our proposals do not undermine this principle. Our proposed rules would promote greater transparency of information and provide an independent view on value for money.
- The principle that we should exercise our functions as transparently as possible**
15. The charge cap and bans contained in this paper have been widely discussed. Our proposed rules broadly follow the proposals in the DWP's Command Paper published in March 2014.

During the course of developing our proposed rules we have met with firms and held an industry workshop with DWP on the charge cap in April 2014. We have also met with consumer groups and other interested stakeholders. We have taken into account input from stakeholders before our formal consultation on our proposed rules.

Compatibility with the duty to promote effective competition in the interests of consumers

- 16.** In preparing the proposals as set out in this consultation, we have had regard to our duty to promote effective competition in the interests of consumers under section 1B(4) FSMA. This duty applies in so far as promoting competition is compatible with advancing our consumer protection and/or integrity objectives.
- 17.** The OFT market study concluded that the buyer side of the market was one of the weakest that they have encountered in recent years. Further, automatic enrolment will bring disengaged and potentially vulnerable consumers into pension saving for the first time. Many of these consumers will not express any choice in how their pension savings are managed and invested.
- 18.** Our proposals to implement the charge cap and consultancy, differential charging and commission bans are designed to ensure that the interests of relevant consumers are protected. In addition our proposals will increase the amount of information available to employers and their advisers, and to interested scheme members. We believe that over time this will result in more engaged and informed customers, promoting more effective competition between firms in the interests of consumers.
- 19.** Our cost benefit analysis in Annex 1 of this consultation paper provides further explanation on how our proposals may promote effective competition.

Expected effect on mutual societies

- 20.** Section 138K of FSMA requires us to state whether, in our opinion, our proposed rules have a significantly different impact on authorised persons who are mutual societies, in comparison with other authorised persons.
- 21.** We see no reason why our proposed rules would impact a firm differently based on the structure of the provider. However, mutual societies tend to be smaller, which means that the cost of establishing and maintaining controls and monitoring for the charge cap and charging bans for mutual societies that operate workplace personal pension schemes may be high relative to scheme assets under management. As such, our rules allow for a proportionate approach, available to all firms with smaller and less complex schemes, to meet the uniform required standards of compliance with the charge cap and charging bans required of all firms.
- 22.** We would welcome any comments or information respondents may have on any issues relating to mutual societies that they believe would arise from our proposals.

Annex 3

List of questions

- Q1:** We would welcome views on the likely equality and diversity impacts of the proposed rules
- Q2:** Do you agree that workplace personal pension scheme providers are best placed to ensure compliance with the charge cap?
- Q3:** Do you think our proposed methodology for deeming default funds appropriately captures members who have not made active investment choices?
- Q4:** Do you believe our proposals in relation to the period over which charges will be measured against the cap are proportionate?
- Q5:** Do you agree that our proposed calculation measurement of average funds under management during the course of the year is the most appropriate method? If not, what would be a fairer solution for consumers?
- Q6:** Are there any other charges you believe should be excluded from the charge cap?
- Q7:** Will clarifying the option of moving all their invested funds into a new default arrangement achieve the objective of moving consumers to lower charging options where suitable? If not, what other measures could be taken to achieve this?
- Q8:** Do you agree that all members in Qualifying Schemes should be covered by the protections from differential charges?
- Q9:** Do you think moving from differential charging structures, based on whether members are paying contributions, will create any major difficulties for firms or employers?
- Q10:** Do you agree that members' funds should only be used to pay for advice where the member has explicitly agreed to the services provided by the adviser?

- Q11:** Do you agree that it is achievable for firms to remove consultancy charges from Qualifying Schemes by 6 April 2015?
- Q12:** Do you agree commission and the remaining banned remuneration payments should be removed from Qualifying Schemes by 6 April 2016?
- Q13:** Do you agree that our proposed method of implementing the proposed changes in line with Government policy is proportionate?

Appendix 1

Draft Handbook text

**PERSONAL PENSION SCHEMES (RESTRICTIONS ON CHARGES)
INSTRUMENT 2014**

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (General rule-making power);
 - (2) section 137T (General supplementary powers);
 - (3) section 138C (Evidential provisions); and
 - (4) section 139A (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 as follows:
- (1) Part 2 of Annex B to this instrument comes into force on [6 April 2016];
 - (2) the remainder of this instrument comes into force on [6 April 2015].

Amendments to the FCA Handbook

- D. The Glossary 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 Personal Pension Schemes (Restrictions on Charges) Instrument 2014.

