

08/18**

Financial Services Authority

Regulatory fees
and levies: policy
proposals for 2009/10

October 2008



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The Financial Services Authority invites comments on the proposals in this Consultation Paper. Comments should be submitted by **16 January 2009**, except for **chapter 10 which should be submitted by 31 December 2008** and ideally by e-mail to **CP08_18@fsa.gov.uk**.

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It is our policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an e-mail message will not be regarded as a request for non-disclosure.

A confidential response may be requested from us 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 Tribunal.

For any general queries regarding fees, please firstly consult our website at www.fsa.gov.uk/Pages/Doing/Regulated/Fees. You can also contact the Fees Helpline by telephone on (0207 066 1888) and e-mail (fsafees@fsa.gov.uk).

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

1 Overview

1.1 Each year we consult on:

- (1) proposed policy changes to the fee and levy regimes;
- (2) our Annual Funding Requirement (AFR) and its allocation between fee-blocks;
- (3) our fee rates for the forthcoming financial year;
- (4) the Financial Services Compensation Scheme (FSCS) management expenses levy limit; and
- (5) the Financial Ombudsman Service (FOS) general levy for the forthcoming financial year.

1.2 The annual consultation is relevant to all authorised firms and other bodies that pay fees to us and levies to the FSCS and FOS, as well as to potential applicants for FSA authorisation and listing by the UK Listing Authority. We split the annual consultation into two phases. In October we consult on any proposed changes to the underlying policy for FSA fees or FOS and FSCS levies – (1) above. In the following February we consult on the proposed changes to (2), (3), (4) and (5) above. The February consultation coincides with the publication of the FSA's Business Plan, FOS and FSCS budgets for the next financial year.

1.3 Additional background material to proposals in either this October Consultation Paper or that in February 2009 can be found in our Consolidated Policy Statement (PS08/5¹) on our fee raising arrangements and regulatory fees and levies. The FSA Handbook rules and guidance on fees are in the Fees manual (FEES) and Annex 3 to this paper outlines the structure of FEES for ease of reference.

¹ PS08/5 Consolidated Policy Statement on our fee raising arrangements and regulatory fees and levies 2008/09 – Including feedback on CP07/19, CP08/2, CP08/7 and 'made rules' (May 2008)

Structure of this Consultation Paper (CP)

- 1.4 This CP explains fee and levy policy proposals and consults on supporting draft rules and guidance affecting fee payers in general and certain fee-blocks. It also includes:
- an outline of future fees policy consultations;
 - policy clarification where feedback from the industry has indicated that it is needed; and
 - policy proposals raised for discussion only to inform a later consultation on draft rules and guidance.
- 1.5 To identify the chapters most relevant to you, see Table 1.1. below.

Table 1.1: Who should read this Consultation Paper?

Issue	Fee payers likely to be affected	Reference
Newly authorised firms and firms extending their permissions – fees to be calculated on actual tariff data rather than projections in the second year where possible	Recently authorised firms, firms intending to apply for authorisation or existing firms intending to apply to extend their permissions	Chapter 2
Firms operating Multilateral Trading Facilities (MTFs) – revised fees structure that more accurately reflects the nature of this activity and the scale undertaken	Authorised firms who currently operate a MTF or are intending to apply to do so	Chapter 3
Transaction reporting: <ul style="list-style-type: none"> • Approved Reporting Mechanisms (ARMs) – new fees for testing • Transaction Reporting System (TRS) fee rates 2009/10 	ARMs and other entities who transaction report directly to the SABRE II ² system All entities making transaction reports through the FSA's TRS	Chapter 4
UK Listing Authority (UKLA) – reorganisation and introduction of new categories of application, vetting and administration fees	Firms in fee-block E: <ul style="list-style-type: none"> • issuers of securities or • a sponsor (as defined in section 88 of FSMA). 	Chapter 5
Solvency II – special project fee for insurers in 2009/10	General insurers and life insurers (larger fee payers) – see also chapter 10	Chapter 6
FOS tariff base proposals for levy policy for e-money accounts	All firms in the jurisdiction of the FOS who are issuers of e-money	Chapter 7
Future fees policy consultation: <ul style="list-style-type: none"> • on the Payment Services Directive: and • 'reclaim funds' under the forthcoming Dormant Bank and Building Societies Accounts Act. 	Banks, building societies, e-money issuers and non-FSA authorised entities providing payment services which will be brought into regulation for the first time through the future Payment Services Regulations 2008 Banks, building societies and other entities considering authorisation to manage dormant bank and building society accounts	Chapter 8

<p>Policy clarification on the following tariff bases:</p> <ul style="list-style-type: none"> • Fee-block A.18 (Home finance providers, advisers and arrangers) tariff base; and • Fee-blocks A.4 (insurers – life) and A.3 (insurers – general) 	<p>Mortgage lenders (A.18) Insurers conducting pension fund management (PFM) business and trustee investment management (TIP) business</p>	<p>Chapter 9</p>
<p>Discussion proposals to expand the role Special Project Fees (SPFs) to recover:</p> <ul style="list-style-type: none"> • All our EU Directive implementation costs • Our additional supervisory costs where firms need to undertake a refinancing transaction 	<p>All authorised firms impacted by future Directives and currently firms affected by Solvency II Directive (see also chapter 6)</p> <p>All authorised firms who may undertake a refinancing exercise</p>	<p>Chapter 10</p>

1.6 There are three Annexes and one Appendix to this paper:

Annex 1 contains a statement of compatibility of our proposed changes to fees policy with the principles of good regulation.

Annex 2 contains a list of questions to which we are seeking responses.

Annex 3 sets out where fee and levy rules and guidance are found in the FSA Handbook.

Appendix 1 contains the draft Handbook rules and guidance we are consulting on.

Summary of proposals

Chapter 2 – Newly authorised firms and firms extending their permissions

1.7 We propose to change our approach to the use of projected data, for newly authorised firms and firms extending their permissions. There have been some cases where firms have significantly over projected their expected income during the application process and have not achieved this level of business within their second year. Some firms have complained that their fees are not a reflection of their true business levels. Although we are not proposing to change our approach for the first year, where firms have been authorised in the period April to December, we are proposing that they must submit revised annualised fee tariff data based on actual business levels for the calculation of their second year fees, where possible. For firms authorised or having their permission extended in the period January to March, we will use their originally projected data for their first (part) year's fee and for their second year fees.

Chapter 3 – Firms operating Multilateral Trading Facilities (MTFs)

- 1.8 We are proposing to put authorised firms with the permission of ‘operating an MTF’ additionally into the B fee-block, with recognised exchanges and clearing houses. This will enable us to levy fees which more accurately reflect the costs of supervising the risks that relate to the level and type of business undertaken by firms with this permission. Those firms will pay individual periodic fees subject to a minimum of £2,000 in addition to their A-block periodic fees applicable for their other regulated activities. This policy change will not affect the fees for MTF operators where they are recognised bodies. Also, we are proposing to increase application fees for authorised firms applying for the permission of ‘operating an MTF’.

Chapter 4 – Fees for Transaction Reporting

- 1.9 We propose to charge fees to cover the cost of conducting system tests when authorised Approved Reporting Mechanisms (ARMs) and other reporting entities request testing of their new or updated systems for reporting to our SABRE II system. ARMs are a mechanism through which transaction reports are sent to the SABRE II system. These tests are conducted to ensure ARMs and other reporting entities can successfully continue to connect to our system and ensure ongoing compatibility. We propose an hourly rate of £80 which will reflect the cost of the technicians who conduct the testing work.
- 1.10 We also propose to reduce the fees per transaction for fee payers reporting transactions through our own ARM, the Transaction Reporting System (TRS). These fees have partially funded the introduction and development of SABRE. Since this work is now substantially complete, we propose to reduce TRS fees by 0.75p per transaction across each of the current six bandings. The overall fee structure will remain the same and the contributions from fee payers will be used to continue to fund the costs of operating the TRS and fund ongoing development and operation of our market surveillance system, SABRE II.

Chapter 5 – UK Listing Authority (UKLA)

- 1.11 We propose to:
- rename the existing significant transaction fee category to a ‘super transaction’ fee in order to accurately reflect the level of resource we use to process these transactions;
 - introduce a new significant transaction fee at a flat rate of £20,000 for vetting certain significant transactions;
 - introduce a new vetting fee of £5,000 for the review of Mineral Expert Reports; and
 - introduce a rule charging an administration fee of £225 plus £100 per each additional use of securities when issuers request changes to the Official List.

Chapter 6 – Special Project Fee (SPF) – Solvency II

- 1.12 We introduced a special project fee (SPF) in 2008/09 to recover part of our project development costs related to Solvency II internal model approval work for insurers and indicated that it was likely that we would also charge further SPFs up to implementation. We now propose to recover £3.2mn in 2009/10 from the 60 largest life (fee-block A.4) and 60 largest non-life insurers (fee-block A.3) and, from this year, The Society of Lloyd's (fee-block A.6). The fee will be capped at £95,000 for any individual firm or group and The Society of Lloyd's.

Chapter 7 – FOS general levy for firms issuing e-money

- 1.13 We propose to change the basis for calculating the level of the FOS general levy paid by e-money issuers in the FOS's compulsory jurisdiction. The change will result in a lower levy which better reflects the level of complaints that currently arise from e-money accounts.

Chapter 8 – Future fees policy consultation

- 1.14 In this chapter we set out future fees policy consultation plans in relation to: –
- recovering the costs we will incur as a result of our regulatory responsibilities under the Payment Services Directive (PSD); and
 - authorising and regulating reclaim funds under the forthcoming Dormant Bank and Building Society Accounts Act.

Chapter 9 – FSA fees policy clarification

- 1.15 In this chapter we are clarifying our existing policy on fees for mortgage mediation. We are also clarifying the exclusion for insurers reporting tariff data in relation to Trustee Investment Plans (TIPs) and Pension Fund Management (PFM).

Chapter 10 – Proposed policy for discussion

- 1.16 In this chapter we provide notice of further consultation and are seeking views from firms whether in principle they would agree with us expanding the role of Special Project Fees (SPFs) to recover:
- all our EU Directive implementation costs; and
 - our additional supervisory costs where firms need to undertake a refinancing transaction.
- 1.17 In the light of responses to these for discussion proposals formal consultation with draft rules will take place in the February 2009 fees and levies CP.

Consultation period

- 1.18 The consultation period for the proposals in this paper closes on 16 January 2009. The only exception to this are the proposals for discussion in chapter 10 where the closing date for responses is 31 December 2008 – further consultation will take place on these proposals in February 2009.

Next steps

- 1.19 Subject to FSA Board approval and in light of responses to this CP, we expect to publish the responses and our feedback to those responses in a separate policy statement in March 2009. The majority of the rules finalised after this consultation will come into force from 1 April 2009 and 1 June 2009, as set out in the individual Chapters.
- 1.20 In February 2009 we will publish our second annual fees CP – fees and levy rates for 2009/10 as stated above. We expect to publish the final rules and corresponding feedback statement relating to the second CP in Q2 of 2009 together with our annual Consolidated Policy Statement. Fee payers will be invoiced from June 2009 on the basis of the 2009/10 periodic fees, levies and policy changes. Changes in application fees will apply from 1 April 2009.

Internal strategic review of current fees regime

We recognise that our fee structure has evolved since N2, when we received our powers under the Financial Services and Markets Act 2000 (FSMA). We have seen significant changes to both industry and ourselves (particularly due to EU directive implementation) since the current fees regime was introduced in 2001/02 and our costs are higher, which raises the question of whether our current fee structure and cost allocation model continue to be appropriate. In the light of these changes, we will undertake an internal strategic review of our fees regime. The aim of the review is to establish whether a wider review involving external consultation will be necessary.

In the meantime, in formulating the proposals in this CP, we have sought to minimise complexity (as far as we can within the constraints of the existing fees regime) by:

- Aligning the fees structure for authorised firms operating Multiple Trading Facilities (MTFs) with that of Recognised Investment Exchanges (RIEs) which more accurately reflects the nature of this activity and the scale undertaken by authorised firms (Chapter 3); and
- Aiming to use an existing fee-block rather than introducing a new fee-block to accommodate the fees for implementing the Payment Services Directive (Chapter 8).

We have also sought to address feedback we have received from the industry by proposing:

- changes to the way we calculate fees for newly authorised firms and firms extending their permissions so that they are calculated on actual tariff data rather than business projections in the second year, where possible (Chapter 2); and
- rewording our existing rules and guidance to better reflect the policy intention and help firms calculate tariff data more consistently (Chapter 9).

Consumers

This CP contains no material of direct relevance to retail financial services consumers or consumers groups, although indirectly part of our fees are met by financial services consumers.

2 Newly authorised firms and firms extending their permission

(FEES 4.2.7B R and 4.2.7C G, draft rules are in Annex 3 of this paper)

- 2.1 This chapter sets out our proposal for setting first and second year fees and levies for firms becoming newly authorised (or extending their Part IV permission) under the Financial Services and Markets Act 2000 (FSMA) from 1 April 2009. This proposal is relevant to firms considering authorisation by the FSA – or extension of their existing permission – under FSMA. The rules implementing this policy change would take effect from 1 April 2009.

Background

- 2.2 Newly authorised firms are invoiced for regulatory fees and levies using fee tariff data they supplied as part of their business projections on the authorisation application form. Where firms have extended their permission, we write to them after the permission is varied, requesting their projected tariff data for the new activities they are carrying on. The rules in the Fees manual (FEES) require us to use projected data for the calculation of a firm's fees in the second financial year of authorisation, or extended permission. This procedure was introduced when the FSA fee-raising arrangements were established, to meet the industry request that firms should have some certainty over their initial fees.

Proposal

- 2.3 We calculate firms' fees and levies according to the tariff data they report by the end of February each year, typically with a valuation date of 31 December or their latest accounting reference date of the previous calendar year. In some cases, firms have not achieved the projected levels of business they stated in the application process (or provided to us after extending their permission). As a result, their second year's fees and levies are not a reflection of their true business levels. Under the rules in FEES we are unable to revise their projections and recalculate their second year's fees where this would result in a lower fee amount for the second year.
- 2.4 To address this, we are proposing that firms who become authorised or extend their permission must submit fresh fee tariff data for their second year's fees, where the authorisation or extended permission was granted between 1 April and 31 December inclusive. This will be an annualised figure based on the actual business done from the date of authorisation, or obtaining the extended permission, up to and including 31

December. We will then use this revised tariff data to calculate the fees in their 'new' fee-blocks for their second year of authorisation, or extended permission. This will enable firms' second year fees to reflect more accurately the actual business done.

- 2.5 This proposal would maintain the approach of providing reasonable certainty of fees for firms upon authorisation but provides a measure for firms to adjust data to reflect their actual business levels – or revised projections – in the second year, for example where market conditions may have been different to those envisaged prior to authorisation (or extension of permission). We are not proposing to change our approach for a new joiner's first year's fee since if we did not rely on the firm's projection, we and effectively the rest of the firms in the fee-block, would be assuming the risk for an individual firm not meeting its own business plan.

Firms becoming authorised or extending their permission between January and March

- 2.6 For firms that become authorised or extend their permission between 1 January and 31 March inclusive – Q4 of our financial year – we will continue to use their projected tariff data for their first and second years' fees and levies. We believe this is a fair approach, because we would not expect a firm's projections in their business plan to have changed significantly over this financial quarter, to warrant collecting tariff data from them again before we start invoicing firms from June. So firms becoming authorised or obtaining an extended permission between January and March are not affected by this proposal.

Tariff data for second year fees

- 2.7 In the table 2.1 below, we summarise the tariff data we will use to calculate a firm's second year fees, where the firm is allocated to a fee-block or fee-block(s) to which they did not previously belong following authorisation or extended permission granted between 1 April and 31 December inclusive.

