

09/7\*\*

Financial Services Authority

# Regulatory fees and levies:

Rates proposals 2009/10

February 2009





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The Financial Services Authority invites comments on the proposals in this Consultation Paper.

Some of the proposals require comments by 9 March 2009 and others by 6 April 2009. We indicate clearly in the paper which deadline applies to which proposals.

Comments may be sent by electronic submission using the form on the FSA's website at ([www.fsa.gov.uk/Pages/Library/Policy/CP/2009/cp09\\_07\\_response.shtml](http://www.fsa.gov.uk/Pages/Library/Policy/CP/2009/cp09_07_response.shtml)).

Alternatively, please send comments in writing to:

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**It is the FSA's 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.**

For any general queries regarding fees, please firstly consult our website at [www.fsa.gov.uk/Pages/Doing/Regulated/Fees](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees). You can also contact the firm contact centre by telephone on (0845 606 9966) and e-mail ([fsafees@fsa.gov.uk](mailto:fsafees@fsa.gov.uk)).

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

# 1 Executive summary

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 the FOS, as well as to potential applicants for Financial Services Authority (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 (see (1) above). In October 2008 we published CP08/18<sup>1</sup> covering (1) as at that time. In the following February we consult on the proposed changes to (2), (3), (4), (5) and any additional policy proposals under (1). This Consultation Paper (CP) is the February phase and its publication coincides with the publication of the FSA's Business Plan, and FOS and FSCS budgets for 2009/10.

1.3 This CP primarily sets out consultation proposals on the fees and levy rates we intend to raise for the FSA, the FSCS based on initial indicative amounts and the FOS in 2009/10.<sup>2</sup> Further details are on our website and referred to throughout this document. Fee-payers can therefore view the fee and levy proposals and what these mean for their 2009/10 regulatory charges before receiving our single invoice for regulatory fees and levies. Potential applicants for authorisation can also see the amounts they are liable to pay in 2009/10. This will make the implications for firms of draft and final fees and levies clearer, and help firms in their budget-planning for the year ahead.

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<sup>1</sup> Regulatory fees and levies: policy proposals for 2009/10

<sup>2</sup> The amounts shown will include any applicable discounts but exclude deductions made for financial penalties. Penalty deductions will be finalised in May 2009, once all penalties in 2008/09 are received.

## Structure of this paper

- 1.4 In this chapter we set out a summary of the key proposals, the timetable for consultation and next steps. We also reference fees policy consultations that have taken place since October 2008 and which will occur shortly after this CP has been published. The remainder of the CP has four sections:
- **Section I** – Chapter 2 explains the timetable of administrative arrangements for paying fees in 2009/10. Chapters 3 to 7 explain how we have determined the FSA's AFR for 2009/10 and our proposals for recovering that from fee-payers. There are also details of how financial penalties are returned to the industry. Chapter 8 explains our proposals for UK Listing Authority (UKLA) revised vetting and sponsorship application fee rates for 2009/10.
  - **Section II** – Chapters 9 to 11 feed back on the responses we received to the fees policy proposals in CP08/18, which we asked for by 31 December 2008. We now consult further, taking account of those responses. In Chapters 12 and 13 we explain additional fees policy proposals and in Chapter 14 we clarify aspects of our fees policy.
  - **Section III** – Chapter 15 consults on the proposed 2009/10 FSCS management expenses levy limit (MELL) and contains indicative Compensation Cost levy amounts for each sub-class in 2009/10.
  - **Section IV** – Chapter 16 consults on the proposed 2009/10 general levy tariff for the FOS.
- 1.5 Our Handbook rules and guidance on fees is in the Fees manual (FEES) and Annex 4 to this paper outlines the structure of FEES for ease of reference. Additional background material to proposals in this CP can be found in our Consolidated Policy Statement (PS08/5<sup>3</sup>) on our fee raising arrangements and regulatory fees and levies.
- 1.6 The Appendices set out the draft rules we intend to implement in 2009/10 to give effect to the proposals in this paper.

## Summary of key proposals

### *Regulatory fees and levies rates: overall change from last year*

- 1.7 Overall, we expect that the proposals we are now making for those fees and levies, together with the compensation costs that the FSCS is likely to include as part of its levy, means that the industry, as a whole, will pay an additional £707.3m in 2009/10, than it did in 2008/09.
- 1.8 The FSA's annual funding requirement (AFR) has increased by £117.0m. A significant part of the AFR increase is due to the on going increased expenditure on improved supervisory activities which, in the main, affects the higher impact firms. Other increased

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3 *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)

operating costs include: recovery of 2008/09 expenditure on improved supervisory activities; increased technology and property infrastructure for expanding our operations; additional contingency; and other financial adjustments (including pension and reserves movements).