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

Annex A

Amendments to the Glossary of definitions

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

- accrued rights charge* a charge used by an *operator* in respect of a *qualifying scheme*, which is calculated solely by reference to the value of a member's rights accrued under a *qualifying scheme*.
- 'Rights' has the same meaning as in article 82 of the *Regulated Activities Order*, that is, the *specified investment* of rights under a *personal pension scheme* or a *stakeholder pension scheme*.
- administration charge* any charge made which:
- (a) is in relation to the money purchase benefits accruing to a member of a *qualifying scheme* whose *workplace pension contributions* are invested by way of a *default arrangement*; and
 - (b) is levied on any of the following:
 - (i) any of that member's *workplace pension contributions*; or
 - (ii) any income or capital gain arising from the investment of such *workplace pension contributions*; or
 - (iii) the value of the member's rights, insofar as those rights involve money purchase benefits, under the scheme; and
 - (c) is levied in order to meet the administrative expenses of the scheme, to pay commission or to be deployed in any other way that does not result in the provision of pension benefits for or in respect of such a member;
- but an *administration charge* does not include:
- (d) any charge made in respect of costs incurred directly as a result of buying, selling, lending or borrowing investments;
 - (e) any charge made in respect of costs of complying with a court order, where that order has provided that the *operator* may recover those costs;
 - (f) any charge made in respect of costs arising from earmarking orders or pension sharing arrangements pursuant to regulations made under section 24 or 41 of the Welfare Reform and Pensions Act 1999.

<i>combination charge structure</i>	<p>a charging structure used by an <i>operator</i> in respect of a <i>qualifying scheme</i> which is solely a combination of:</p> <ul style="list-style-type: none"> (a) an <i>accrued rights charge</i> and a <i>flat fee charge</i>; or (b) an <i>accrued rights charge</i> and a <i>contribution percentage charge</i>.
<i>contribution percentage charge</i>	<p>a charge used by an <i>operator</i> in respect of a <i>qualifying scheme</i> which is calculated as a percentage of contributions made by or on behalf of a member of that <i>qualifying scheme</i> over a defined period of time.</p>
<i>default arrangement</i>	<ul style="list-style-type: none"> (a) an arrangement expressly provided by an <i>operator</i> of a <i>qualifying scheme</i> for the purpose of investing the <i>workplace pension contributions</i> of employees who have expressed no choice in relation to the investment of such contributions; (b) where no such arrangement is expressly provided, an arrangement whereby, in relation to members who are employees of the same employer, at least 80% of those members of the <i>qualifying scheme</i>, whether they had expressed a choice or not prior to the <i>qualifying scheme</i> coming into being, have their <i>workplace pensions contributions</i> invested, is deemed to be a <i>default arrangement</i>; (c) but an arrangement will not be a <i>default arrangement</i> under (b) if, prior to a scheme becoming a <i>qualifying scheme</i>: <ul style="list-style-type: none"> (i) members within that arrangement have been told that their <i>workplace pension contributions</i> will be invested in a new arrangement once the scheme becomes a <i>qualifying scheme</i> unless they give express agreement for their contributions to continue to be invested in the original arrangement; and (ii) any members who wish to remain in the original arrangement have given express agreement in writing including an acknowledgement that continuing in the original arrangement might mean that charges are higher than the limits set out in <i>rules</i> in COBS 19.6 (Restriction on charges in qualifying schemes); and (iii) any members who did not agree to remain in the original arrangement have had their <i>workplace pension contributions</i> invested in the new arrangement.
<i>flat fee charge</i>	<p>a charge used by an <i>operator</i> in respect of a <i>qualifying scheme</i> which is a specified charge for a period of time, and which is not calculated by reference to member's contributions or accrued rights.</p>
<i>qualifying scheme</i>	<p>a <i>personal pension scheme</i> or <i>stakeholder pension scheme</i>, which provides money purchase benefits, used by an employer or employers to comply with duties imposed in Part 1, Chapter 1 of the Pensions Act 2008, which are in summary, to take necessary steps in relation to</p>

particular employees, by a particular time, to make those employees members of a pension scheme which meets the criteria set out in that Act and in regulations made under that Act.

*workplace
pension
contributions*

contributions made to a *qualifying scheme* by or on behalf of an employee who has become a member of that scheme, including transfers in from other schemes.

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.

Part 1: comes into force [6 April 2015].

6.1C Consultancy charging and remuneration

...

6.1C.5 R Except as specified in *COBS 6.1C.5AR* ~~and~~, *COBS 6.1C.5BR*, *and COBS 6.1C.5C*, a *firm* must:

...