Firms' financial year ends

- 2.8 In certain fee-blocks (e.g. A.3 (Insurers – general) and A.4 (Insurers – life)), the valuation date for tariff data is the financial year ended in the calendar year immediately before our financial year. So, for example, a firm with a 31 March year end would normally report A.3 tariff data valued at its 31 March 2008 year end, which we would use to calculate its 2009/10 fee. The firm must provide us with this information by 28 February 2009.
- 2.9 Following the example above, if the firm is allocated to the A.3 fee-block because it becomes newly authorised or had its permission extended on 1 June 2008, its next financial year end will be 31 March 2009 – after the 28 February 2009 deadline for submitting tariff data. The firm would therefore be unable to take advantage of the chance to submit fresh tariff data for its second year's fees, even though it will have conducted business in its new fee-block for several months before the 2009/2010 fee period. If we were to apply the rules requiring tariff data as at the firm's financial year end to this proposal for second year fees, the date of the firm's financial year end

could limit the scope of firms who could benefit. This would penalise some firms simply by virtue of their financial year end.

- 2.10 However, by requiring a firm to submit fresh tariff data to us for its second year fees, we want the firm to have the maximum opportunity to base that tariff data on actual levels of business it has done, regardless of its financial year end. We therefore propose that in fee-blocks with a valuation date connected to the firm's financial year, firms allocated to those fee-blocks between 1 April and 31 December inclusive should ignore their financial year end. Instead, they will compute their second year's fee tariff data over the period starting with authorisation or extended permission and ending on 31 December. This places all firms gaining new or extended permissions on a level playing field.

Table 2.1: Tariff data on which firms' second year fees will be based, following authorisation or extension of permission between April and December

Fee-block	High-level summary of tariff base and valuation date ³	Tariff data on which second year's fees will be based (if firm chooses)	How we obtain the updated tariff data
A.1 – deposit acceptors	Modified eligible liabilities (a 3 month average Oct-Dec for monthly reporters, or as at December for quarterly reporters)	Actual modified eligible liabilities	From firm's Form BT reported to Bank of England
A.2 – mortgage lenders & administrators	Number of new home finance transactions entered into in 12 month period to 31 December	Actual number of new home finance contracts under administration on 31 December, annualised to a 12 month period	Written request to firm ⁴ – no need to resubmit MLAR ⁵
	Number of home finance contracts administered on 31 December	Actual gross premium income between authorisation/extended permission and 31 December inclusive, annualised to a 12 month period	Written request to firm

3 Valuation dates are in FEES 4 Annex 1R Part 3.

4 We will make these written tariff data requests in January each year.

5 MLAR: Mortgage lending and administration return.

A.3 – general insurers	Annual gross premium income for financial year in the calendar year ending 31 December*	Actual gross premium income between authorisation/ extended permission and 31 December inclusive, annualised to a 12 month period	Written request to firm
	Gross technical liabilities valued at the financial year end*	Projected gross technical liabilities on 31 December, based on first part-year's business and annualised to a 12 month period	Written request to firm
A.4 – life insurers	Adjusted annual gross premium income for financial year in the calendar year ending 31 December*	Actual gross premium income between authorisation/ extended permission and 31 December inclusive, annualised to a 12 month period	Written request to firm
	Mathematical reserves valued at the financial year end*	Projected mathematical reserves on 31 December, based on first part-year's business and annualised to a 12 month period	Written request to firm
A.5 – managing agents at Lloyd's	Active capacity for the underwriting year	No change	No change
A.6 – The Society of Lloyd's	n/a		
A.7 – fund managers	Funds under management on 31 December	Value of funds under management on 31 December, annualised to reflect a 12 month period	Written request to firm
A.9 – operators, trustees and depositaries of collective investment schemes; operators of personal pension & stakeholders schemes	Annual gross income valued at the financial year end*	Actual income on 31 December, annualised to reflect a 12 month period	Written request to firm
A.10 – firms dealing as principal	No. of traders as at 31 December	Actual number of traders as at 31 December	Written request to firm
A.12 – advisory arrangers, dealers and brokers holding client money	No. of CF30 approved persons as at 31 December	Actual number of CF30 approved persons as at 31 December	From FSA Register
A.13 – advisory arrangers, dealers and brokers not holding client money	No. of CF30 approved persons as at 31 December	Actual number of CF30 approved persons as at 31 December	From FSA Register

A.14 – corporate finance advisers	No. of CF30 approved persons advising on corporate finance business as at 31 December	Actual number of CF30 approved persons as at 31 December	From FSA Register
A.18 – home finance providers, advisers & arrangers	Annual income valued at the financial year end*	Actual income from authorisation/extension to 31 December, annualised to cover a 12 month period	Written request to firm – no need to resubmit MLAR
A.19 – general insurance mediation	Annual income valued at the financial year end*	Actual income from authorisation/extension to 31 December, annualised to cover a 12 month period	Written request to firm – no need to resubmit RMAR ⁶

Note: tariff bases marked * in the table above would normally be calculated as at the firm’s latest financial year end. However, under this proposal, firms subject to those tariff bases as a result of authorisation/extended permission between April and December should ignore the year end date and calculate their second year’s tariff data up to 31 December instead.

Example:

A firm is authorised or has its permission extended to do general insurance mediation on 1 October 2009. It is allocated to the A.19 fee-block – the tariff base is annual income from general insurance mediation and the firm provides a projected amount of annual income with its application.

The firm’s pro-rated periodic fee for 2009/2010 is based on the projected annual income. In order to submit fresh tariff data for its 2010/2011 fees it must report A.19 tariff data to us by 28 February 2010. The firm calculates this by taking its actual income from 1 October 2009 to 31 December and multiplying this amount by four to gain a 12-month projection.

Practical arrangements

- 2.11 We intend to collect tariff data from newly authorised firms or firms who have recently extended their permission as part of our usual annual tariff data collection work. We will write to the firms in January to request their actual tariff data, calculated as per the proposals above, for their ‘new’ fee-blocks. Firms must provide the information by 28 February. Firms seeking authorisation (or extension of their permission) can use the Fees Calculator on our website⁷ to calculate their estimated liability for fees and levies.

6 RMAR: Retail mediation activities return.

7 www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator

Levies for the Financial Services Compensation Scheme and the Financial Ombudsman Service

2.12 The tariff data reportable for the FSCS and the FOS levies is generally based on the same principles as FSA tariff data (although in respect of business with eligible claimants or eligible complainants respectively). Our intention is therefore to extend this policy proposal to the tariff data provided by firms for the calculation of the FOS general levy and the FSCS levies, as it will be simple for firms to report tariff data for all three funding regimes using the same basis of valuation.

Q1: Do you agree with our proposal to require firms obtaining authorisation or an extended permission between 1 April and 31 December inclusive to report fresh tariff data (from the date of authorisation or extended permission to 31 December inclusive, and annualised), so their second year's fees can reflect actual business done rather than the tariff data they originally projected?

3 Firms operating Multilateral Trading Facilities

(FEES 4 Annex 10R draft rules are in Annex 3 of this paper)

- 3.1 In this chapter, we set out our proposals to adjust authorisation fees and introduce a new subset of fee payers in the B fee-block (recognised bodies) for authorised firms operating a Multilateral Trading Facility (MTF). This proposal affects authorised firms currently holding or considering applying for the permission of ‘operating an MTF’. It does not affect recognised bodies that operate MTFs. In this chapter, references to operators of an MTF mean authorised firms (not recognised bodies) with permission to operate an MTF. The proposals in this chapter would take effect from 1 April 2009.

Background

- 3.2 Operators of MTFs provide trading facilities, typically electronic facilities. The implementation of the Markets in Financial Instruments Directive (MiFID) in November 2007 introduced a single common classification for all entities that operate MTFs. Firms which operate MTFs were previously referred to as ‘Alternative Trading Systems’. These firms are now authorised with the common permission of ‘operating an MTF’. In addition, the implementation of MiFID has enabled all of those entities – including investment exchanges and authorised firms – operating MTFs, to passport their services across borders. We wish to provide clarity about the application and periodic fees relevant for authorised firms conducting the activity of ‘operating an MTF’. In this chapter, references to operators of MTFs mean authorised firms (not recognised bodies) with permission to operate MTFs.

Issue

- 3.3 Operators of MTFs are currently allocated to fee-blocks A.10 (firms dealing as principal), A.12 (advisory, arrangers, dealers or brokers (holding or controlling client money or assets, or both)) or A.13 (advisory arrangers, dealers or brokers (not holding or controlling client money or assets, or both)). Most operators of MTFs are assigned to fee-block A.13, with some allocated to A.12 where they hold client money, and their fees in A.12 and A.13 are based on the number of approved persons with customer functions (CF30). Fees in the A.10 fee-block are calculated on the number of traders.

- 3.4 An operator of an MTF might have zero or only one trader or approved person with customer function CF30 to report in the A.10, A.12 or A.13 fee-blocks. However, such firms could be undertaking the activity in relation to a size and/or type of transactions that pose a greater risk to our objectives and require greater supervision than those firms with several traders or approved persons with customer function CF30. Therefore the current way of calculating the tariff base is not effective at distributing our costs.

Proposal

- 3.5 The activity of operating an MTF is similar to the activity conducted by Recognised Investment Exchanges (RIEs) in providing trading facilities. For fees purposes RIEs are included in fee-block B and are set on an individual basis per exchange to reflect the level of supervisory resource applied to them. Due to the similarities between RIEs and firms operating MTFs, we therefore propose to allocate firms with permission to operate an MTF to fee-block B, and charge fees on a similar basis to RIEs. We also propose to set an appropriate application fee for firms seeking permission to operate an MTF which is more in line with cost of considering approval. It should be noted that firms operating an MTF will still be required to pay fees for other activities in the scope of their permission, such as permission for arranging in fee-block A.13.

Periodic fees

- 3.6 We recognise that firms operate MTFs in a number of different markets. The range of transactions in which an operator of an MTF can potentially be involved can exhibit a significant difference in the level of risk posed to our statutory objectives between firms operating MTFs. We do not believe that a suitable common metric exists by which we could distribute the costs applicable to firms' MTF operations, that would be proportionate given the size and nature of the MTF operation, the extent of risks to our statutory objectives it presents and the level of our resources required to supervise the MTF activity.
- 3.7 In cases where it is not possible to determine a tariff base by a common and relevant unit of measure, we base our fees on the estimated full cost of regulating each individual entity. This includes an appropriate share of industry-wide costs and overheads which are recovered from minimum periodic fees.
- 3.8 Fees applicable to RIEs are based on a cost allocation per exchange. Accordingly, we propose to structure periodic fees for investment firms who operate MTFs for their activities of 'operating an MTF' on the same basis as we apply the periodic fees for RIEs and within the same fee-block (B). This means periodic fees payable by a firm which operates an MTF are based on the amount of time that will be spent supervising the MTF element of the firm's business.

- 3.9 This approach will have the effect of ensuring that firms whose MTF activities are a significant part of their business and accordingly require greater supervisory resources incur proportionate, higher periodic fees than those firms whose MTF activities are less significant and require less supervisory resources directed to the MTF element of the firm's operations.
- 3.10 A minimum annual periodic fee of £2,000 will be levied in fee-block B on firms with the permission of 'operating an MTF'. This compares to £1,850 in the A.13 fee-block for nil or one authorised person (CF30) which most operators of MTFs currently pay. The principle of fee payers paying at least a minimum periodic fee is consistent with existing fees policy.
- 3.11 Since the costs relating to individual supervision will in most cases vary from year to year, these fees will be reviewed and consulted on annually according to projections on supervisory effort. This approach is consistent with other entities in fee-block B.
- 3.12 For each financial year operators of MTFs will pay the projected fee including the minimum periodic fee. In some cases there is no significant supervisory resource anticipated and the projected periodic fee payable will be the minimum periodic fee. An annual balancing adjustment will be performed after the end of the financial year and the difference between the projected and final actual supervisory costs will be rebated or charged to the individual firms operating MTFs in their following year's fees.

Penalties

- 3.13 Under FSMA, financial penalties are applied for the benefit of authorised firms in the form of a fee rebate. Further details of our financial penalty scheme are in Annex 5 of the Consolidated Policy Statement on fees⁸. If we distribute financial penalties to authorised firms in accordance with our published scheme, this will include authorised firms in the B fee-block where applicable and recognised bodies will not benefit. Penalty rebates will reduce the following year's Annual Funding Requirement (AFR) for firms with the permission of 'operating an MTF' in line with current fees policy. We will advise on the current position of penalty rebates for 2009/2010 in the February 2009 Consultation Paper and they will be finalised in Q2 2009.

Proposed projected fees

- 3.14 Proposed projected fees payable for the 2009/2010 AFR by firms with the permission of operating an MTF are set out in Annex 3 of this paper and the proposed changes to FEES 4 Annex 10 R, for firms which will pay more than the minimum periodic fee.

Q2: Do you agree with our proposal to charge individual periodic fees to firms for the activity of 'operating an MTF'?

8 PS08/5 (May 2008).

Application fees

- 3.15 Application fees differ according to the type of business an applicant wishes to conduct and therefore the regulated activities it is seeking within its permission.
- 3.16 To date, applications to become an investment firm ‘operating an MTF’ have incurred fees for straightforward (£1,500 for A.13 and A.12 firms) and moderately complex (£5,000 for A.10 firms) applications. These fees do not closely reflect the cost of assessing an application for ‘operating an MTF’, which will usually involve senior staff and significantly more resource than ‘straightforward’ or ‘moderately complex applications.
- 3.17 Applications for deposit acceptors and insurers are considered ‘complex’ and application fees are set at £25,000. The resources dedicated to assessing a typical application to operate an MTF are equivalent or greater than the cost of assessing a complex application such as a deposit acceptor and insurer application. For many applications to operate an MTF, input from our specialised areas such as Policy, Markets, Prudential Risk and General Counsel may be required to consider the application.
- 3.18 As a comparison, application fees for trading venues which operate as RIEs are £100,000. We do not consider it appropriate to apply an equivalent application fee for an authorised firm operating an MTF because a RIE application is considered under a specific regulatory regime for recognised bodies. As such more resources are necessary to conduct due diligence on an RIE application than an application by an authorised firm to operate an MTF. In addition, the Director General of Fair Trading, the Competition Commission and the Treasury have specific roles in assessing applications to become a RIE.
- 3.19 We propose to re-classify applications for investment firms ‘operating an MTF’ as ‘complex’. Accordingly, all such applications will incur an application fee of £25,000 from 2009/10. This will more accurately reflect the resource required to assess these applications.

Variations of Permission

- 3.20 An authorised firm that applies to extend its permission to include the activity of ‘operating an MTF’ is liable to pay a Variation of Permission (VoP) application fee where this involves a change in fee-block. The amount of fee is determined by the highest complexity level of the new fee-block(s) a firm will fall into after the permission is extended. Under this proposal, the VoP fee for firms seeking to add ‘operating an MTF’ to the scope of its permission will be calculated as 50% of the £25,000 ‘complex’ classification application fee. This is consistent with existing policy.

Q3: Do you agree with our proposed application and variation of permission fees for firms seeking permission – or a variation of their permission – for the activity of ‘operating an MTF’?

Periodic fee for newly authorised firms

- 3.21 For the first year (or part thereof) when a firm has become authorised or extended its permission to operate an MTF, we propose an upfront flat rate minimum periodic fee of £2,000. This fee is set for firms operating MTFs for the first year of operation due to the difficulties that would arise if we were to change the fees rules during a fee year on an ad-hoc basis for every newly authorised firm. In fee-block B, new recognised bodies also pay an upfront flat rate periodic fee for their first year of authorisation. If a newly authorised firm has other permissions, they will be required to pay the relevant first year fee for that activity or activities.
- 3.22 Where the costs incurred by us for supervising firms operating an MTF for the first year of authorisation (or part of that) is greater than £2,000, this fee will undergo an annual balancing adjustment at the end of that financial year. Firms are put on notice that they may be invoiced for a substantial amount above the £2,000 proportionate to the activities undertaken at the time they are authorised.
- 3.23 The £2,000 first year fee is a minimum fee and will not undergo an annual balancing adjustment should the actual supervisory costs we incur be lower than £2,000. This means that a new joiner with the permission of 'operating an MTF' will pay a minimum of £2,000 for the amount of time leading up to the start of the next AFR regardless of how short it might be.

European Economic Area (EEA) and Treaty firms operating MTFs

- 3.24 EEA and Treaty firms passporting activities into the UK and operating MTFs will be liable for FSA fees if they are actually carrying out MTF operation in the UK. We propose to charge those inward passporters the minimum periodic fee of £2,000.