- 1.9 However, in 2009/10 we have a higher amount of financial penalties to be applied for the benefit of firms than in 2008/09. At the time of publication of this CP, the amount of penalties collected during 2008/09, to be off-set against 2009/10 fees, was £25.3m (£4.3m in penalties from 2007/08 were off-set against 2008/09 fees).
- 1.10 The FSCS figure includes the interest payable by deposit takers in respect of loans advanced by the Bank of England and HM Treasury to fund the defaults by deposit takers in 2008; this is explained in Chapter 15. A further impact on the 2009/10 increase is the fact that the 2008/09 FSCS levy was net of the FSCS clean-break where a large number of firms received a credit in respect of the previous regime under the Funding Review which became effective 1 April 2008.
- 1.11 The details on the FSA's fees, the FOS's general levy published in this CP and FSCS management expenses levy limit proposals published in this CP and the FSCS Plan and Budget 2009/10 allow individual fee-payers to make their own assessment of how they will be affected. The fees calculator, which can be found at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/) will help fee-payers to understand their liability for those FSA fees and FOS and FSCS levies now being consulted on.
- 1.12 Table 1.1 below shows how we expect anticipated changes in the FSA, FSCS and FOS fees and levies will affect the total amount of money those organisations will need to raise from fee-payers next year. At the level of individual fee-payers, however, there are likely to be wide variations around the average increase. Deposit acceptors will face the largest increase because of the increase in FSCS levies outlined in Chapter 15.

**Table 1.1: Comparison of FSA, FSCS, and FOS fees and levies from 2008/09 (Budget) to 2009/10 (proposed)**

Cash impact on firms of changes in fees and levies	Proposed 2009/10 £m	Budget 2008/09 £m	Increase/ (Decrease) £m	Increase/ (Decrease) %	Refer to:
FSA – Annual Funding Requirement (AFR)	437.7	320.7	117.0	36.5	Chapter 3
Financial Penalty discounts	(25.3)	(4.3)	(21.0)	488.4	Chapter 6
FSA fees	412.4	316.4	96.0	30.3	Chapters 5&7
FSCS – total	641.5	30.7	610.8	1989.6	Chapter 15
FOS – general levy	17.7	17.2	0.5	2.9	Chapter 16
<b>Net cash cost to firms</b>	<b>1,071.6</b>	<b>364.3</b>	<b>707.3</b>	<b>194.2</b>	

- 1.13 The FSCS provides an early indication of its current estimated compensation figures and their related funding through levies in its Plan and Budget for 2009/10. Due to the impact of the clean-break in the 2008/09 levy and the fact that deposit taking firms will be invoiced for the interest payments in the financial year after they were incurred, we have set out more details of the different elements of how the various components of the FSCS's levy will affect what firms pay in Table 1.2.

**Table 1.2: Comparison of FSCS levies from 2008/09 (Budget) to 2009/10 (proposed)**

Cash impact on firms of changes in fees and levies	Proposed 2009/10 £m	Budget 2008/09 £m	Increase/ (Decrease) £m	Increase/ (Decrease) %
FSCS – Compensation Levy	120.4	108.6	-	-
Rebate of end 2007/08 balances	-	(100.1)	-	-
	120.4	8.5	111.9	1316.5
FSCS – Management Expenses net of interest	32.8	22.2	10.6	47.7
Pacific Continental proposed indicative interim compensation costs 2008/09 levy	40.0	-	40.0	-
Specific deposit-taking default costs:				
Interest	415.5	-	415.5	-
Management expenses 2008/09	19.5	-	19.5	-
Management expenses 2009/10	13.3	-	13.3	-
<b>FSCS – total</b>	<b>641.5</b>	<b>30.7</b>	<b>610.8</b>	<b>1,989.6</b>

- 1.14 The early estimated indicative total levy payable in 2009/10 is £641.5m. The FSCS expects to confirm its actual levy requirements in March/April 2009. The level of that levy depends on estimates based on a number of factors and assumptions, many of which might change before the levy is set

**Fee-payers should be aware that the final FSA fees for 2009/10 – which will be made by our Board at its May 2009 meeting – could vary materially from those in this paper. This is because we will not have complete data until the end of March 2009 on actual costs for 2008/09 and actual fee-block populations, fee income and fee tariff data.**