...

6.1C.5C R In connection with a *qualifying* scheme, a *firm* may only solicit or accept *consultancy charges* from an *operator* of a *qualifying* scheme if the *operator* has confirmed that express agreement has been given by members of that scheme in accordance with *COBS 19.6.5R*.

In COBS 19 (Pensions supplementary provisions) insert the following new section after COBS 19.5. All the text is new and is not underlined.

19.6 Restriction on charges in qualifying schemes

Application

19.6.1 R This section applies to an *operator* of a *qualifying* scheme.

19.6.2 R Where these *rules* apply to a *firm* in relation to a *default arrangement*, they will continue to apply in relation to that arrangement irrespective of any alterations to or restructure of that arrangement which may take it outside the definition of *default arrangement*.

19.6.3 R This section does not apply to:

- (1) a *default arrangement* under which, at any time before benefits come into payment, those benefits accruing to the member involve, or involve an option to have, a promise by or to be obtained from a third party about the rate or amount of those benefits;
- (2) an executive pension scheme, that is, a *personal pension scheme* or *stakeholder pension scheme* the only members of which are directors

or former directors of the same employer, and include at least a third of the current directors of that employer.

Express agreement

- 19.6.4 G (1) In this section, where express agreement is required by a *rule*, the *FCA* would expect *firms* to take active steps to obtain the informed, active consent of the affected member or members of the *qualifying scheme*, and to have that consent in writing in a *durable medium*, capable of being produced or reproduced when requested by the *FCA*.
- (2) The *FCA* does not consider the following to amount to express agreement (this list is not exhaustive):
- (a) a member receiving a communication stating that by becoming or continuing to be a member of the scheme, the member has agreed to a particular service;
 - (b) a member being invited to click on a box to opt-out through a website.

Default arrangements: charging structures and restrictions

- 19.6.5 R A *firm*, in relation to a *default arrangement* within a *qualifying scheme*, may only make, impose or otherwise facilitate payment of an *administrative charge* by way of an *accrued rights charge* or a *combination charge structure* where:
- (1) the limits set out in *COBS* 19.6.6R are not exceeded; or
 - (2) the *firm* has obtained appropriate express agreement to exceed the limits and the following conditions are satisfied:
 - (a) the express agreement contains an acknowledgement by the member that the *administrative charge* for the service is likely to exceed the limits;
 - (b) giving such express agreement is not a condition of becoming or remaining a member of the *qualifying scheme*;
 - (c) express agreement has not been given in respect of services which the *operator* must provide under the *regulatory system* or the general law, or which are core services.
- 19.6.6 G The effect of *COBS* 19.6.5R(2)(c) is that a *firm* may not seek express agreement from a member to charges in excess of the limits for services which are obligatory under law, or form part of the core operation of the scheme. Such core services include, for example, designing and implementing an investment strategy, investing contributions to the scheme (to the extent that this would incur *administrative charges*), holding investments relating to scheme members, and transferring a member's

accrued rights into or out of a *default arrangement*.

19.6.7 R The limits on *administration charges* are as follows:

- (1) for a *qualifying scheme* which uses only an *accrued rights charge*, 0.75% of the value of those accrued rights;
- (2) for a *qualifying scheme* which uses a *combination charge scheme*:
 - (a) in respect of the *flat fee charge* element, £25 annually;
 - (b) in respect of the *contribution percentage charge* element, 2.5% of the contributions annually;
 - (c) in respect of the associated *accrued rights charge*, the limits as set out in column 2 of the table in COBS 19.6.8R.

19.6.8 R This is the table referred to in COBS 19.6.7R.

<i>Contribution percentage charge rate (%)</i>	<i>Accrued rights charge rate (%)</i>
1 or lower	0.6
Higher than 1 but no higher than 2	0.5
Higher than 2 but no higher than 2.5	0.4

<i>Flat fee charge (£)</i>	<i>Accrued rights charge rate (%)</i>
10 or less	0.6
More than 10 but no more than 20	0.5
More than 20 but no more than 25	0.4

Compliance with the restrictions on charges

- 19.6.9 E (1) To ensure that *administrative charges* are within the limits set out in COBS 19.6.7R:
- (a) in relation to the value of accrued rights used in an *accrued rights charge*, a *firm* should calculate that value as the arithmetic mean over a 12 month period of membership of the *qualifying scheme*, using at least four evenly-distributed reference points over that period;
 - (b) in relation to the value of contributions in a *contribution percentage charge*, a *firm* should calculate the value over a 12 month period of membership of the *qualifying scheme* of a member's *workplace pension contributions*;
 - (c) in relation to members who have been members of the *qualifying scheme* for a period of less than 12 months, a *firm* should calculate *administrative charges* on a pro rata basis.
 - (d) in relation to total *administration charges* imposed, the total value of such charges should not exceed the relevant

restriction when measured over a 12 month period. However, where the *qualifying scheme* has been in operation for less than 12 months, and the *firm's* internal processes would involve assessment of *administration charges* before 12 months has elapsed, then for its initial assessment, the *firm* may use a period of 18 months.