Levies for the Financial Services Compensation Scheme and Financial Ombudsman Service

- 3.25 Firms operating MTFs that are not exempt from the Financial Services Compensation Scheme (FSCS) will remain in the D2 sub-class and continue to be liable for any applicable FSCS levies. So they are not affected by the policy change to FSA fees policy. Similarly, there is no implication for any levies which may be payable for the Financial Ombudsman Service (FOS) since we are not proposing to change the tariff blocks for the FOS general levy.

Q4: Do you agree with our proposal to charge a fixed minimum periodic fee of £2,000 for the first year for newly authorised firms operating MTFs or firms extending their permission to operating MTFs?

4 Transaction Reporting

- 4.1 In this chapter we set out fees proposals for transaction reporting, which are relevant to:
- Approved Reporting Mechanisms;
 - Firms – and those acting on their behalf – reporting transactions to us through an Approved Reporting Mechanism (ARM); and
 - Firms using our Transaction Reporting System (TRS) to provide transaction data to us.
- 4.2 This chapter contains two proposals. The first proposal is to charge fees for ARMs and other reporting entities in circumstances when they implement changes to their own systems and then request to undertake testing with us to determine the functional compliance with our Surveillance Analysis of Business Reporting System (SABRE II) system. The new fee is to recover costs incurred by us in providing resources to facilitate testing. The second proposal is the reduction of fees for firms reporting data via our ARM, the TRS. The proposals in this chapter would take effect from 1 April 2009.

Background

- 4.3 Authorised firms are required to submit transaction reports to us under SUP17 following the implementation of the Markets in Financial Instruments Directive (MiFID). Firms who are required to report transaction data to us can do so in a number of ways. Firstly, firms can report via ARMs which collate data and then report into our data receiver called SABRE II. Secondly, “other reporting entities” can report directly into SABRE II. Other reporting entities include individual firms, third parties acting on a firm’s behalf, regulated markets or operators of Multilateral Trading Facilities (MTFs). Thirdly, firms can provide data to the TRS, which is our own ARM. The TRS then collates data and sends it to SABRE II.

Fees proposal for ARMs or other reporting entities requesting system testing

FEES 3.2.7R, draft rules are in Annex 3 of this paper)

4.4 We consulted in CP08/12⁹ on proposals to:

- increase the fee payable for applications for recognition as an ARM from £20,000 to £100,000; and
- introduced a £100,000 connection fee payable by firms, third parties acting on a firm's behalf, regulated markets or operators of MTFs who apply to report transactions directly to SABRE II.

Part of these fees is to recover costs of providing resources to enable the testing of the interface between the applicants' systems and SABRE II to confirm functional compliance. These changes came into effect from 6 October 2008.

4.5 The situation is different after the application phase. When an ARM or other reporting entity makes changes to their own systems after gaining approval, they may request testing to determine the ongoing functional compliance of their systems with SABRE II. As a result we incur costs providing resources to support this testing. Since these costs are incurred as a result of changes made by individual ARMs or other reporting entities to their own systems on their initiative we consider it appropriate for these costs to be recovered from the entity which made the request. We do not believe that these costs should be recovered from ARMs or reporting firms generally.

4.6 The extent of our resources required for individual testing will depend on the extent and type of testing requested. These tests may vary considerably. So we do not propose a flat rate for testing fees but an individual fee that represents costs incurred for specific testing. The fee will be calculated on the number of hours of our resources needed to support the testing, using a standard cost per hour of our resource. On the basis of the costs of IT staff needed to support testing we are proposing that this hourly rate should be set at £80 including VAT. We will give the reporting entity an estimate before the testing is undertaken providing the applicant with an indication of likely costs. The final costs will be billed to the applicant after completion of testing.

System changes by us

4.7 If we change our systems, this may then mandate changes to the systems of ARMs and other reporting entities. In such circumstances we would not then charge ARMs or other reporting entities for any testing that may be required.

Q5: Do you have any comments on the proposed introduction of an hourly fee to be levied upon ARMs and other reporting entities when they make changes to their systems which then require testing with us?

9 Quarterly Consultation (No.17) Chapter 3 – July 2008

Proposal to reduce fees for firms submitting transaction reports through the Transaction Reporting System (TRS)

(FEES 4 Annex 3R, draft rules are in Annex 3 of this paper)

- 4.7 The Transaction Reporting System (TRS) is the FSA's own ARM. Transaction reporting fees are paid by firms that use the TRS for submitting transaction reports to us.

Issue

- 4.8 In DP25/3¹⁰ we explained why we believed it was necessary to upgrade our transaction monitoring capabilities, and as a result we undertook a project to redevelop our systems, including the development of TRS. The development of TRS which superseded the Direct Reporting System (DRS) aimed to provide benefits for both firms and us. TRS serves as a system that is easy to use and compatible with firms' own systems, reducing support costs associated with transaction reporting.
- 4.9 In DP25 we proposed that the development and implementation of TRS would be funded by increasing the transaction reporting charge from a flat-rate of 2p per transaction to a more progressive range of 1.75p to 3p (inclusive of VAT). The proposal was consulted upon in CP04/2¹¹, with the majority of industry in agreement. The development of TRS is now complete and the costs of redevelopment have now been recovered.
- 4.10 Since MiFID, TRS has seen a significant increase in the volumes of transaction reports submitted. As the development of TRS is substantially complete, we propose to reduce TRS fees to a level that will enable the costs of operating the TRS to be recovered, plus an element to fund the ongoing development and operation of our market surveillance systems – SABRE II.

Proposal

- 4.11 We propose to keep the progressive levels at which TRS fees reduce as the volumes of transaction reports submitted increases through the existing banded structure. With this structure the marginal cost per transaction falls as the number of transaction reports increase. This approach matches the charging structure of our periodic fees.
- 4.12 Our proposal is that a 0.75p fee reduction will be introduced across all bands from 2009/10. The first 1,000 trades per year will be free. The next 1,001 – 1,000,000 transactions will each cost 2.25p (inc. VAT). The applicable fee will then decrease in a series of bands based on transaction volumes, with the lowest rate of 1p for each transaction in excess of 20,000,000 per year.

10 DP25/3 Development of transaction monitoring systems (December 2003)

11 CP04/2 Fees and fees policy 2004/05 (January 2004)

4.13 Other TRS fees will remain unchanged. They are:

- £235 including VAT for the annual enrolment fee for users; and
- the first 1,000 transactions reported per year remain free of charge.

Q6: Do you agree with our proposals to decrease TRS transaction reporting fees in 2009/10?

5 UK Listing Authority (UKLA)

(FEES 3.2.7R, FEES 3 Annex 4 and FEES 3 Annex 5, draft rules are in Annex 3 of this paper)

- 5.1 In this chapter we set out our proposals for introducing fees policy changes and the introduction of new fees in our capacity as the UK Listing Authority (UKLA). We propose the:-
- amendment of the current significant vetting fee in relation to Depository Receipts;
 - renaming the existing significant vetting fee category to a ‘Super Transaction’ fee;
 - introducing of a new significant transaction fee at a flat rate of £20,000 for vetting certain significant transactions;
 - introduction of a new vetting fee of £5,000 for the review of Mineral Expert Reports; and
 - introduction of a rule charging an administration fee of £225 plus £100 per each additional use of securities when issuers request changes to the Official List.
- 5.2 These proposals will affect firms in fee-block E who are issuers of securities that have been admitted to the Official List (as defined in section 74 of FSMA), or sponsor firms (as defined in section 88 of FSMA). The proposals in this chapter would take effect from 1 April 2009.

Background

- 5.3 The proposals reflect a series of changes that build on those introduced in CP07/3¹², where we consulted on the introduction of the significant transaction fee. This represented a significant shift from how the UKLA had historically dealt with fees, recognising for the first time that it was no longer appropriate to have a fee structure which was largely based on a “one size fits all” approach. As certain transactions have become more complex we have had to devote greater time and resources to vetting them compared with other transactions. There are often key characteristics in these transactions which indicate that a document will have a greater impact on our resources.

12 CP07/3 Regulatory fees and levies 2007/08 (February 2007)

- 5.4 The proposals amend the fee structure in recognition of this and more closely align the fees with the costs we incur when vetting transactions. The new super transaction fee (currently called significant transactions), new significant transaction fee and the existing fee categories (which will continue to capture the majority of the documents we vet) will create three distinct fee categories. The proposals to introduce an additional vetting fee for the review of Mineral Expert Reports and the introduction of a rule charging an administration fee when issuers request changes to the Official List also ensure that we are more closely aligning the fees to the costs we incur.

Proposals

Changes to the current significant transactions fee

(FEES 3.2.7R (q))

- 5.5 We propose to rename the current significant transaction fee, which can be found in FEES 3.2.7R (q) to a 'super transaction fee' and introduce a new significant transaction fee.
- 5.6 We introduced the significant transactions fee as a new fee category in 2007/2008. At the time, we felt it appropriate to include within the definition of significant transactions Depository Receipts (DRs) where the issue expected to raise in excess of £5billion.
- 5.7 Our experience since this date has been that our resources have been used most significantly in relation to issuers' market capitalisation rather than the funds to be raised from the issue. For this reason, we propose to amend the criteria for charging the new super transaction fee so that all issuers proposing a DR with a market capitalisation in excess of £5 billion would be required to pay the existing super transaction vetting fee of £50,000. The proposed amendment to the fee structure would have resulted in approximately two documents falling within this category during 2008/09.

Q7: Do you agree with the proposed amendments to the definition of 'significant transactions' which will rename this fee category to 'super transaction fee' and extend the fee category to cover issuers of Depository Receipts whose market capitalisation, rather than the amount they seek to raise, exceeds £5billion?

New significant transaction fee

FEES 3.2.7R (t)

- 5.8 The majority of documents we vet fall within the fee categories in FEES 3 Annex 5R. Additionally a few transactions fall under the new super transaction fee category. However, we have reviewed the work we carry out and it has become clear that our current fee structure does not adequately reflect the level of resources used in vetting the various different transactions. While most transactions do not involve the level of resourcing and escalation required for the new super transaction fee, it is clear that, as a result of the size of the issuer or the type of transaction being carried out, the level of resources and interaction with the sponsor and the issuer in certain circumstances far exceeds the current rates in FEES 3 Annex 5R.
- 5.9 We therefore propose to introduce a new significant fee category in FEES 3.2.7R (t) that will fit between the new super transaction fee (FEES 3.2.7R(q) and the general vetting and approval fees in FEES 3 Annex 5 Part 2.
- 5.10 We believe that the new significant transaction fee more closely reflects the true cost of vetting certain types of transactions and continues to move the UKLA fees in line with the tiered fees (according to the complexity of the application) for firms applying for permission to carry on regulated activities.
- 5.11 The new significant transaction fee is a flat rate of £20,000. This will be charged in transactions where the issuer:
- has a market capitalisation in excess of £500 million and is preparing an equity prospectus or a Class 1 transaction;
 - is involved in a reverse or hostile takeover or involved in a restructuring; and
 - the issuer is proposing a Depository Receipt issue and has a market capitalisation in excess of £500m.
- 5.12 The £5,700 flat fee (or £2,500 for debt prospectuses) will continue to apply to the vast majority of cases. The above fee definition would have resulted in approximately 65 documents falling within this category during 2007/08. Overall, the UKLA will typically review approximately 2,000 documents a year.

Q8: Do you agree with the proposal to charge a transaction fee of £20,000 for vetting significant transactions?

Additional Vetting Fees for Issuers including a Mineral Expert Report

FEES 3 Annex 5R

- 5.13 In certain circumstances both the Listing Rules and the Committee of European Securities Regulators (CESR) guidance provide for the inclusion of specialist expert reports such as Mineral Expert Reports produced by a Competent Person. These reports are often included within documents in substitution or as well as financial information and act as an indicator of the value of the Company.

- 5.14 In particular, due to the complexity of Mineral Expert Reports and the requirement for specialist knowledge, we have to consult with an independent expert who is familiar with the requirements of the various governing bodies. As such, we propose to introduce an additional vetting fee of £5,000 for issuers submitting a document for review which contains a Mineral Expert Report. At present we do not intend to charge an additional fee for the inclusion of other expert reports such as a shipping valuation reports, patent reports or Property valuation report. However, should the complexity of these reports change or should it become necessary for us to consult external experts, then we may consult in the future on extending the scope of this fee.
- 5.15 In the last year, we reviewed approximately 15 documents which contained a Mineral Expert Report.

Q9: Do you agree that an additional fee of £5,000 should be charged for the review of Mineral Expert Reports?

Administration Fee

FEES 3 Annex 4, Part 1

- 5.16 As part of our role in maintaining the Official List, we are periodically requested by issuers and their advisers to make changes to the Official List, or its records, that may not fall to be defined as an application for listing. However, the cost to us of making these changes is often the same as that of processing an application for listing.
- 5.17 We therefore propose to introduce a rule for an administrative fee of £225 plus £100 per each additional issue of securities when issuers and their advisers make requests for changes to the Official List.
- 5.18 The impact of making this change is expected to be minimal as this constitutes a very small proportion of the administration we carry out.

Q10: Do you agree with the proposed rule for charging the administration fee?

Potential future amendments to periodic listing fees

- 5.19 In CP06/2¹³, under the title “Listing Categories”, we proposed the adoption of a more descriptive and transparent approach to the categorisation of listed issuers according to the rules pertaining to them. However, the subsequent issue of DP08/1¹⁴ posed a more fundamental set of questions in relation to UK listing, and our proposal to implement Listing Categories is therefore dependent in part upon the outcome of any consultation resulting from DP08/1.
- 5.20 Since the proposals result in the removal of references to primary listing and secondary listing from our Handbook, this will also require amendments to the basis for the collection of periodic listing fees. We would therefore like to point out that it is likely that any consultation in respect of FEES for the 2010/11 financial year will include proposals to make consequential amendments to FEES 4 Annex 7R resulting from changes to the Listing Rules.

13 CP06/21 Investment entities listing review – further consultation and feedback on Part 2 of CP06/21 (December 2006)

14 DP08/1 A review of the structure of the listing regime (January 2008)

6 Special project fee for Solvency II work for insurers

(FEES 4.3.6R, draft rules are in Annex 3 of this paper)

- 6.1 In this chapter, we set out our proposals for a special project fee (SPF) to recover part of our 2009/10 project development costs related to Solvency II. These costs cover continued work on putting in place the processes and staff necessary to enable us to progress towards timely approval of firms internal models. Firms affected by this proposal will be the 60 largest insurers in fee-blocks A.3 (Insurers – general) and A.4 (Insurers – life), and in addition fee-block A.6 (The Society of Lloyd’s). The proposals in this chapter would take effect from 1 June 2009.
- 6.2 The firms affected by this chapter will also be affected by the proposals for discussion in chapter 10. In chapter 10 we are seeking views whether in principle we should generally recover all EU Directive implementation costs through SPFs. We also seek views on recovering £4.2mn relating to Solvency 2 non-IMAP implementation costs in 2009/10.

Background

- 6.3 We have already established our policy to charge a SPF for developing the framework relating to our internal model approval process (IMAP) in the run up to the implementation of the Solvency II Directive in PS08/5¹⁵. In 2008/09 we recovered £500,000 from the twenty largest insurance firms and specifically linked our IMAP development costs.
- 6.4 Responding to industry calls we recently indicated in DP 08/4¹⁶ our intention to go ahead with an ‘early engagement’ process for eligible firms. This will put us in the position to be able to approve firms’ internal models so that they can start to use them to calculate their regulatory capital requirements from ‘day one’ of the new framework. Work to develop and to put in place the necessary systems and internal process has already commenced. This will help to ensure that we are sufficiently resourced to deliver on this commitment.