**Fee-payers should also note that estimates referred to in Chapter 15 of future levies for the FSCS are based on assumptions of claims volumes and amounts. While these are forecast according to the best available information at the time, actual numbers of claims can be volatile and unforeseeable.**

**In addition, the actual amount raised by the overall FSCS levy depends on any amounts carried forward from the previous financial year and the value of recoveries made by the FSCS. The FSCS levy figures in Chapter 15 are indicative only and may change significantly when they are finalised in March 2009.**

## *UKLA revised vetting and sponsorship fee rates*

- 1.15 UK Listing Authority (UKLA) fee rates for vetting transactions have not increased since 2004. However, our related costs have significantly increased, reflecting in part the greater complexity of the transactions that require vetting. We are proposing to increase these vetting fees across the board by 10%. We are also proposing to increase the sponsor application fee from £4,000 to £15,000, which bring our fees in line with the associated costs of assessing the eligibility of a new applicant seeking admission to the list of sponsors.

## *Expanding the role of Special Project Fees (SPFs)*

- 1.16 In CP08/18, published in October 2008, we asked for views on whether, in principle, we should expand the role of SPFs. The closing date for responses was 31 December 2008. In this CP we feed back on the responses received and consult further, taking account of those responses.

- **SPFs – EU Directive implementation costs generally:** Respondents were broadly in favour of using SPFs to better target the recovery of EU Directive implementation costs on those firms affected by them. Details of the responses received and our feedback on points raised are set out in Chapter 9. We will, in future, use SPFs in this way where it is appropriate to do so and will consult on individual Directives on a case-by-case basis.
- **SPFs – Solvency II implementation costs specifically:** Respondents were also broadly in favour of using SPFs to recover the implementation costs for the Solvency II Directive from only the firms affected by this Directive. In Chapter 10, we set out our further proposals to recover £4.2m of implementation costs in 2009/10. This is in addition to the SPF we consulted on in CP08/18 to recover £3.2m of Internal Model Approval Process (IMAP) costs in 2009/10. This IMAP SPF will be applied to the larger insurers (being a sub-set of the whole Solvency II population), as these firms are likely to seek to use the model approach for most or all of their business, including using group models. We are writing to these firms separately as part of the consultation process and to enable this to be completed we have extended the consultation period to 9 March 2009. Overall we are proposing to recover a total of £7.4m in 2009/10 for Solvency II implementation costs.
- **SPFs – firms undertaking refinancing transactions:** Respondents were broadly in favour of using a General<sup>4</sup> SPF to recover additional supervisory costs for mergers and takeovers. There was less support in the case of restructuring regulatory capital and raising additional capital. Some respondents questioned using a General SPF in these circumstances as they saw these transactions occurring at our specific request or as a natural consequence of our rules. An important part of the reason for introducing General SPFs for these transactions is that they can be at our initiation where firms are at risk of

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4 A General SPF is one where firms would be required to pay the fee levied at our initiation. This is different to Guidance SPFs, which currently exist and are levied where firms seek individual guidance in certain circumstances (e.g. merger or takeover). A Guidance SPF is therefore triggered at the initiation of the firm.

failing to (or do not) meet their regulatory financial resources requirements. In Chapter 11 we talk about this distinction more, as well as strengthen our rationale for why the recovery of these costs should be outside the recovery of 'business as usual' costs through periodic fees, which are applied across fee-block(s) as a whole.

### *Payment Services Directive (PSD) – new scope activities*

- 1.17 PSD will be implemented in the UK through the Payment Services Regulations 2009 (the Regulations) from 1 November 2009. 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. Firms authorised under FSMA<sup>5</sup>, mainly authorised banks, building societies and e-money issuers who also carry on payment services activities, will be subject to the the Regulations.
- 1.18 In Chapter 12, we set out our proposals for application fees for firms who will be required to register or become authorised under the Regulations. Firms undertaking payment services activities and required to be registered or authorised under the Regulations must do so by 25 December 2010 and 1 May 2011 respectively. We will be accepting applications from 1 May 2009. We also set out our proposed approach for levying ongoing periodic fees (including our set-up costs, currently estimated at £6m), which we will not start levying until 2010/11 and will be subject to a separate consultation in February 2010.

