

## Chapter 9

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

## 9.4 Suitability reports

### Providing a suitability report

- 9.4.1** **R** A firm must provide a *suitability report* to a *retail client* if the *firm* makes a *personal recommendation* to the *client* and the *client*:
- (1) acquires a holding in, or *sells* all or part of a holding in:
    - (a) a *regulated collective investment scheme*;
    - (b) an *investment trust* where the relevant *shares* have been or are to be acquired through an *investment trust savings scheme*;
    - (c) an *investment trust* where the relevant *shares* are to be held within an *ISA* which has been promoted as the means for investing in one or more specific *investment trusts*; or
  - (2) *buys, sells, surrenders, converts or cancels rights under, or suspends contributions to, a personal pension scheme or a stakeholder pension scheme*; or
  - (3) elects to make *income withdrawals, an uncrystallised funds pension lump sum payment or purchase a short-term annuity*; or
  - (4) enters into a *pension opt-out*.
- 9.4.2** **R** If a *firm* makes a *personal recommendation* in relation to a *life policy*, it must provide the *client* with a *suitability report*.  
[Note: first and third paragraphs of article 20(1) of the *IDD*]
- 9.4.2A** **R** If a *firm* makes a *personal recommendation* in relation to a *pension transfer or pension conversion*, it must provide the *client* with a *suitability report*.
- 9.4.3** **R** The obligation to provide a *suitability report* does not apply:
- (1) if the *firm*, acting as an *investment manager* for a *retail client*, makes a *personal recommendation* relating to a *regulated collective investment scheme*;
  - (2) if the *client* is habitually resident outside the *EEA* and the *client* is not present in the *United Kingdom* at the time of acknowledging consent to the proposal form to which the *personal recommendation* relates;
  - (3) [deleted]

- (4) if the *personal recommendation* is to increase a regular *premium* to an existing contract;
- (5) if the *personal recommendation* is to invest additional single *premiums* or single contributions to an existing *packaged product* to which a single *premium* or single contribution has previously been paid.

### Timing

9.4.4

**R**

A firm must provide the *suitability report* to the *client*:

- (1) in the case of a *life policy*, before the contract is concluded; or
- (2) in the case of a *personal pension scheme* or *stakeholder pension scheme* that is not a *life policy*, where the *rules* on cancellation (■ COBS 15) require notification of the right to cancel, no later than the fourteenth day after the contract is concluded; or
- (3) in any other case, when or as soon as possible after the transaction is effected or executed.

[Note: first and third paragraphs of article 20(1) of the *IDD*]

9.4.5

**R**

[deleted]

9.4.6

**R**

In the case of telephone selling of a *life policy*, when the only contact between a *firm* and its *client* before conclusion of a contract is by telephone, the *suitability report* must be given in accordance with ■ COBS 7.4.

[Note: article 23(7) of the *IDD*]

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9.4.7

**R**

The *suitability report* must, at least:

- (1) specify, on the basis of the information obtained from the *client*, the *client's* demands and needs;
- (2) explain why the *firm* has concluded that the recommended transaction is suitable for the *client* having regard to the information provided by the *client*;
- (3) explain any possible disadvantages of the transaction for the *client*; and
- (4) in the case of a *life policy*, include a personalised recommendation explaining why a particular *life policy* would best meet the *client's* demands and needs.

[Note: first and third paragraphs of article 20(1) of the *IDD*]

**9.4.8** **R** A *firm* must ensure the details are modulated according to the complexity of the transaction or the proposed *contract of insurance* and the type of *client*.  
[Note: article 20(2) of the *IDD*]

**9.4.8A** **R** Where a *friendly society* has given a *personal recommendation* on a small *life policy* in **■** COBS 9.2.9R(2), the *suitability report* must include, at least, the information required by **■** COBS 9.4.7R(1) and (4).[Note: first and third paragraphs of article 20(1) of the *IDD*]

#### Means of communication (life policies)

**9.4.9** **R** If a *firm* is providing a *suitability report* in the course of *insurance distribution activity*, the information must be in accordance with **■** COBS 7.4.  
[Note: article 23 of the *IDD*]

#### Additional content for income withdrawals

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

- (1) the capital value of the fund may be eroded;
- (2) the *investment* returns may be less than those shown in the illustrations;
- (3) annuity or *scheme pension* rates may be at a worse level in the future;
- (4) the levels of income provided may not be sustainable; and
- (5) there may be tax implications.