15 PS08/5 Consolidated policy statement on our fee raising arrangements and regulatory fees and levies 2008/09, including feedback on CP07/19, CP08/2, CP08/7 and ‘made rules’

16 DP08/4 Insurance Risk Management – the path to Solvency II

Proposal

- 6.5 Some respondents to our consultation in 2008/09 said they believed that more than just the 20 largest insurers would be using internal models, and as such the SPF should be levied on more firms. In response, we propose to increase the SPF population for 2009/10.
- 6.6 For 2009/10 we propose to allocate the SPF of £3.2mn on fee payers to reflect the allocation of our resources by levying approximately two-thirds from the 60 largest fee payers in fee-block A.4 and one third from the 60 largest in fee-block A.3. We will write to all the firms affected by the proposals separately. The Society of Lloyd's (fee-block A.6) will be charged £95,000. For life insurers (in A.4), firms will be charged an SPF of 11.92% of their 2009/10 periodic fees. For non-life insurers (in A.3), groups will be charged 11.82% of their 2009/10 periodic fee. Where an individual firm fall within both fee-blocks, we will charge a combined SPF based on the A.3 and A.4 percentages, up to an overall cap at group level of £95,000.
- 6.7 The costs of Solvency II implementation will continue to be allocated between insurers as a percentage of their annual fee until later in the Solvency II project when we are further progressed with implementation work, which will allow us to link applications to the complexity and size of the models. Tables 6.1, 6.2 and 6.3 below illustrate hypothetical examples of the SPF that will be payable by insurers in fee-blocks A.3 (general insurance), A.4 (life insurance) and those that are in both fee-blocks respectively, based on their 2008/09 fees.

Table 6.1: Solvency II SPF example 2009/10 for firm in A.3 (general insurance) and not in A.4 (life insurance)

Periodic fee	SPF rate (proposed)	SPF fee
£527,400.34	11.82%	£62,338.72

Table 6.2: Solvency II SPF example 2009/10 for firm in A.4 (life insurance) and not A.3 (general insurance)

Periodic fee	SPF rate (proposed)	SPF fee
£1,086,435.45	11.92%	£129,503.11

Table 6.3: Solvency II SPF example 2009/10 for firm both in A.3 (general insurance) and A.4 (life insurance)

	Periodic fee 2008/09	SPF rate (proposed)	SPF fee
A.3	£117,708.95	11.82%	£13,913.20
A.4	£380,677.48	11.92%	£45,376.76
		Total	£59,289.95

6.8 In future years, when any SPF may need to be higher than the amount proposed for 2009/10, we will review whether it is appropriate to recover our costs from those firms who have indicated their intention to seek internal model approval. We will consult on any proposals to change the population of firms liable to pay the SPF and/or the SPF amounts.

Q11: Do you agree with our proposals to charge a further special project fee to a wider group of firms, including The Society of Lloyd's, for Solvency II IMAP development work in 2009/10?

7 Financial Ombudsman Service – general levy for firms issuing e-money

(FEES 5 draft rules are in Annex 3 of this paper)

- 7.1 This chapter consults on changes to the basis for calculating the level of the FOS general levy which is paid by e-money firms¹⁷ in the FOS's compulsory jurisdiction (CJ). There is no proposal to change the basis of charging FSA fees for e-money firms. This chapter is relevant to e-money issuers and also to banks and building societies able to issue e-money – we refer to all these types of firms as 'e-money firms' in this chapter. The proposals in this chapter will take effect from 1 April 2009.
- 7.2 The FSA's power to raise the general levy from authorised firms arises from section 234 of the Financial Services and Markets Act 2000 (FSMA). The FOS's power to charge case fees is in Schedule 17 paragraph 15 of FSMA. The rules on funding are in Chapters 1, 2 and 5 of the Fees Manual (FEES) in the FSA Handbook.

FOS Funding and Budget

- 7.3 Under the current funding model the FOS is funded by a combination of annual fees (the general levy) and case fees. All authorised firms pay a general levy whether or not they have any cases referred to the FOS, unless they have notified the FSA that they are exempt from the jurisdiction of the FOS. The case fees are paid by firms that have cases referred to the FOS. Since 2008/09 case fees have been charged only for the fourth and subsequent cases per firm per year.

Use of e-money accounts

- 7.4 Over the last few years the number and use of e-money accounts has risen considerably and they are expected to continue rising for the next few years, according to the Electronic Money Association. E-money accounts are often used to make online payments between individuals and firms, and may also include prepaid debit cards and retail gift cards. E-money accounts are different from bank deposit accounts in the following ways:

17 Handbook definition: a firm whose permitted activities include issuing e-money.

- E-money accounts do not attract interest and do not provide a credit line. They typically have low balances, are used infrequently and typical transactions are of low value;
- There is a high instance of ‘one off’ usage, which means that e-money firms have a high level of dormant accounts, i.e. accounts which have not been used for more than 12 months. The number of dormant accounts is currently reaching 50% with some e-money firms; and
- Many accounts are used for simple online payments only.

Levy calculations and blocks

- 7.5 Since the issue of e-money was first regulated in April 2002, e-money firms have paid their FSA annual levy via the calculations required by block A1¹⁸. This covers deposit acceptors (firms whose permission includes accepting deposits or issuing e-money). For banks and building societies, the tariff base is calculated on modified eligible liabilities. For credit unions, the calculation is based on deposits with the credit union minus the credit union’s deposits with banks and for e-money issuers the calculation is based on the outstanding balance of e-money liabilities.
- 7.6 FOS levies paid under the compulsory jurisdiction (CJ) rules by e-money issuers are calculated using the formula described in FEES 5 Annex 1 (Annual Fees – block 1). This FOS levy block is based on the FSA fees block A1 as described above, but excluding credit unions and including firms covered by FSA fees block A.2 (home finance providers and home finance administrators). For all types of firm in this block, the calculation of the levy is based on the number of accounts relevant to the activities in DISP 2.6.1 R. Credit unions are in their own block for FOS levy purposes, paying a flat fee of £50 a year.
- 7.7 Changes to the FOS levy calculations for 2008/09 caused increases in levy for those fee blocks where the FOS expected increases in its caseload. This included an increase in the proportion of the FOS’s case load expected to involve mortgage and banking complaints¹⁹. This has meant an increase in the levy for Block 1.
- 7.8 However, the FOS anticipates that cases involving e-money accounts will continue to generate a very low number of cases for the FOS when compared to the amount of levy paid. This is not in keeping with the principle that industry sectors should contribute to FOS costs broadly in proportion to the amount of relevant cases the FOS expects to deal with.

18 FEES 4, Annex 1: Activity groups, tariff bases and valuation dates applicable

19 See chapter 22 of PS 08/5, Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2008/09.

Proposal

- 7.9 In order to deal with this issue, we are consulting on changing the basis on which e-money accounts are counted for the purposes of calculating the FOS general levy. We propose that in providing the figure for the total number of accounts, required by FEES 5, Annex 1, firms should apply a multiplier to the number of e-money accounts in order to reflect the fact that e-money accounts are less likely to give rise to FOS complaints than other types of account. We consider a multiplier of 0.15 would be appropriate. This would substantially reduce the level of the general levy payable in respect of e-money accounts.
- 7.10 We propose to include an explanation to say that an e-money account is ‘e-money that has been issued by an e-money issuer and which can reasonably be regarded as being held by the owner of the e-money as a single balance and under the same arrangements.’ This definition is intended to include:
- online accounts with e-money in them;
 - card-based products where a record of the e-money resides on the card or in an account attached to the card; and
 - products based on digital coins, which represent a voucher or instrument that can be submitted and accepted in payment. Multiple vouchers can be counted as a single account as long as the functionality on each is the same, the contract is the same and the systems show that the vouchers belong to the same holder.
- 7.11 The definition is also intended to include accounts that have been allocated to an individual and activated, but where the individual’s identity may not have been verified – for example, fixed price gift cards. The definition is intended to exclude online and card accounts which have been set up but not yet activated, so that e-money cannot be said to have been allocated to a holder. This would include cards sitting on a shelf in a store, or vouchers issued but not yet registered or activated.
- 7.12 Further guidance on the scope of the regulated activity of issuing e-money is available in Chapter 3 of the Perimeter Guidance Manual of the FSA Handbook²⁰.
- Q12: Do you agree that creating a multiplier of 0.15 for e-money accounts would enable a fairer FOS levy to be collected from firms which issue e-money?
- 7.13 Our plans relating to fees and levies arising from the implementation of the Payment Services Directive fees are set out in chapter 8.

20 <http://fsahandbook.info/FSA/html/handbook/PERG/3>

8 Future fees policy consultation

- 8.1 In this chapter we bring to firms' attention known future fees policy consultations we are aware of now. Firms affected by this chapter are:
- Those affected by the Payment Services Directive, including banks, building societies and e-money issuers authorised under the Financial Services and Markets Act 2000 (FSMA). It also affects unauthorised businesses – such as bill payment firms and money remitters – whose payment services mean they will be brought into regulation for the first time through the Payment Services Regulations 2008; and
 - Those seeking FSA authorisation to be a 'reclaim fund' to manage dormant bank and building society accounts under the forthcoming Dormant Bank and Building Societies Accounts Act. There is also an impact on banks and building societies, who will be benefit from the establishment of reclaim funds.
- 8.2 We are not consulting on detailed proposals in this paper but summarise our current thinking on possible fee arrangements and explain where and when firms can find more information.

Payment Services Directive fees

FSA plans

- 8.3 The Payment Services Directive (PSD) is being implemented in the UK on 1 November 2009 through the Payment Services Regulations 2008. We will become the regulator for most aspects of payment services and certain types of payment services activity – such as money remittance and bill payment services – will become regulated by us for the first time, under the PSD regime. In addition, authorised banks, building societies and e-money issuers who also carry on payment services activities will be subject to the Payment Services Regulations, in addition to the FSMA regime.

- 8.4 Carrying out our functions under the PSD will incur costs, which we aim to recover through a combination of application and periodic fees under the Payment Services Regulations, similar to the arrangements in place under FSMA. We will provide further details on fee arrangements for payment service providers in our Approach Document for implementing the PSD, due for publication in Q1 2009.
- 8.5 PSD application fees will apply to firms seeking authorisation or registration under the Payment Services Regulations. Credit institutions and e-money issuers are exempt from PSD authorisation or registration requirements so are not affected by the application fees we will introduce for PSD implementation.
- 8.6 From 1 November 2009 payment service providers – including those authorised under FSMA – will contribute to the ongoing annual costs of operating the PSD regime through periodic fees. A key part of the fees policy for PSD implementation is the tariff base by which we measure payment service providers’ respective contributions to periodic fees.
- 8.7 For all payment service providers subject to the PSD Regulations, including those also subject to FSMA, we are considering basing their contributions to PSD periodic fees on volumes of payment service transactions, but will expand on this thinking on our intended policy and practical arrangements in the Approach Document. It is likely that prospective payment service providers will have to report fee tariff data to us, for fee modelling purposes and calculation of their invoices. We therefore intend to request tariff data from these firms – collated over a one or two month period – for initial fee calculations.

Financial Services Ombudsman (FOS) plans

- 8.8 Article 83 of the PSD requires member states to establish out-of-court complaint and redress procedures to settle disputes concerning rights and obligations arising under the PSD. The PSD must be implemented by 1 November 2009 and will affect the level of the FOS levy as the FOS will provide the out-of-court redress mechanism required by the PSD²¹. All payment service providers, including licensees moving from the consumer credit jurisdiction to the compulsory jurisdiction, will be required to contribute to the FOS general levy from November 2009.
- 8.9 The actual levy required by the FOS cannot be decided until the FOS budget for 2009/10 is agreed. We will consult on this in February 2009.

21 CP08/14 Implementation of the Payment Services Directive – changes to the FSA Handbook (August 2008)

Reclaim funds

- 8.10 The Dormant Bank and Building Societies Accounts Bill, when it has received Royal Assent, will allow banks and building societies to extinguish their liabilities towards customers of dormant accounts by transferring the accounts to a new type of firm – a ‘reclaim fund’. Reclaim funds must manage the dormant accounts, repay claims from depositors and transfer surplus money to the government’s Big Lottery Fund (BIG), for investment according to government priorities such as combating financial exclusion.
- 8.11 The new regime is due to commence in the 2009/10 financial year, and we anticipate being able to receive applications from prospective reclaim funds before the financial year starts on 1 April 2009.
- 8.12 We will authorise and regulate reclaim funds under our powers in FSMA, and intend to publish a CP on the implementation of the regulatory and prudential regime, including how we intend to recover the costs of setting up and operating the new regime, once the Bill receives Royal Assent. Broadly, we intend to apply the existing FSA fees infrastructure and policy to reclaim funds. This means meeting our costs by a combination of application and periodic fees and, for an initial period following implementation, charging for the costs of setting up the new regime. Our current thinking is to charge a flat periodic fee to reclaim funds due to their specialist nature, having the characteristics of a deposit acceptor and an insurer. However, we intend to keep the arrangements under review in the light of experience and will consult on any changes once the reclaim fund regime has been implemented.

9 FSA fees policy clarification

- 9.1 In this chapter, we explain some proposed amendments to tariff base rules, to clarify existing policy. The proposals are in response to queries from firms and we believe they will help them calculate their tariff data more consistently and accurately in the following fee-blocks:
- A.18 – home finance providers, advisers and arrangers; and
 - A.4 – life insurers.
- 9.2 The A.18 proposals are relevant to home finance providers (mortgage lenders in particular) and explain more clearly how they should report fees for mortgage mediation activities, depending on the distribution channels they use. The A.4 proposals address the treatment of pension fund management and trustee investment plan business in calculating A.4 tariff data.
- 9.3 We intend the revised rules to come into force on 1 April 2009.

Tariff data for A.18 fees (home finance providers, advisers and arrangers)

- 9.4 In response to a query from a mortgage lender, we are taking this opportunity to make our existing policy on fees for mortgage mediation (the A.18 fee-block) clearer. We do not intend to change the policy, but we are consulting on some explanatory notes to the A.18 tariff base in FEES 4 Annex 1R (Part 2) to help home finance providers calculate their A.18 tariff data according to our policy intention.
- 9.5 The explanation of the policy and the revised Handbook text we propose in this section applies to all home finance providers, i.e. mortgage lenders and providers of home purchase plans and home reversions. However, for ease of reference, we refer to ‘mortgage lenders’ or ‘lenders’ only.

Purpose of the changes

- 9.6 We are proposing some additional explanatory notes in the A.18 tariff base to clarify the following, for calculating A.18 tariff data;
- Mortgage lenders must report tariff data under both Parts (a) and (c) in the A.18 tariff base if they carry out a combination of direct sales and sales through other intermediaries;
 - If mortgage lenders are involved in a chain with other authorised firms, they potentially have tariff data to report under Part (a);
 - Part (c) is designed to capture direct sales by lenders, and transactions in which lenders involve non-authorised intermediaries e.g. estate agents; and
 - Mortgage lenders reporting in Part (a) should treat a transaction as generating nil income if they either received no remuneration from the borrower for that transaction, or they paid an amount to an authorised intermediary that exceeds any fee received from the borrower.

Background

- 9.7 Mortgage lenders are allocated to the A.2 fee-block for their mortgage lending and administration activities. They are also in the A.18 fee-block following consultation in CP192²² (July 2003), which ensures equal treatment for fees between all mortgage intermediaries, whether or not they are also mortgage lenders. We are also treating mortgage lenders that sell direct in the same way as those selling through mortgage intermediaries, so that fees payable for mortgage mediation activity fairly reflect the extent to which firms are conducting that activity.

A.18 tariff base – annual income

- 9.8 The A.18 tariff base of ‘annual income’ is calculated in three possible ways. One or more calculations can apply, depending on how a firm is carrying out its mortgage advising and/or arranging activities and how it is remunerated;
- Part (a): ‘the net amount retained by the firm of all brokerages, fees, commission and other related income (e.g. administration charges, overrides, profit shares) due to the firm in respect of or in relation to home finance mediation activity...’;
 - Part (b): ‘for any home finance mediation activity carried out by the firm for which it receives payment from the lender or provider on a basis other than that in (a), the value of all new mortgage advances and amounts provided under other home finance transactions resulting from that activity multiplied by 0.004’;
 - Part (c): ‘if the firm is a home finance provider, the value of all new mortgage advances and amounts provided under other home finance transactions ...(other than those made as a result of home finance mediation activity by another firm), multiplied by 0.004’; and

22 CP192 ‘Further consultation on fees for mortgage firms and insurance intermediaries’ (July 2003).

- 9.9 Part (b) applies to non-monetary remuneration and is not relevant to the issue we are clarifying here.