### *Insurance Special Purpose Vehicles (ISPVs)*

- 1.19 Insurers can use ISPVs to remove risks from their balance sheet to make efficient use of capital. There is no reduced effort in supervising the firm ceding risks to an ISPV, but life insurers' periodic fees reduce significantly since transferred liabilities are currently excluded from the tariff base used to calculate the fees of the ceding firm. ISPVs are levied at a flat periodic fee of £430. The shortfall in the recovery of our costs from the ceding life insurer is borne by the rest of the fee-block. To address this shortfall, in Chapter 13 we propose that ceding firms retain the value of liabilities transferred to ISPVs in their gross mathematical reserves (A.4 Insurers – life) for fees purposes. We are also proposing to levy a fee of £20,000 to recover the substantial costs we incur to approve waivers from certain prudential rules. The firm ceding risks to an ISPV need such waivers to be in place to be able to take any credit for the risk transfer in its regulatory balance sheet.

### *Fees policy clarification*

- 1.20 In Chapter 14, we clarify existing policy on fees for general insurance mediation impacting on fee-blocks A.3 (Insurers – general) and A.19 (General insurance mediation) to reflect the guidance for fee-blocks A.2 (Home finance providers and administrators) and A.18 (Home finance providers, advisers and arrangers) clarified in CP08/18.

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5 The Financial Services and Markets Act 2000

## **Fees policy consultations not covered in this CP**

### *Unclaimed Assets*

- 1.21 The Dormant Bank and Building Society Accounts Act 2008 (the Act) received Royal Assent on 26 November 2008. The Act allows banks and building societies existing liabilities to dormant account customers to be extinguished. This will be replaced by a new statutory liability to repay customers to be placed on a new type of firm, a 'reclaim fund'. Reclaim funds will be authorised and regulated by us. The new regime is due to commence in the first half of 2009. We intend to broadly apply our existing fees infrastructure and policy to reclaim funds and plan to consult on our proposals in Q1 2009.

### *Sale & Rent Back (SRB)*

- 1.22 On 6 February 2009 we released a consultation paper (CP 09/6), in parallel with HM Treasury, on regulating the sale and rent back market. We are proposing a two-stage implementation of the regime; an interim regime, to commence as soon as SRB becomes a 'regulated activity' (expected to be July 2009), which will be followed by a full regime (expected to commence from Q2 2010). We expect that the regime will bring a relatively small number of firms within our regulatory scope during the interim regime.

## **Consultation periods**

- 1.22 We indicate the relevant closing date for responses alongside each proposal in each chapter. To help fee-payers identify the proposals most relevant to them, Table 1.3 sets out which fee-payers are likely to be affected by the proposals in this CP and the deadline for submission of responses to us.

## **Next steps**

- 1.23 In the light of consultation responses and subject to FSA Board approval, we set out in Table 1.3 when the proposals in this CP will be finalised through made rules.
- 1.24 In Table 1.4, we also set out when the proposals in CP08/18, published in October 2008 (closing date for responses was 16 January 2009), will be finalised.
- 1.25 We plan to publish policy statements, including feedback on the responses to the consultation, in the same month the final rules are approved by the FSA Board or shortly thereafter.
- 1.26 Fee-payers will be invoiced from March 2009 for on-account payments (see Chapter 2) and other firms will be invoiced from June onwards, on the basis of the new fees, levies and policy changes.

## **Internal Strategic review of current fees regime**

Our fee structure has evolved since N2, when we received our powers under FSMA and the current fees regime was introduced (2001/02). Since we have seen significant changes to both the industry and ourselves, particularly due to EU directive implementation. In CP08/18 and the Business Plan 2009/10 we stated our intention to carry out an internal strategic review of the Fees regime, to establish whether a wider review involving external consultation is necessary.

This process will commence in Q1 2009 and during Q2 we will be seeking informal input from firms and Trade Associations. As part of this we would welcome your comments on our present regime and potential improvements. Please send your comments ideally by e-mail to [FeesReview@fsa.gov.uk](mailto:FeesReview@fsa.gov.uk)

Alternatively in writing to:

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Finance Planning & Management Information – Fees Policy  
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**For these purposes we would appreciate any comments by 9 March 2009**

We aim to announce in Q3 2009 whether a new fees regime framework would be beneficial and what shape it would take. We plan to consult formally on any new framework in Q1 2010.