- (2) Contravention of (1) may be relied on as tending to establish contravention of *COBS* 19.6.5R(1).

Consultancy Charges

- 19.6.10 R (1) A *firm* must not make or otherwise facilitate any payment to a third party in respect of advice or services provided pursuant to any agreement made between that third party and an employer in respect of whom the *firm* is operating a *qualifying scheme*, including *consultancy charges*, which would have the effect of reducing the value of the accrued rights of a member of that *qualifying scheme* to whom this section applies.
- (2) The restriction in (1) does not apply where the *firm* has obtained express agreement, from such a member to such a payment.
- 19.6.11 G *COBS* 19.6.10R complements *COBS* 6.1C.5CR and *COBS* 6.1D, which together prevent a *firm* which gives advice or provides services within the meaning of those sections to an employer in relation to a *qualifying scheme* from soliciting or accepting *consultancy charges* in relation to those services. *COBS* 19.6.9R prevents the provider of the *qualifying scheme* from providing such payments, and goes further to prevent such payments being provided to other advisers who give advice or provide services to employers, such as solicitors and accountants.

Part 2: comes into force [April 2016]

Amend the following as shown.

2.3 Inducements

...

- 2.3.-1A R This section does not apply in relation to giving advice, or providing services, to an employer in connection with a *group personal pension scheme* or *group stakeholder pension scheme* where that scheme is a *qualifying scheme*.
- 2.3.-1B G The rules governing fees, commissions and non-monetary benefits which may be paid or provided in respect of *qualifying schemes* are found in *COBS* 19.6.

...

6.1C Consultancy charging and remuneration

...

6.1C.5A R A *firm* and its *associates* may, except in relation to a *qualifying scheme*:

...

...

6.1D Product provider requirements relating to consultancy charging and remuneration

...

6.1D.4 R (1) ...

(2) ~~Paragraph~~ Except in connection with a *qualifying scheme*, paragraph (1)(a) does not prevent a *firm* from making a payment to a third party that has facilitated the payment of a *consultancy charge* from a *group personal pension scheme* or *group stakeholder pension scheme*, provided that that payment is only in respect of that facilitation.

(3) ...

...

6.1D.6A R A *firm* and its *associates* may, except in connection with a *qualifying scheme*:

...

...

19.6 Restriction on charges in pension schemes

...

~~Consultancy Charges~~ Prohibition of payments to third parties from qualifying schemes

19.6.10 R (1) ~~A *firm* must not make or otherwise facilitate any payment to a third party in respect of advice or services provided pursuant to any~~

agreement made between that third party and an employer in respect of whom the *firm* is operating a *qualifying scheme*, including *consultancy charges*, which would have the effect of reducing the value of the accrued rights of a member of that *qualifying scheme* to whom this section applies. A firm must not make any administrative charge, or otherwise make or facilitate any payment or provide any non-monetary benefit, in respect of any service provided by a third party in connection with a *qualifying scheme* which would have the effect of decreasing the value of the accrued rights of any member of that scheme.

(2) ...

- 19.6.11 G ~~COBS 19.6.10R complements COBS 6.1C.5CR and COBS 6.1D, which together prevent a *firm* which gives advice or provides services within the meaning of those sections to an employer in relation to a *qualifying scheme* from soliciting or accepting *consultancy charges* in relation to those services. COBS 19.6.9R prevents the provider of the *qualifying scheme* from providing such payments, and goes further to prevent such payments being provided to other advisers who give advice or provide services to employers, such as solicitors and accountants. [deleted]~~

...

Differential charges

- 19.6.12 R A firm must not impose greater administrative charges on a member of a *qualifying scheme* whose workplace pension contributions ceased on or after 6 April 2016 than those imposed on a member in respect of whom such contributions are still being made.
- 19.6.13 G The effect of COBS 19.6.12R is to prohibit active member discounts within automatic enrolment schemes.

Financial Conduct Authority



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