A.18 fees for mortgage lenders

- 9.10 Part (c) – the ‘commission equivalent’ – is a substitute for fees/commission and other income related to mediation. It is calculated by applying a multiplier (0.004) to the value of new mortgage advances and amounts provided under other home finance transactions. We introduced the ‘commission equivalent’ expressly for mortgage lenders in PS192²³ to ensure that A.18 fees are payable for direct selling by mortgage lenders, as well as advising and/or arranging by intermediaries who are not mortgage lenders.
- 9.11 We said in paragraph 4.5 of PS192: ‘[W]here a mortgage lender sells entirely through intermediaries, it will still fall in to the A.18 fee-block. However, it will have no annual income to report under the part of the tariff base calculation using the commission equivalent factor [Part (c)], as all its mortgage sales will arise from mortgage mediation activity done by other firms.’
- 9.12 It therefore follows that a mortgage lender doing a mix of direct sales and sales through intermediaries would be expected to report under both Parts (a) and (c). So Parts (a) and (c) are not intended to be mutually exclusive and both parts potentially apply to mortgage lenders. The tariff bases in Part (a) and (c) therefore reflect the different distribution channels a lender can have in mortgage business, i.e. combining direct sales, sales via other intermediaries (whether authorised or not) and being an intermediary for other lenders.
- 9.13 In practice, we expect lenders to report most if not all of their A.18 tariff data under Part (c). In transactions where they are acting as intermediary for another lender or receive income from business generated through FSA-authorised intermediaries, lenders must also complete Part (a) with a figure greater than nil. We are adding a note to the A.18 tariff base in FEES 4 Annex 1R (Part 2) to highlight this to mortgage lenders.

Lenders’ direct sales and sales by non-authorised intermediaries

- 9.14 Part (c) of the A.18 tariff base states that the commission equivalent excludes mortgage contracts entered into ‘as a result of home finance mediation activity by another firm’. ‘Firm’ in this context is used in the Handbook sense, meaning a firm authorised by us. Part (c) is therefore intended to capture tariff data from a mortgage lender entering into mortgage contracts as a result of both the lender selling direct and intermediation by a non-authorised firm (e.g. an estate agent). (If the intermediation is done by an authorised firm, that intermediary will itself report its fees/commission in its own A.18 tariff data, under Part (a).)

23 PS192 ‘Feedback and made text from CP192’ (December 2003)

Sales by authorised intermediaries

9.15 Similarly, the ‘net amount retained’ that a mortgage lender reports under Part (a) should exclude any income passed to another authorised firm, as that firm will report the income in its own A.18 tariff data under Part (a). This is stated in Note 2 to the A.18 tariff base:

‘For the purposes of calculating annual income, ‘net amount retained’ means all the commission, fees, etc in respect of home finance mediation activity that the firm has not rebated to customers or passed on to other firms (for example, where there is a commission chain).’

9.16 However, mortgage lenders have to include in their Part (a) tariff data any fees or commission they have passed on to non-authorised intermediaries. Otherwise the extent of mortgage mediation activity between authorised firms in general would not be captured in full.

9.17 So there is no gap in the fees payable for mortgage mediation activities, between authorised mortgage intermediaries and mortgage lenders. Nor are we double-counting between them, as each sector is paying A.18 fees in respect of its own mortgage mediation activities, calculated according to the relevant part(s) of the tariff base.

Part (a) – ‘net amount retained’

9.18 We considered whether mortgage lenders can deduct income from their A.18 Part (a) tariff data which they choose to pay to their authorised intermediaries, even though the lenders have not received a fee directly from the borrower. In other words, can a mortgage lender (Firm A) net off from its Part (a) tariff data, any fees or commission it paid to an authorised firm (Firm B) if Firm A had not itself received any remuneration from the borrower? This approach would mean Firm A can take account of negative amounts resulting from mortgage transactions, for its A.18 tariff data calculation under Part (a).

9.19 We do not believe this approach is correct. If a firm (whether mortgage lender or not) in A.18 has not itself received a fee from a customer for its mortgage advising or arranging, it is not retaining any annual income from that particular transaction. For example, mortgage lenders may choose not to charge a fee to the borrower, but will nonetheless pay their authorised intermediaries a fee from their own funds.

9.20 In this situation, the mortgage lender is making a commercial choice to relinquish payment for entering into the mortgage contract. The overall income from the transaction would show as a negative amount to the lender, but other intermediaries in the chain below would report the income they had received in the transaction and their fees will be based on that income. In total, this would result in less than the full tariff data being reported for mortgage mediation activity across authorised firms, which is the aim of the A.18 tariff base. The A.18 fees would therefore not be fairly distributed between authorised firms, with firms further down in commission chains being penalised.

9.21 For this reason, we expect a mortgage lender in the following circumstances (see 9.22) to count the income from an individual transaction as nil when calculating any data reportable in Part (a) of A.18.

9.22 The lender is in a commission chain and has either:

- (i) not received a fee from the borrower for the mortgage transaction; or
- (ii) received a fee from the borrower for the mortgage transaction and has passed it all to an authorised intermediary.

This applies even though the lender's net position in the transaction is a negative amount because it has paid the authorised intermediary a fee exceeding what the borrower paid.

9.23 We are adding an explanatory to this effect in the A.18 tariff base.

A.18 and A.2 fees for mortgage lenders

9.24 Annual income from mortgage mediation by mortgage lenders reporting under Part (a) of A.18 means any payment received by a mortgage lender in connection with pre-contractual activity, up to and including arranging the mortgage contract. There are some exceptions in the context of home reversions, but that is broadly the position for the mediation of regulated mortgage contracts. Annual income would therefore include, for example, survey and booking fees the mortgage lender has received.

9.25 Once the mortgage contract has been entered into, any fees incurred are essentially related to the administration of the mortgage, an activity captured by the A.2 rather than the A.18 fee-block. This would include, for example, redemption penalties, deeds handling and duplicate statement charges. However, lenders do not need to distinguish these types of charges for fees purposes, as the A.2 tariff base is the number of mortgage advances rather than a monetary value.

9.26 To help lenders understand what tariff data is relevant to A.18 and A.2, we are adding some explanatory text to the A.18 tariff base.

Q.13: Do you agree with our draft explanatory text in the A.18 tariff base, to clarify the tariff data reportable by home finance providers?

Pension Fund Management/Trustee Investment Plan business – tariff data for insurers

9.27 We are seeking views on a proposal to clarify the exclusion for insurers reporting tariff data, in relation to Trustee Investment Plans (TIPs) and Pension Fund Management (PFM) business. The established policy intention is not changing; but we are clarifying the drafting to more accurately reflect it. The relevant firms are life insurers that have permission to conduct PFM and TIPs business (in the A.4 fee-block).

(FEES 4 Annex 1 Part 2)

Background

- 9.28 The current policy since 2001 is that firms are allowed to exclude PFMs business and TIPs from their tariff data. Confusion arose because the rules that were drafted to give force to the policy intention did not adequately describe TIPs. There was a disconnection between the policy intent and what the rules provided for. This proposal aims to fix the current drafting in order to arrive at rules that reflect the policy intention.

The concession

- 9.29 A concession currently appears in FEES 4 Annex 1 Part 2 for A.3. (general insurers) and A.4 (life insurers) fee blocks. It was designed to enable firms to exclude reporting tariff data for the management of Trustee Investment Plans (TIPs) and Pension Fund Management (PFM) as per our policy. We set this policy following consultation in PS111 . The Policy Statement considered comments by the Association of British Insurers' who suggested that PFM and TIPs posed significantly less risk than normal contracts of insurance and therefore should not be included in the tariff base. The proposal does not change the policy intention.
- 9.30 Some firms contacted us asking how much and what type of tariff data they could exclude. In doing so they questioned the ability to exclude these activities due to the wording in the concession and asked for clarity on the policy intent. Firms were advised that the policy intention in 2001 to exclude TIPs and PFM business stood and movements were made to try to fix the rules to give full effect to the wording.

TIP business and PFM

- 9.31 PFM business is Class VII business where assets are individually managed and beneficially owned by the investor. The investor is the trustee of the pension scheme. PFM is defined in the Handbook.
- 9.32 TIPs are life assurance business generally invested in pooled funds, beneficially owned by the insurer but not earmarked to individual customers. Insurers undertake TIPs under Class III (linked) and Class I (with profit) long-term insurance contracts.
- 9.33 TIPs were previously defined with reference to PFM which refers to the Handbook glossary definition. However TIPs are not strictly PFM business. The Handbook definition of pension fund management only includes Class VII contracts and TIPs do not fit within this. TIPs also do not fit under a general description of PFM since this is different to life assurance business.
- 9.34 The concession was amended in 2006, with the aim of clarifying that TIPs business should also be excluded, by giving a general meaning rather than the Handbook definition to the term 'pension fund management'. We did this by removing the italicisation from the A.3 and A.4 tariff bases.

9.35 The concession in FEES 4 Annex 1 Part 2 for A.3 and A.4 firms to exclude data relating to both mathematical reserves and gross technical liabilities (combined) is:

“Less gross technical liabilities/mathematical reserves/premiums relating to pension fund management business where the firm owns the investment and there is no transfer of risk.”

9.36 We propose to make this concession more explicit in the tariff base rules, by saying that the exclusion in tariff data reporting covers both TIPs and PFM.

9.37 To enable firms to exclude PFM and TIPs in line with our policy intention, the proposed drafting of the concession (combined for A.4.) is:

“Less premiums relating to pension fund management;
Less premiums relating to Trustee Investment Plans”.

9.38 There is no definition in the Handbook for TIPs. However, business related to TIPs is reported by firms in detailed liability for new business (Form 47) in our insurance returns and main valuation forms (Form 51 to 54). TIPs are generally included under product codes 755 and 571.

9.39 The proposed definition of TIPs for fees purposes is:

Trustee Investment Plans are the class of contract of insurance specified in either paragraph I or III of Part II of Schedule 1 to the Regulated Activities Order (Contracts of long-term insurance) and that are invested in pooled funds beneficially owned by the insurer and not earmarked to individual customers.

Q14: Do you agree with our proposed redrafting of the concession in the A.4 fee-block, to make it clearer that insurers can exclude tariff data relating to TIP business as well as PFM business?

Relevance to A3 firms

9.40 A.3 firms are general insurers that effect and carry out contracts of insurance in respect of specified investments, which are general insurance contracts or long-term insurance contracts other than life policies²⁵. Long-term insurance contracts include Class I, III and VII contracts which cover TIPs and PFM. For this reason the concession was applied to A.3 firms.

25 FEES 4 Annex 1R
A.3 Insurers – general

its permission includes one or more of the following:

- effecting contracts of insurance;
- carrying out contracts of insurance;

in respect of specified investments that are:

- general insurance contracts; or
- long-term insurance contracts other than life policies.

9.41 PFM and management of TIPs do not fall under the typical activities of A.3 firms and no insurers reporting PFM business report as A.3. We believe that including the concession in A.3 is redundant and we propose to remove the concession from the A.3 fee-block.

Q15: Do you agree with our proposal to remove the PFM concession from the A.3 fee block, as it does not apply?

10 Proposed policy for discussion

- 10.1 In this chapter we provide notice of further consultation and are seeking views from firms whether in principle they would agree with expanding the role of Special Project Fees (SPFs) to recover:
- all our EU Directive implementation costs; and
 - our additional supervisory costs where firms need to undertake a refinancing transaction.
- 10.2 All firms could be affected by the proposals for discussion in this chapter in the future and currently firms affected by the Solvency II Directive (who should also see chapter 6). Formal consultation with draft rules will take place in the February 2009 fees and levies Consultation Paper (CP).

Existing Special Project Fees (SPFs)

- 10.3 We raise SPFs under our powers, in section 157(4)(c) of FSMA, to charge for giving guidance requested by firms and exclusively for their benefit (“Guidance SPF”) and under our general fee raising powers in paragraph 17, Schedule 1 of FSMA (“General SPF”). A Guidance SPF is used to recover our extra costs incurred in dealing with certain large-scale one-off transactions. There are currently three chargeable transactions:
- a re-organisation of the structure of the legal entities within an insurance group (whether or not associated with a merger or demutualisation);
 - a merger or takeover involving at least one large authorised person; and
 - a proposal from a large building society (or insurer/friendly society) to demutualise. A demutualisation could take place either through conversion to a plc or by merger with another non-mutually- owned firm.

- 10.4 Guidance SPFs are only applied where the marginal cost to us of the transaction is £50,000 or more thereby minimising the impact on small or medium sized firms. We agree charging the Guidance SPF, the amount and duration at the outset on a case-by-case basis. The Guidance SPF is charged regardless of whether the transaction is successful or not. The rationale for Guidance SPFs is that in the right circumstances firms should pay for regulatory work that is performed exclusively for their benefit, rather than being paid for by other fee payers in the same fee-block. No rule is added to the Fees manual (FEES) for specific transactions. We rely on the statement of policy which we restate each year in our annual Consolidated Policy Statement (last edition was PS08/5²⁶). Current SPF policy is set out in full in Chapter 9 of PS08/5 with detailed case studies in Annex 5 on the chargeable transactions referred to in paragraph 10.3 above.
- 10.5 A General SPF is currently used where we are required to dedicate skilled resource to implement European Directives that affect a class of firms. To date this has been used:
- for the Capital Requirements Directive (CRD) in financial years 2004/05 to 2006/07 to recover costs for developing our processes for giving guidance and approval to firms' approaches to operational risk and credit risk ahead of and in conjunction with application fees for individual firm's model approval. SPFs were targeted at the largest fee payers in the fee-blocks whose firms were most likely to apply for advanced approaches – the A.1 (deposit acceptors) and A.10 (dealers as principal) fee-blocks. The SPF payable per firm was scaled according to 'size of business' in the same way as firms' periodic fees using existing tariff bases. It was applied to around 55 firms; and
 - more recently in financial year 2008/09 where we charged a SPF totalling £500,000 as partial recovery of our project development costs relating to Solvency II internal model approval. We levied this SPF on the ten largest life (fee-block A.4) and ten largest non-life insurance groups (fee-block A.3), with roughly two-thirds share of the £500,000 total falling on the life population. The SPF was allocated between firms in proportion to their annual periodic fee (i.e. a percentage) as a reasonable indicator of size and complexity of a firm's business (and hence capital model).
- 10.6 For these Directive driven General SPF's we consult through our annual fees consultation process for each year they are applied and include a specific fee rule in the FEES manual. Although they are raised under our general fee charging powers the rationale is linked to providing guidance – extra resource will place us in a better position to develop guidance for firms seeking model approval ahead of when we start accepting applications for model approval and charge a separate application fee. The rationale being that a 'group' of fee-payers will benefit from regulatory work (in this case developing model approval framework) and so should pay for it rather than all other fee-payers in a fee-block who will not benefit.

26 PS08/5 Consolidated Policy Statement on our fee raising arrangements and regulatory fees and levies 2008/09 – Including feedback on CP07/19, CP08/2, CP08/7 and 'made rules' (May 2008)

Expanding the role of SPFs

Recovering additional EU Directive implementation costs

- 10.7 In chapter 6 we are consulting on our proposals to continue with our policy to charge a SPF to recover our costs for developing the framework relating to our internal model approval process (IMAP) in the run up to the implementation of the Solvency II Directive.
- 10.8 We are also proposing to recover further costs relating to the implementation of Solvency II which are in addition to those relating to IMAP. For 2009/10 we estimate that these non-IMAP costs will amount to £4.2mn. These costs arise from a number of related work-streams needed to put us in a position to meet our obligations to supervise compliance by firms with the new requirements and work with industry to successfully implement the Directive in the UK. These work-streams together with their project management include:
- a review of our existing supervisory procedures and systems, including ARROW 2²⁷, and then design and implement any necessary changes to the supervision of insurers;
 - a considerable amount of training, both internally and externally; and
 - a review and implementation of changes to our business information and analysis systems, as well as the design of new reporting data items.
- 10.9 In relation to all the above implementation work-streams, we will incur significant costs related to the development and implementation of any required IS solutions.
- 10.10 We are proposing these non-IMAP costs will also be recovered using a General SPF. They will be allocated to all firms in fee-block A.3 and A.4 which will be affected by Solvency II implementation including The Corporation of Lloyd's. There will therefore be a small minority of firms in A.3 and A.4 that will not be subject to this SPF. Firms subject to the IMAP SPF will also be subject to the non-IMAP SPF.
- 10.11 The allocation of the non-IMAP SPF fee will be based on the calculation of the included firms' periodic fees. Firms affected by Solvency II may change with firms moving in or out of inclusion. We propose that there will be a cut-off date (1 April) within a given financial year when a firm is determined to be affected by Solvency II or not. If affected at that cut-off date the fee will be payable regardless of whether the firm is later excluded (which reflects our current annual fee principles).
- 10.12 The rationale for expanding the role of SPFs in this way is to focus the recovery of EU Directive implementation costs on firms that are impacted by the changes brought about by the Directive and for which we need to change our supervisory processes. In this case Solvency II but we propose to adopt this approach to recovering Directive implementation costs for future Directives where it is appropriate to do so.