**Table 1.3: Summary of deadlines for responses to this CP and when proposals and rules will be finalised**

Issue	Fee-payers likely to be affected	Reference	Deadline for responses	Rules finalised
<b>FSA:</b>				
Periodic fee rates.	Authorised firms.	Chapter 5	<b>9 March 2009 and 6 April 2009</b>	March 2009 and May 2009
	All fee-payers except authorised firms.	Chapter 7	<b>9 March 2009 and 6 April 2009</b>	March 2009 and May 2009
Application fee rate changes – UKLA.	Firms in fee-block E who are issuers of securities that have been admitted to the Official List (as defined under section 74 of FSMA), or sponsor firms (as defined in section 88 of FSMA)	Chapter 8	<b>9 March 2009</b>	March 2009
SPF – Solvency II implementation costs.	Firms in fee-blocks A.3 (General insurers) and A.4 (Life insurers) affected by Solvency II Directive and in addition fee-block A.6 (The Society of Lloyd's).	Chapter 10	<b>6 April 2009</b>	May 2009
SPF – Our additional supervisory costs where firms need to undertake a refinancing transaction.	All authorised firms who may undertake a refinancing exercise.	Chapter 11	<b>6 April 2009</b>	May 2009
PSD – new scope activities.	Banks, building societies, e-money issuers (and any other authorised firm) and non-FSMA entities providing payment services which will be brought into regulation for the first time through the Payment Services Regulations 2008.	Chapter 12	<b>6 April 2009</b>	April 2009
Insurance Special Purpose Vehicles (ISPVs).	Insurers who use or plan to use ISPVs.	Chapter 13	<b>6 April 2009</b>	May 2009
Clarification of our existing policy on fees for general insurance mediation.	Firms in fee-blocks A.3 (Insurers – general) and A.19 (General insurance mediation).	Chapter 14	<b>6 April 2009</b>	May 2009
<b>FSCS:</b>				
Management expenses levy limit.	Firms subject to the FSCS.	Chapter 15	<b>9 March 2009</b>	March 2009
<b>FOS:</b>				
General levy.	Firms subject to the FOS.	Chapter 16	<b>6 April 2009</b>	May 2009

**Table 1.4: For CP08/18 - summary of when proposals and rules will be finalised**

Issue	Fee-payers likely to be affected	CP08/18 reference	Rules finalised
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.	Firms intending to apply for authorisation after 1 April 2009 or existing firms intending to apply to extend their permissions.	Chapter 2	March 2009
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	March 2009
Transaction reporting: <ul style="list-style-type: none"> <li>• Approved Reporting Mechanisms (ARMs) – new fees for testing;</li> <li>• Transaction Reporting System (TRS) fee rates 2009/10.</li> </ul>	ARMs and other entities who report transactions directly to the SABRE II <sup>4</sup> system All entities making transaction reports through the FSA's TRS.	Chapter 4	March 2009
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"> <li>• issuers of securities; or</li> <li>• a sponsor (as defined in section 88 of FSMA).</li> </ul>	Chapter 5	March 2009
Solvency II – special project fee for insurers in 2009/10 relating to Internal Model Approval Process (IMAP).	General insurers and life insurers (larger fee payers)	Chapter 6	May 2009
<b>Note: Consultation period has been extended to 9 March 2009 to allow our communication to individual firms affected to be completed.</b>			
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	March 2009
Policy clarification on the following tariff bases: <ul style="list-style-type: none"> <li>• Fee-block A.18 (Home finance providers, advisers and arrangers) tariff base; and</li> <li>• Fee-blocks A.4 (Insurers – life) and A.3 (Insurers – general).</li> </ul>	Mortgage lenders (A.18) Insurers conducting pension fund management (PFM) business and trustee investment management (TIP) business.	Chapter 9	March 2009

# Section I

Fees timetable and  
proposed FSA periodic fees  
and revised application  
fee rates 2009/10

# 2 Fees timetable and invoicing arrangements

- 2.1 This chapter explains our timetable for invoicing and payment collection during the year. It also highlights the key dates firms should be aware of regarding our funding arrangements, to help them meet their responsibilities for regulatory fees and levies.
- 2.2 Firms are reminded that we are responsible for the administrative arrangements for invoicing, data collection and payment regarding FSA fees, as well as the FSCS and the FOS levies (but not FOS case fees).

## **Fees timetable**

- 2.3 Table 2.1 shows the indicative timetable for 2009/10 FSA periodic fees and the FSCS and FOS levies payable to us.

## **Tariff data collection**

- 2.4 Each fee-payer's invoice is calculated using the fee tariff data for all the fee-blocks to which it belongs, according to its permission to conduct regulated activities. Some firms submit their tariff data in Section J of the Retail Mediation Activities Return (RMAR) and the Mortgage Lending and Administration Return (MLAR).
- 2.5 Where we do not otherwise have the information we need for charging FSA fees and levies for the FOS and the FSCS, we write to firms to request it. Tariff data requests are sent to firms in January and, for 2009/10 fees and levies, must be completed and returned by 28 February 2009. Where firms do not return their tariff data in response to our written request, we are able to bill them for fees and levies using an estimated figure and we charge a £250 administrative fee.