27 Advanced Risk Responsive Operating framework (ARROW 2): this is our risk assessment model which guides the way we risk-assess and supervise firms, and target thematic work on consumers, sectors or multiple firms.

Q16: Do you agree in principle that it is appropriate to recover all our EU Directive implementation costs only from firms affected by the Directive rather than all firms in the relevant fee-block(s)?

Q17: Do you agree in principle that we should recover the £4.2mn Solvency II non-IMAP implementation costs for 2009/10 from only the firms affected by it?

10.13 In the light of the responses we receive we intend to consult on proposals to introduce a rule to recover the £4.2mn Solvency II non-IMAP implementation costs for 2009/10. Formal consultation with draft rules will take place in the February 2009 fees and levies CP.

10.14 We also plan to recover non-IMAP Solvency II implementation costs in 2010/11 and 2011/12.

Recovering additional supervisory costs – firms undertaking a refinancing exercise

10.15 We are proposing to introduce a fourth transaction to the three already covered by the Guidance SPF listed in paragraph 10.3 above but we will raise it as a General SPF. The fourth transaction will be where a firm needs to undertake refinancing which requires:

- restructuring of regulatory capital; and/or
- raising of additional capital; and/or
- a corporate re-organisation; and/or
- a merger or takeover.

10.16 As with Guidance SPFs we will not charge the fee where our additional costs are less than £50,000. Also, the amount of fee will be determined on a case-by-case basis. The amount of the fee will be calculated based on the number of hours of our resources needed using a standard cost per hour of our resources and external costs of professional advisers we need to engage. When the event occurs – the firm needs to refinance – we will fix the fee. In this CP we are consulting (for the first time) on calculating fees (and embodying them within a rule) for the recovery of costs associated with Approved Reporting Mechanisms (ARMs) who change their system for reporting transactions into SABRE II and ask us to undertake system tests (see chapter 4).

10.17 For refinancing transactions we are proposing to raise it as a General SPF as we propose that these fees will be charged even if the firm is not seeking guidance on the transaction. The aim of the fee is to recover our additional supervisory costs associated with the firm undertaking the transaction. This will enable us to enforce the payment of the fee. Where the need for refinancing is to address actual or anticipated inadequate regulatory financial resources there is a risk that the raising of a SPF could

materially contribute to the firm's financial failure. To mitigate this risk we will exercise the same discretion we do for firms who have difficulty in paying our fees as invoiced. We will not press for payment where we are satisfied that the payment of the invoice might undermine a firm's financial resources or otherwise put consumers at risk. This discretion will be exercised before the General SPF fee invoice is raised.

- 10.18 The rationale for using a General SPF for firms undertaking a refinancing exercise is the same as for Guidance SPFs. Firms should pay for regulatory work that is performed exclusively for their benefit, rather than being paid for by other fee payers in the same fee-block.

Q18 Do you agree in principle that it is appropriate to recover our additional supervisory costs from firms undertaking a refinancing exercise through a General SPF?

- 10.19 In the light of the responses we receive we intend to consult on proposals to introduce a rule to for a refinancing General SPF in 2009/10. Formal consultation with draft rules will take place in the February 2009 fees and levies CP.

Compatibility statement and cost benefit analysis

When we issue rules for consultation, we are required by section 155(2)(c) of the Financial Services and Markets Act (FSMA) to explain why we believe our proposals are compatible with our general duties under section 2 of FSMA. This is known as a ‘compatibility statement’.

This annex contains the compatibility statement regarding FSA fees and FOS levies policy proposals. Section 155(9) of FSMA exempts us from having to carry out cost benefit analysis on our fees policy proposals.

Compatibility with our statutory objectives

The fees policy proposals and draft rules we are consulting on here build on our earlier consultations on the policy framework for our funding arrangements and we believe that the current proposals are compatible with our general duties in section 2 of FSMA.

In discharging our duties we are required to act in a way that is compatible with our four statutory objectives (market confidence, public awareness, protection of consumers and reduction of financial crime).

FSA fees and FOS levies policy proposals

As we have stated in previous consultations on fees, our fee raising arrangements support each of our statutory objectives because they provide the resources that allow us to meet them. However, apart from funding our activities, we do not intend any of our funding arrangements in themselves to act as a means to achieve our statutory objectives.

Compatibility with the principles of good regulation

We have outlined in previous fees consultations how our general policy framework has been influenced by the ‘have regard’ factors in section 2(3) of FSMA (also known as the ‘principles of good regulation’). Below, we consider how the proposals in this CP take account of these principles.

The need to use our resources in the most efficient and economic way

The proposals on fee-block A.18 to clarify existing policy for mortgage mediation will assist home finance providers to calculate their A.18 tariff data more efficiently and in accordance with our policy intentions. Further details are set out in Chapter 9 of this CP.

The principle that the burden to be imposed should be proportionate to the benefits

To investigate whether the burden of a proposal is proportionate to the benefits that are expected to arise from its imposition, we normally carry out a cost benefit analysis. However, as explained above, rules relating to fees are excluded from this requirement.

Nevertheless, we believe the following proposals impose burdens which are proportionate to the benefits and also better align burdens with those firms that stand to benefit directly from the work to which these proposals relate.

Thus, the proposal to introduce a new sub-set of fee payers for firms operating MTFs ensures that we are recovering costs for MTF operators from all the entities that are incurring them and also ensures that the different levels of activity conducted by each firm is reflected in their fees. Further details are set out in Chapter 3 of this CP.

Similarly, the proposals in Chapter 4 relate to Approved Reporting Mechanisms (ARMs) and the restructuring of fees for transaction reporting. Introducing fees covering the costs of testing for the benefit of applicants ensures that the costs are borne by the firms that benefit. The reduction in fees for transaction reporting reflects the substantial completion of general investment and development in our TRS system which means we are able to reduce the contribution from firms to proportionate levels. Further details are set out in Chapter 4 of this CP.

The proposals in Chapter 5 relate to the introduction of new UK Listing Authority (UKLA) vetting and administration fees and adjusting the basis for charging existing vetting fees. These fees we are proposing more closely reflect the costs we incur when vetting and processing these transactions. Further details are set out in Chapter 5 of this CP.

The proposals in Chapter 6 regarding special project fees for Solvency II implementation seek to recover the costs of the project development and development of model approval process from firms and the Society of Lloyd's whom we expect to be affected in this area during 2009/10. Further details are set out in Chapter 6 of this CP.

The proposal to change the basis for calculating the level of the FOS general levy paid by firms issuing e-money accounts in the FOS compulsory jurisdiction ensures that these costs are more proportionate to the risks these firms pose. Further details are set out in Chapter 7 of this CP.

Finally, the proposal to clarify the exclusion for insurers reporting tariff data in relation to the Trustee Investment Plans (TIPs) and Pension Fund Management (PFM) ensures that the burden imposed on firms is proportionate because the exclusion of tariff data relates to low risk activities.

The desirability of facilitating innovation in connection with regulated activities

The international character of financial services and the desirability of maintaining the competitive position of the UK

The need to minimise the adverse effects on competition that may arise from our proposals

The desirability of facilitating competition between those subject to our regulation

The proposals are of no material significance to these principles.

'Most appropriate' method

In discharging our general duties, we are required to act in a way that we consider most appropriate for the purpose of meeting our objectives.

We believe that our fees policy proposals are the most appropriate means of raising the funding requirement to maintain our statutory objectives because they are targeted only at the affected firms and are compatible with the legal framework provided by both FSMA PSD and our Handbook.

List of questions on which we are consulting or seeking in principle views

Consultation questions requiring response	Relevant chapters
Q1: Do you agree with our proposal to require firms obtaining authorisation or an extended permission between 1 April and 31 December inclusive to report fresh tariff data (from the date of authorisation or extended permission to 31 December inclusive, and annualised), so their second year's fees can reflect actual business done rather than the tariff data they originally projected?	Chapter 2
Q2: Do you agree with our proposal to charge individual periodic fees to firms for the activity of 'operating an MTF'?	Chapter 3
Q3: Do you agree with our proposed application and variation of permission fees for firms seeking permission – or a variation of their permission – for the activity of 'operating an MTF'?	Chapter 3
Q3: Do you agree with our proposed application and variation of permission fees for firms seeking permission – or a variation of their permission – for the activity of 'operating an MTF'?	Chapter 3
Q4: Do you agree with our proposal to charge a fixed minimum periodic fee of £2,000 for the first year for newly authorised firms operating MTFs or firms extending their permission to operate MTFs?	Chapter 3
Q5: Do you have any comments on the proposed introduction of an hourly fee to be levied upon ARMs and other reporting entities when they make changes to their systems which then require testing with us?	Chapter 4
Q6: Do you agree with our proposals to decrease TRS transaction reporting fees in 2009/10?	Chapter 4
Q7: Do you agree with the proposed amendments to the definition of 'significant transactions' which will rename this fee category to 'super transaction fee' and extend the fee category to cover issuers of Depository Receipts whose market capitalisation, rather than the amount they seek to raise, exceeds £5billion?	Chapter 5
Q8: Do you agree with the proposal to charge a transaction fee of £20,000 for vetting significant transactions?	Chapter 5
Q9: Do you agree that an additional fee of £5,000 should be charged for the review of Mineral Expert Reports?	Chapter 5
Q10: Do you agree with the proposed rule for charging the administration fee?	Chapter 5

Q11: Do you agree with our proposals to charge a further special project fee to a wider group of firms, including The Society of Lloyd's, for Solvency II IMAP development work in 2009/10?	Chapter 6
Q12. Do you agree that creating a separate multiplier of 0.15 for e-money accounts would enable a fairer FOS levy to be collected from firms which issue e-money?	Chapter 7
Q13: Do you agree with our draft explanatory text in the A.18 tariff base, to clarify the tariff data reportable by home finance providers?	Chapter 9
Q13: Do you agree with our draft explanatory text in the A.18 tariff base, to clarify the tariff data reportable by home finance providers?	Chapter 9
Q14: Do you agree with our proposed redrafting of the concession in the A.4 fee-block, to make it clearer that insurers can exclude tariff data relating to TIP business as well as PFM business?	Chapter 9
Q14: Do you agree with our proposed redrafting of the concession in the A.4 fee-block, to make it clearer that insurers can exclude tariff data relating to TIP business as well as PFM business?	Chapter 9
Q15: Do you agree with our proposal to remove the PFM concession from the A.3 fee block, as it does not apply?	Chapter 9
Q16: Do you agree in principle that it is appropriate to recover all our EU Directive implementation costs only from firms affected by the Directive rather than all firms in the relevant fee-block(s)?	Chapter 10
Q17: Do you agree in principle that we should recover the £4.2mn Solvency II non-IMAP implementation costs for 2009/10 from only the firms affected by it?	Chapter 10
Q18: Do you agree in principle that it is appropriate to recover our additional supervisory costs from firms undertaking a refinancing exercise through a General SPF?	Chapter 10

Location of fees and levy rules and guidance in the FSA Handbook

All rules and guidance on regulatory fees and levies are consolidated in the Fees manual (FEES) in our Handbook. The table below shows the organisation of rules and guidance in FEES:

Our powers to make rules for the payment of fees are in FSMA, at paragraph 17 of Part 3 of Schedule 1. Section 99 of FSMA sets out our power to make fee rules for the UK Listing Authority.

Table A4: Location of fees rules in the Fees Sourcebook (FEES)

Chapter and annexes	Summary of fees rules and guidance
FEES 1	Application and Purpose
FEES 2	General Provisions
FEES 3	Application, Notification and Vetting fees
Annex 1R	Authorisation fees payable
Annex 2R	Application and notification fees payable in relation to collective investment schemes
Annex 3R	Application fees payable in connection with Recognised Investment Exchanges and Recognised Clearing Houses
Annex 4R	Application and tranche fees in relation to listing rules
Annex 5R	Document vetting and approval fees in relation to listing and prospectus rules
Annex 6R	Fees payable for a waiver (or concession) or guidance on the availability of either in connection with rules implementing Basel Capital Accord
FEES 4	Periodic fees
Annex 1R	Activity groups, tariff bases and valuation dates applicable
Annex 2R	Fee tariff rates, permitted deductions and EEA/Treaty firm modifications
Annex 3R	Transaction reporting fees
Annex 4R	Periodic fees in relation to collective investment schemes
Annex 5R	Periodic fees for designated professional bodies
Annex 6R	Periodic fees for recognised investment exchanges and recognised clearing houses
Annex 7R	Periodic fees in relation to the Listing Rules
Annex 8R	Periodic fees in relation to the Disclosure Rules
Annex 9R	Periodic fees in respect of securitised derivatives for the period from 1 April to 31 March 2009
Annex 10R	10RPeriodic fees for MTF operators payable in relation to the period 1 April 2009 to 31 March 2010
FEES 5	Financial Ombudsman Service Funding
Annex 1R	Annual Fees
FEES 6	Financial Services Compensation Scheme Funding
Annex 1R	Management Expenses Levy Limit

(Note: Fees for unauthorised mutuals – the ‘registrant-only’ fee-block – sit outside our Handbook. Details can be accessed on the web at: www.fsa.gov.uk/Pages/Doing/small_firms/MSR)

Draft rules and guidance
for consultation and
response by 16 January
2009

FEES (MISCELLANEOUS AMENDMENTS) INSTRUMENT 2008

Powers exercised

- A. The Financial Services 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 99(1) and (2) (Fees);
 - (2) section 101 (Listing rules: general provisions);
 - (3) section 156 (General supplementary powers);
 - (4) section 157(1) (Guidance);
 - (5) section 213 (The compensation scheme)
 - (6) section 223 (Management expenses);
 - (7) section 234 (Industry Funding);
 - (8) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (9) paragraph 1 (General), 4 (Rules), and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of the Annex comes into force immediately;
 - (2) Part 2 of the Annex comes into force on 1 April 2009; and
 - (3) the remainder of this instrument comes into force on 1 June 2009.

Amendments to the Handbook

- D. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) Instrument 2008.

By order of the Board
XXX

Annex

Amendments to the fees manual (FEES)

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

Part 1: Comes into force on with immediate effect

...

TP 3 ...

TP 4 Transitional provisions relating to information requirements following changes to FEES 4 or 5

4.1 Effect of changes to FEES 4 or 5 in relation to the supply of information to the FSA

4.1.1 R This rule applies where any rule, or amendment to a rule, in FEES 4 or FEES 5 (“a FEES rule”) has been made but will only come into force in relation to a future financial year of the FSA or Financial Ombudsman Service (“the future year”), as the case may be.

4.1.2 R Unless another rule expressly disapplies this rule, a FEES rule has immediate effect for the supply of information under FEES 4.4 or FEES 5.4 in relation that future year.

4.1.3 R A reference in this rule to an FSA or Financial Ombudsman Service financial year is a reference to the 12 months ending 31 March.

Part 2: Comes into force on 1 April 2009

...

Application

1.1.2 R This manual applies in the following way:

- (1) FEES 1, 2 and 3 apply to:
 - (a) ...
 - (n) every *firm* applying for variation of its *Part IV permission*; ~~and~~
 - (o) every *firm* applying for or being concerned in an application for permission to use an *advanced prudential calculation approach* or *guidance* on the availability of such a *permission* (including any future proposed amendments to those approaches)-; and
 - (p) every *firm* or *person* referred to in paragraph (t) of Column 1 of FEES 3.2.7 R.

...

General

3.2.1 R A *person* in column (1) of the table in FEES 3.2.7 R as the relevant fee payer for a particular activity must pay to the *FSA* a fee for each application or request for vetting, or request for support relating to compatibility of its systems with *FSA* systems, or admission approval made, or notification or notice of exercise of a *Treaty right* given, as is applicable to it, as set out or calculated in accordance with the provisions referred to in column (2) of that table

- (1) in full and without deduction; and
- (2) on or before the date given in column (3) of that table.

...

3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) fee payable	Due date
...		
(l) Under the <i>listing rules</i> , an <i>issuer</i> involved in specific events or transactions during the year where documentation is subject to a transaction vetting	<i>FEES</i> 3 Annex 5 R, part 1, unless the transaction would come within the definition of significant transaction under category <u>(u)</u> or <u>super transaction under category(q)</u> in this table, in which case the fee payable under that category.	...
(m) Under the <i>prospectus rules</i> , an <i>issuer</i> or <i>person</i> requesting approval or vetting of the documents arising in relation to specific events or transactions that it might be involved in during the year	<i>FEES</i> 3 Annex 5 R, part 2 unless the transaction would come within the definition of significant transaction under category <u>(u)</u> or <u>super transaction under category (q)</u> in this table, in which case the fee payable under that category.	...

<p>(q) A significant <u>super</u> transaction, being one where:</p> <p>(i) the <i>issuer</i> has a market capitalisation in excess of £1.5 billion and it is a new applicant for a <i>primary listing</i> under the <i>listing rules</i>, or involved in a reverse or hostile takeover or a significant restructuring; or</p> <p>(ii) the <i>issuer</i> has a market capitalisation in excess of £5 billion and is involved in a <i>class 1 transaction</i>, or a transaction requiring vetting of an equity <i>prospectus</i> or equivalent document; or a <u>transaction requiring vetting of a <i>prospectus</i> in relation to a Depositary Receipt.</u></p> <p>(iii) the <i>issuer</i> is proposing a Depositary Receipt issue intended to raise more than £5 billion.</p>	<p>£50,000</p>	<p>On or before the date that the relevant documentation is first submitted to the <i>FSA</i>.</p>
<p>...</p>		

<p><u>(t) Any of the following:</u></p> <p><u>i) an operator of an approved reporting mechanism;</u></p> <p><u>ii) a firm;</u></p> <p><u>ii) a third party acting on behalf of a firm;</u></p> <p><u>iii) a market operator;</u> <u>or</u></p> <p><u>iv) an MTF operator;</u></p> <p><u>that satisfy the following conditions:</u></p> <p><u>1) it provides transaction reports directly to the FSA; and</u></p> <p><u>2) it, having made changes to its reporting systems, asks the FSA to support the testing of the compatibility of its systems with the FSA's systems.</u></p>	<p><u>As set out in FEES 3 Annex 7 R.</u></p>	<p><u>Within 30 days of the date of the invoice.</u></p>
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<p>u) A significant transaction, being one where: <u>(i) the issuer has a market capitalisation in excess of £500 million and is producing an equity prospectus, a prospectus in relation to a Depository Receipt or a document in relation to a class 1 transaction; or</u> <u>(ii) the issuer is producing a document for vetting in relation to a reverse takeover, a hostile takeover or a significant restructuring.</u></p>	<p><u>£20,000</u></p>	<p><u>On or before the date that the relevant documentation is first submitted to the FSA</u></p>
<p><u>(v) a listed issuer that requests the FSA to amend the Official List, or any records held by the FSA in relation to the Official List, otherwise than pursuant to an application for listing</u></p>	<p><u>FEES 3 Annex 4 R, part 3</u></p>	<p><u>On or before the date the request is made</u></p>

<p><u>(w) (i) An issuer or person who:</u></p> <p><u>(a) is a fee payer under one or more of the categories set out in (ii); and</u></p> <p><u>(b) requests the FSA's approval or vetting of a document that includes a mineral expert's report.</u></p> <p><u>ii) Categories (l), (m) (q), and (u) of this table.</u></p> <p><u>iii) A fee under this category is payable in addition to any fee payable under the categories set out in ii).</u></p>	<p><u>£5,000</u></p>	<p><u>On or before the date the relevant documentation is first submitted to the FSA.</u></p>
--	----------------------	---

...

FEES 3 R Authorisation fees payable
Annex 1

...

Part 2 – Complexity Groupings Straightforward Cases R

Straightforward cases	
Activity Grouping	Description
...	
A.12	Advisory arrangers, dealers or brokers (holding or controlling <i>client money</i> and/or assets) <u>but not including MTF operators</u>

A.13	Advisory firms and advisory arrangers, dealers or brokers (not holding or controlling <i>client money</i> and/or assets) <u>but not including MTF operators</u>
...	

Moderately Complex Cases R

Moderately Complex Cases	
Activity Grouping	Description
...	
A.10	<i>Firms dealing as principal</i> <u>but not including MTF operators</u>
...	

Complex Cases R

Complex Cases	
Activity Grouping	Description
...	
<u>B</u>	<u>MTF operators</u>

...

FEES 3 R Application and administration fees in relation to listing rules
Annex 4

Part 1

...

Part 3

<u>Fee type</u>	<u>Fee amount</u>
<u>Administration fee where the FSA makes amendments to the Official List, or any records held by the FSA in relation to the Official List, as a result of a request made by a listed issuer or its representative.</u> <u>This fee does not apply to an application for listing.</u>	<u>£225 plus, if the request relates to more than one issue of securities, £100 per each additional issue of securities (with its own International Securities Identification Number).</u>

FEES 3 R Document vetting and approval fees in relation to listing and prospectus
Annex 5 rules

...

Part 2

These fees relate to approval or vetting of the documents referred to in the second column of this table arising in relation to specific events or transactions that an *issuer*, *offeror* or *person* requesting admission might be involved in during the year.

...

...

Certain transactions may come within the category of super or significant transactions and thus attract a higher fee as set out in 3.2.7(q) R and 3.2.7(u) R.

...

...

FEES 3 R Fees where changes are made to firms' transaction reporting systems and
Annex 7 the FSA is asked to check that these systems remain compatible with FSA
systems

<u>Hourly rate (£)</u>	<u>Method of calculating fee</u>
80	<p><u>The fee is calculated as follows:</u></p> <p><u>(1) Determine the number of hours, or part of an hour, taken by the FSA (or any person acting on behalf of the FSA) to test the fee payer’s transaction reporting systems for compatibility with the relevant FSA systems.</u></p> <p><u>2) Then multiply the figure in the first column by the number of hours or part hours obtained under (1). The resulting figure is the fee.</u></p> <p><u>(3) The number of hours or part hours referred to in (1) shall be the number of hours or part hours as recorded on the FSA’s systems.</u></p>

...

4.2.7 R ...

- (4) modifying the result as indicated by the table in FEES 4.2.6 R (except that FEES 4 Annex 10 R (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant financial year and FEES 4.2.6 R does not apply).

4.2.7A ...

- 4.2.7B R (1) This rule deals with the calculation of:
- (a) a firm’s fees for the FSA financial year following the FSA financial year in which it obtained permission or had its permission extended (“the second financial year”); and
 - (b) the tariff base for the fee block or fee blocks that relate to that permission or extension, as the case may be.

- (2) Unless this rule says otherwise, the tariff base for a firm's second financial year is calculated using projected valuations for its second year (as provided to the FSA in the course of the firm's application), of the business to which the tariff relates.
- (3) If a firm's tariff base is calculated using data from a period ("the data period") that begins on or after the date that the firm receives its permission or extension of permission, as the case may be, the firm must use that data.
- (4) Unless (3) applies, if a firm:
- (a) receives its permission or extension of permission, as the case may be, between 1 April and 31 December inclusive; and
 - (b) is, but for this rule, required to calculate its tariff base by reference to the average of its modified eligible liabilities for October, November and December
- it shall calculate that tariff as at the December before the start of the FSA financial year.
- (5) If a firm satisfies the following conditions it may calculate its tariff base under (6)
- (a) the firm receives its permission or extension of permission, as the case may be, between 1 April and 31 December inclusive; and
 - (b) the firm's tariff base, but for this rule, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve months ending 31 December.
- (6) If a firm chooses to calculate its tariff base under this paragraph it must do so as follows:
- (a) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (b) the tariff is calculated by reference to the period beginning on the date it acquired permission, or had its permission extended, and ending on the 31 December before the start of the FSA financial year; and
 - (c) the figures are annualised by increasing them by the same proportion as the whole of the relevant data period bears to the portion of the data period falling after the date the firm receives its permission or extension, as the case may be.

- (7) A firm may only use the method in (6) if it notifies the FSA of its intention to do so by the date specified in FEES 4.4 (Information on which Fees are calculated). Any such choice is only revocable before that date.
- (8) Where a firm chooses to use actual data under this rule FEES 4 Annex 1 R Part 3 is modified in relation to the calculation of that firm's valuation date in its second financial year.
- (9) A reference to the FSA financial year means the 12 months ending with 31 March.
- (10) This rule does not apply to a firm with a permission for operating a multilateral trading facility.

4.2.7C G Application of FEES 4.2.7B

The table below sets out the period within which a firm's tariff base is calculated ("the data period") for second year fees calculated under FEES 4.2.7B. The example is based on a firm that acquires permission on 1 November 2008 and has a financial year ending 31 March. Where valuation dates fall before the firm receives permission it must use projected valuations in calculating its fees.

References in this table to dates or months are references to the latest one occurring before the start of the FSA's financial year unless otherwise stated.

<u>Type of permission acquired on 1 November</u>	<u>Tariff base</u>	<u>Valuation date but for FEES 4.2.7B</u>	<u>Data period under FEES 4.2.7B</u>
<u>Accepting deposits (monthly reporting firms)</u>	<u>Modified eligible liabilities (MELs)</u>	<u>Average of the MELs for October, November, December – so projected valuations will be used</u>	<u>MELs for December 2008.</u>
<u>Accepting deposits (quarterly reporting firms)</u>	<u>Modified eligible liabilities</u>	<u>December 2008</u>	<u>December 2008.</u>
<u>Entering into a home finance transaction</u>	<u>Number of mortgages, home purchase plans or home</u>	<u>12 months ending 31 December 2008 – so projected valuations</u>	<u>1 November to 31 December 2008.</u>

	<u>reversion plans entered into</u>	<u>will be used</u>	
<u>Effecting contracts of insurance</u> <u>(Insurers – general)</u>	<u>Gross premium income and gross technical liabilities</u>	<u>31 March 2008 – so projected valuations will be used</u>	<u>1 November to 31 December 2008.</u>

...

4.2.11 R Table of periodic fees

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fees
Any <i>firm</i> (except an <i>ICVC</i> or a <i>UCITS qualifier</i>)	As specified in <i>FEES</i> 4.3.1R	(1) <u>Unless (2) or (3) applies</u> , on or before the relevant dates specified in <i>FEES</i> 4.3.6 R (2) <u>Unless (3) applies</u> , if an event specified in column 4 occurs during the course of a financial year, 30 <i>days</i> after the occurring of that event, or if later the dates specified in <i>FEES</i> 4.3.6 R.	<i>Firm</i> receives <i>permission</i> ; or <i>Firm</i> extends <i>permission</i>

		(3) Where the <u>permission</u> is for <u>operating a multilateral trading facility</u> , the date specified in <u>FEES 4 Annex 10 R (Periodic fees for MTF operators)</u> .	
--	--	--	--

...

Modifications for firms with new or extended permissions

4.3.4 G (1)

...

(4) These provisions do not apply to a firm's periodic fees in relation to any permission for operating a multilateral trading facility obtained from the FSA during the course of a financial year.

...

Time of Payment

4.3.6 R (1) ...

(6) Paragraphs (1) and (2) do not apply to any periodic fee in relation to a firm's permission for operating a multilateral trading facility and such a fee is not taken into account for the purposes of the split in (1). Instead any fee for this permission is payable on the date specified in FEES 4 Annex 10 R (Periodic fees for MTF operators).

...

4.4.1 ...

4.4.2 R A firm (other than the Society) must send to the FSA in writing the information required under FEES 4.4.1 R as soon as reasonably practicable, and in any event within two months, after the date specified as the valuation date in Part 3 of FEES 4 Annex 1 R (or FEES 4.2.7B R if applicable).

...

FEES 4 R Activity groups, tariff bases and valuation dates applicable
Annex 1

Part 1

This table shows how *regulated activities* for which a *firm* has *permission* are linked to activity groups ('fee-blocks') it falls into based on its *permission*.

Activity group	Fee payer falls in the activity group if
...	
B. Service Companies	..
<u>B. MTF operators</u>	<u>its permission includes operating a multilateral trading facility.</u>

Part 2

...

Activity Group	Tariff-base
...	
A.3	<p>GROSS PREMIUM INCOME AND GROSS TECHNICAL LIABILITIES</p> <p>For insurers:</p> <p>The amount of <i>premium</i> receivable which must be included in the documents required to be deposited under <i>IPRU(INS)</i> 9.6 in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a <i>waiver</i> or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to <i>IPRU(INS)</i> under transitional provisions relating to written concessions in <i>SUP</i>;</p>
	<p>less, premiums relating to pension fund management business where the firm owns the investments and there is no transfer of risk;</p>

	<p>AND the amount of gross technical liabilities (<i>IPRU(INS)</i> Appendix 9.1 - Form 15, line 19) which must be included in the documents required to be deposited under <i>IPRU(INS)</i> 9.6R in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a <i>waiver</i> or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to <i>IPRU(INS)</i> under transitional provisions relating to written concessions in <i>SUP</i>_{7.2}</p> <p>less;</p> <p>the amount of gross technical liabilities relating to pension fund management business where the <i>firm</i> owns the <i>investments</i> and there is no transfer risk.</p>
...	
A.4	ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES

	<p>Except for <i>UK ISPVs</i>:</p> <p>Amount of new regular <i>premium</i> business (yearly <i>premiums</i> including reassurances ceded but excluding cancellations and reassurances accepted), times ten;</p> <p>Plus</p> <p>amounts of new single <i>premium</i> business (total including reassurances ceded but excluding cancellations and reassurances accepted). Group protection business (life and private health insurance) must be included;</p> <p>Less</p> <p><i>premiums</i> relating to pension fund management business where the firm owns the investments and there is no transfer of risk. <u>pension fund management</u>.</p> <p><u>Less</u></p> <p><u><i>premiums</i> relating to Trustee Investment Plans.</u></p> <p><u>Trustee Investment Plans are the class of <i>contract of insurance</i> specified in either paragraph I or III of Part II of Schedule 1 to <i>the Regulated Activities Order (Contracts of long-term insurance)</i> and which are invested in pooled funds beneficially owned by the <i>insurer</i> and not earmarked to individual customers.</u></p> <p>For each of the above, business transacted through independent practitioners or tied agents (either single or multi-tie) will be divided by two in calculating the adjusted gross premium income;</p>
--	--

	<p>AND the amount of mathematical reserves (<i>IPRU(INS)</i> Appendix 9.1R - Form 14, Line 11) which must be included in the documents required to be deposited under <i>IPRU(INS)</i> 9.6R in relation to the financial year to which the documents relate but disregarding for this purpose such amounts as are not included in the document by reason of a <i>waiver</i> or an order under section 68 of the Insurance Companies Act 1982 carried forward as an amendment to <i>IPRU(INS)</i> under transitional provisions relating to written concessions in <i>SUP</i>;</p> <p>Less mathematical reserves relating to pension fund management business where the firm owns the investment and there is no transfer of risk <i>pension fund management</i>.</p> <p><u>Less</u> <u>Mathematical reserves relating to Trustee Investment Plans.</u></p> <p>Notes: (1) [deleted] (2) Only <i>premiums</i> receivable and mathematical reserves held in respect of United Kingdom business are relevant. (3) For <i>UK ISPVs</i> the tariff base is not relevant and a flat fee set out in FEES 4 Annex 2 R is payable.</p>
...	
<u>A.10</u>	<p>NUMBER OF TRADERS</p> <p><u>But not any <i>employees</i> or agents who work solely in the firm's MTF operation</u></p>
...	
<u>A.12</u>	<p>APPROVED PERSONS</p> <p>The number of <i>persons</i> approved to perform the <i>customer functions</i> (CF 30), but excluding those <i>persons</i> <u>who work solely in the firm's MTF operation or solely acting in the capacity of an <i>investment manager</i> or solely advising <i>clients</i> in connection with <i>corporate finance business</i> or performing approved functions related to these.</u></p>
<u>A.13</u>	APPROVED PERSONS

	<p>The number of <i>persons</i> approved to perform the <i>customer functions</i> (CF 30), but excluding those <i>persons</i> <u>who work solely in the <i>firm's</i> MTF operation or solely acting in the capacity of an <i>investment manager</i> or solely advising <i>clients</i> in connection with <i>corporate finance business</i> or performing functions related to these.</u></p>
...	
A18	ANNUAL INCOME
	<p>...</p> <p>Notes on annual income:</p> <p>...</p> <p><u>(6) The same <i>firm</i> may receive income under paragraph (a) and (c).</u></p> <p><u>(7) A <i>firm</i> must include in paragraph (a) any income it receives from <i>home finance mediation activity</i> carried on by another <i>person</i> with respect to any <i>home finance transaction</i> into which the <i>firm</i> has entered as lender, plan provider or home purchase provider.</u></p> <p><u>(8) In calculating the net amount retained, a <i>firm</i> may not deduct amounts that it rebates to a <i>person</i> other than another <i>firm</i>, a <i>person</i> falling within the extended definition of <i>firm</i> in Note (4) or the <i>firm's</i> customer.</u></p> <p><u>(9) A <i>firm</i> may only deduct amounts under paragraph (a) in calculating its net amount retained if the amount is to be deducted from income that the <i>firm</i> must include under paragraph (a). Therefore for example:</u></p> <p><u>(a) if a mortgage lender (Firm A) pays a <i>firm</i> commission for arranging a <i>regulated mortgage</i> under which Firm A is a lender, Firm A may not take that expense into account in calculating its annual income if Firm A does not receive a fee from the borrower or another <i>person</i> in respect of that <i>regulated mortgage</i>; and</u></p>

	<p><u>(b) if a mortgage lender (Firm A) pays a <i>firm</i> (Firm B) commission for arranging a <i>regulated mortgage</i> under which Firm A is a lender, Firm A receives a payment from the borrower under that transaction and the amount payable to Firm B exceeds the amount payable by the borrower, Firm A may not take that excess into account in calculating its annual income and must instead net the sum payable by the borrower to zero.</u></p> <p><u>(10) A <i>firm</i> must include in paragraph (a) any survey and booking fees due to it in respect of or in relation to <i>home finance mediation activity</i> or which would been <i>home finance mediation activity</i> if they had been carried on on or after the dates in paragraph (a).</u></p>
...	
B. Service companies	...
<u>B. MTF operators</u>	<u>Not applicable</u>

Part 3

This table indicates the valuation date for each fee-block. A firm can calculate its tariff data by applying the tariff bases set out in Part 2 with reference to the valuation dates shown in this table

Activity Group	Valuation date
...	
B. Service companies	...
<u>B. MTF operators</u>	<u>Not applicable</u>

FEES 4 R Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for
Annex 2 the period from 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

Part 1

This table shows the tariff rates applicable to each fee block	
Activity Group	Fee payable
...	
B. Service Companies	...
<u>B. MTF operators</u>	<u>As set out in the table in FEES 4 Annex 10 R Periodic fees for MTF operators).</u>

...

Part 3

This table shows the modifications to fee tariffs that apply to *incoming EEA firms* and *incoming Treaty firms* which have established branches in the UK.

Activity Group	Percentage deducted from the tariff payable under Part 1 applicable to the firm	Minimum amount payable
...		
<u>B MTF operators</u>	<u>Not applicable</u>	<u>Not applicable</u>

...

FEES 4 R Transaction reporting fees for the period from 1 April ~~2007~~ 2009 to 31

Annex 3

March 2008 2010

Fee Type	Fee amount (including VAT)	
Transaction charge	Number of transactions per annum	Fee per transaction (inc. VAT)
	For the first 1,000	0p
	1,001 – 1,000,000	3.00p <u>2.25p</u>
	1,000,001 – 4,000,000	2.75p <u>2p</u>
	4,000,001 – 8,000,000	2.5p <u>1.75p</u>
	8,000,001 – 13,000,000	2.25p <u>1.5p</u>
	13,000,001 – 20,000,000	2p <u>1.25p</u>
	>20,000,000	1.75p <u>1p</u>

...

Fees 4
Annex
10

R Periodic fees for MTF operators payable in relation to the period 1 April 2009 to 31 March 2010

<u>Name of MTF operator</u>	<u>Fee payable (£)</u>	<u>Due date</u>
<u>Barclays Bank Plc</u>	<u>2,600</u>	<u>30 April 2009</u>
<u>BATS Trading Ltd</u>	<u>38,000</u>	
<u>BGC Brokers L.P</u>	<u>2,600</u>	
<u>Cantor Index Limited</u>	<u>5,600</u>	
<u>CantorCO2e Limited</u>	<u>2,600</u>	
<u>Chi-X Europe Limited</u>	<u>38,000</u>	
<u>EuroMTS Limited</u>	<u>20,000</u>	
<u>GFI Brokers Limited</u>	<u>2,600</u>	

<u>Name of MTF operator</u>	<u>Fee payable (£)</u>	<u>Due date</u>
<u>GFI Securities Limited</u>	<u>2,600</u>	
<u>ICAP Electronic Broking Limited</u>	<u>4,400</u>	
<u>ICAP Energy Limited</u>	<u>2,600</u>	
<u>ICAP Europe Limited</u>	<u>2,600</u>	
<u>ICAP Hyde Tanker Derivatives Limited</u>	<u>2,600</u>	
<u>ICAP Securities Limited</u>	<u>2,600</u>	
<u>ICAP WCLK Limited</u>	<u>2,600</u>	
<u>Liquidnet Europe Limited</u>	<u>20,000</u>	
<u>MF Global UK Limited</u>	<u>2,300</u>	
<u>My Treasury Limited</u>	<u>2,600</u>	
<u>NASDAQ OMX Europe Limited</u>	<u>38,000</u>	
<u>NYMEX</u>	<u>20,000</u>	
<u>TFS-ICAP Limited</u>	<u>2,600</u>	
<u>Tradeweb Europe Limited</u>	<u>9,200</u>	
<u>Tradition (UK) Limited</u>	<u>2,600</u>	
<u>Tradition Financial Services Limited</u>	<u>2,600</u>	
<u>Tullett Prebon (Europe) Limited</u>	<u>2,600</u>	
<u>Tullett Prebon (Securities) Limited</u>	<u>2,600</u>	
<u>Turquoise Services Limited</u>	<u>38,000</u>	

<u>Name of MTF operator</u>	<u>Fee payable (£)</u>	<u>Due date</u>
<p><u>Any other firm whose permission includes operating a multilateral trading facility, including:</u></p> <p><u>(a) an EEA firm; or</u></p> <p><u>(b) a firm that, during the course of the relevant financial year, receives permission for operating a multilateral trading facility or whose permission is extended to include this activity</u></p>	<p><u>In the case of an EEA firm that:</u></p> <p><u>(a) has not carried on the activity of operating a multilateral trading facility in the UK at any time in the calendar year ending 31 December 2008; and</u></p> <p><u>(b) notifies the FSA of that fact by the end of February 2009;</u></p> <p><u>the fee is zero.</u></p> <p><u>Information required under (b) is to be treated as information required under FEES 4.4 (Information on which Fees are calculated)</u></p> <p><u>In any other case:</u></p> <p><u>2000</u></p>	<p><u>In the case of a firm that, during the course of the relevant financial year, receives permission for operating a multilateral trading facility or whose permission is extended to include this activity, within 30 days of receiving that permission or extension.</u></p> <p><u>In any other case, 30 April 2009</u></p>

...

5.8.2 R (1) This rule deals with the calculation of:

- (a) a firm's general levy and, where applicable, its supplementary levy in the 12 months ending on the 31 March in which it obtains permission, or its permission is extended, and the

- following 12 months ending on the 31 March, and
- (b) the tariff base for the industry blocks that relate to that permission or extension, as they case may be.
- (2) Unless this rule says otherwise, the tariff base is calculated using the projected valuation for its first and second year of the business to which the tariff relates.
- (3) If the tariff base is calculated using data from a period (“the data period”) that begins on or after the date that the firm receives its permission or extension of permission, as the case may be, the firm must use that data.
- (4) If a firm satisfies the following conditions it may calculate its tariff base under (5)
- (a) the firm receives its permission or extension of permission, as the case may be, between 1 April and 31 December inclusive; and
- (b) the firm’s tariff base, but for this rule, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve months ending 31 December.
- (5) If a firm chooses to calculate its tariff base under this paragraph it must do so as follows:
- (a) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
- (b) the tariff is calculated by reference to the period beginning on the date it acquired permission, or had its permission extended, and ending on the 31 December before the start of the FSA financial year; and
- (c) the figures are annualised by increasing them by the same proportion as the whole of the relevant data period bears to the portion of the data period falling after the date the firm receives its permission or extension, as the case may be.
- (6) A firm may only use the method in (5) if it notifies the FSA of its intention to do so by the date specified in FEES 5.4 (Information requirement). Any such choice is only revocable before that date.
- (7) Where a firm chooses to use actual data under this rule FEES 4 Annex 1 R Part 3 is modified in relation to the calculation of that firm’s valuation date in its second financial year.

5.8.3

G

The example table in FEES 4.2.7C can be applied to the calculation of the tariff base under FEES 5.8.2.

...
 FEES 5 R Annual Fees Payable in Relation to ~~2008/09~~ 2009/10
 Annex 1

...
 Part 2: Fee tariffs for general levy and supplementary levy
 ...

Industry block	Tariff base	General levy payable by firm
1- Deposit acceptors, <i>home finance providers</i> and <i>home finance administrators</i> (excluding <i>firms</i> in blocks 13 & 15)	<p>Number of accounts relevant to the activities in DISP 2.6.1 R</p> <p><u>In the case of a firm's permission including issuing e-money, the number of accounts includes the number of e-money accounts multiplied by 0.15.</u></p> <p><u>An e-money account is e-money that has been issued by an e-money issuer and which can reasonably be regarded as being held by the owner of the e-money as a single balance and under the same arrangements.</u></p>	£0.023 per relevant account, subject to a minimum levy of £100

...
 ...
Fees for newly authorised firms

6.5.13B R (1) This rule deals with the calculation of:

- (a) a firm's specific costs levy and compensation costs levy in the financial year of the FSCS in which it obtained permission or had its permission extended, as the case may be, and the following FSCS financial year;

- (b) the tariff base for the *class* or *sub-classes* that relate to these *permissions* or extensions, as they case may be.
- (2) Unless this *rule* says otherwise the tariff base is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (3) If a *firm*'s tariff base is calculated using data from a period ("the data period") that begins on or after the date that the *firm* receives its *permission* or extension of *permission*, as the case may be, the *firm* must use that data.
- (4) If a *firm* satisfies the following conditions it may calculate its tariff base under (5)
- (a) the *firm* receives its *permission* or extension of *permission*, as the case may be, between 1 April and 31 December inclusive; and
- (b) the *firm*'s tariff base, but for this *rule*, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December.
- (5) If a *firm* chooses to calculate its tariff base under this paragraph it must do so as follows:
- (a) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
- (b) the tariff is calculated by reference to the period beginning on the date it acquired *permission*, or had its *permission* extended, and ending on the 31 December before the start of the *FSA* financial year; and
- (c) the figures are annualised by increasing them by the same proportion as the whole of the relevant data period bears to the portion of the data period falling after the date the *firm* receives its *permission* or extension, as the case may be.
- (6) If a *firm* chooses to use actual data in accordance with (4) the figures are annualised by increasing them by the same proportion as the whole of the relevant data period bears to the portion of the data period falling after the date the *firm* receives its *permission* or extension, as the case may be.
- (7) A *firm* may only use the method in (4) if it notifies the *FSA* of its intention to do so by the date specified in *FEES* 6.5.13 (Reporting Requirements). Any such choice is only revocable before that date.

- (8) Where a firm chooses to use actual data under this rule FEES 6 Annex 3 is disappplied, to the extent it is incompatible, in relation to the calculation of that firm's valuation date in its second financial year.

6.5.13C G Application of FEES 6.5.13B

The table below sets out the period within which a firm's tariff base is calculated ("the data period") for second year fees calculated under FEES 6.5.13B. The example is based on a firm that acquires permission on 1 November 2008 and has a financial year ending 31 March.

Where valuation dates fall before the firm receives permission it must use projected valuations in calculating its fees.

References in this table to dates or months are references to the latest one occurring before the start of the FSCS financial year unless otherwise stated.

<u>Type of permission acquired on 1 November</u>	<u>Tariff base</u>	<u>Valuation date but for FEES 6.5.13B</u>	<u>Data period under FEES 6.5.13B</u>
<u>Accepting deposits</u>	<u>Protected deposits</u>	<u>As at 31 December 2008</u>	<u>As at 31 December 2008</u>
<u>Effecting contracts of insurance</u> <u>(Insurers – general)</u>	<u>Relevant net premium income</u>	<u>The firm's tariff base calculated in the year 2008 – so projected valuation will be used.</u>	<u>1 November to 31 December 2008</u>
<u>Dealing in investments as agent in relation to General Insurance Intermediation</u>	<u>Annual eligible income</u>	<u>Financial year ended 31 March 2008 – so projected valuations will be used.</u>	<u>1 November to 31 December 2008</u>

...

Part 3: Comes into force on 1 June 2009

FEES 4 R Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for
Annex 2 the period from 1 April 2008 2009 to 31 March 2009 2010

Part 1

This table shows the tariff rates applicable to each fee block		
Activity Group	Fee payable	
...		
A.3	Gross premium income (GPI)	
	...	
	PLUS	
	Solvency 2 Special Project Fee (the “Solvency 2 fee”)	
	...	
	There is only a single tariff band.	The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block by which periodic fees are multiplied as described in Part 4 is 3.2% <u>8.85%</u> .
...		
A.4	Adjusted annual gross premium income (AGPI)	
	...	
	PLUS	
	Solvency 2 Special Project Fee (Solvency 2 fee)	

	...	
	There is only a single tariff band.	The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block by which periodic fees are multiplied as described in Part 4 is 1.41% <u>6%</u> .
...		
A.6	Flat Fee (£)	1,284,725
	<u>PLUS</u>	
	<u>Solvency 2 Special Project Fee (“the Solvency 2 flat fee”)</u>	<u>This fee does not form part of the Solvency 2 fee referred to in Part 4 of this Annex.</u>
	<u>The Solvency 2 flat fee (£)</u>	<u>95,000</u>
...		

Part 4	
This table shows the calculation of the Solvency 2 fee for <i>firms</i> falling into fee block A3 or A4	
(1)	...
(2)	The Solvency 2 fee is only payable by a <i>firm</i> if:
(a)	it was in one or both of the insurance fee blocks at the start of the financial year 2008/9 <u>2009/10</u> ;
(b)	...
(c)	it has not notified the <i>FSA</i> before the start of the financial year 2008/9 <u>2009/10</u> that it intends to migrate out of the <i>United Kingdom</i> for regulatory purposes before the proposed Solvency II Directive is implemented.

(3)	The Solvency 2 fee is payable by the top ten <u>sixty</u> <i>firms</i> in the list of <i>firms</i> that fall into (2) and into fee block A3 and by the top ten <u>sixty</u> <i>firms</i> in the list of <i>firms</i> that fall into (2) and into fee block A4. A <i>firm</i> 's ranking in the list for a particular insurance fee block is measured by reference to the amount of the periodic fees payable by it under <i>FEES</i> 4.3 in respect of the financial year 2007/8 2008/9 with respect to that insurance fee block.
(4)	...
(5)	The total Solvency 2 fee payable by a <i>firm</i> (taking into account amounts payable under both insurance fee blocks) is capped at £50,000 <u>£95,000</u> .
(6)	For the purpose of (3) <i>firms</i> falling into (2) that are in the same group at the start of the financial year 2008/9 2009/10 must be treated as a single <i>firm</i> , so that the total number of <i>firms</i> liable to pay the Solvency 2 fee may be greater than 20 <u>120</u> .
(7)	...
(8)	Where (7) applies, (5) is applied to the group as a whole so that the total joint Solvency 2 fee payable by the group is capped at £50,000 <u>£95,000</u> .
	...

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