## **Variation/cancellation of Part IV permission**

- 2.6 Firms are allocated to FSA fee-blocks based on the regulated activities they have in their permission. A periodic fee is payable for each fee-block that a firm falls into, whether or not it actually carries on the activities concerned. Firms must pay at least the minimum fee for each fee-block, subject to any discounts or deductions.

**We do not refund periodic fees if a firm applies to reduce the scope of its Part IV permission<sup>7</sup>, or cancel it altogether, once a new fee period has started (in this case, 1 April 2009 – 31 March 2010). So any firm that wishes to vary its permission to narrow its scope, or cancel it altogether, must submit its written application to us in time for us to receive it before 1 April 2009 – otherwise it will be liable for 2009/10 periodic fees on the basis of its previous scope of permission.**

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7 Part IV Permission to carry on regulated activities, FSMA 2000

**Table 2.1: Fees timetable for 2009/10 periodic fees and FSCS/FOS levies**

Date (2009)	Event	Description	Action needed by firms	Reference in this paper
Throughout the year	Tariff data collection exercise	Firms that submit the Retail Mediation Activities Return (RMAR) and/or the Mortgage Lending and Administration Return (MLAR) must report fee tariff data once yearly in Section J of those returns.	<ul style="list-style-type: none"> <li>• Check the relevant help texts<sup>8</sup> for the date when Section J data must be submitted in the RMAR/MLAR. The exact date for submission depends on the date of the firm's accounting year end.</li> <li>• When required, complete Section J on the RMAR/MLAR with tariff data and submit by the due date.</li> <li>• For FOS and FSCS levies, mortgage firms and insurance mediation firms can submit tailored income figures on Section J or (if applicable) exemption forms<sup>9</sup>. Exemption forms must be received before 31 March 2009 to be valid for 2009/10 fees.</li> </ul>	Paragraph 2.4-2.5
January	Tariff data collection exercise	We contact all relevant fee-payers with a written request for their tariff data on which FSA, FOS and FSCS fees/levies are based.	<ul style="list-style-type: none"> <li>• Complete and return tariff data sheets by 28 February 2009.</li> <li>• Late returns of tariff data attract an administrative fee.</li> </ul>	Paragraph 2.4-2.5
January – March	Applications to vary or cancel Part IV permissions	Firms that want to vary or cancel their permission must apply now if they do not wish to be liable for the full 2009/10 periodic fees. Firms that apply to cancel after 31 March 2009 will be liable for fees and levies for the full 2009/10 financial year.	<ul style="list-style-type: none"> <li>• Written applications to vary or cancel permissions must be received before 1 April 2009.</li> </ul>	Paragraph 2.6
April	'On account' fee due from higher fee-payers	Firms that paid us periodic fees of more than £50,000 in 2008/09 must pay us 50% of that amount 'on account', towards their 2009/10 fees and levies.	<ul style="list-style-type: none"> <li>• Pay 'on account' invoices no later than 30 April 2009.</li> <li>• Late or non-payment attracts an administrative fee and interest.</li> <li>• Firms that apply from 1 April 2009 to increase the scope of their permission may be liable for an additional periodic fee in 2009/10.</li> </ul>	Paragraph 2.8
June onwards	Invoicing for all other firms	We issue invoices to all firms who do not make 'on account' payments.	<ul style="list-style-type: none"> <li>• Pay invoices within 30 days of receiving them.</li> <li>• Late or non-payment attracts an administrative fee and interest.</li> </ul>	Paragraph 2.9
August	Balance due from 'on account' fee-payers	We will invoice 'on account' firms for the remainder of their 2009/10 periodic fees.	<ul style="list-style-type: none"> <li>• Pay invoices by 1 September 2009.</li> <li>• Late or non-payment attracts an administrative fee and interest.</li> </ul>	Paragraph 2.8

<sup>8</sup> The RMAR and MLAR help texts on Section J (fees) are available at: <http://www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/packs>

<sup>9</sup> The forms for reporting FOS and FSCS exemptions are available on our website at: <http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes/>

## **New joiners**

- 2.7 A firm applying for FSA authorisation during the financial year is liable to pay regulatory fees and levies for the full year pro-rated according to the quarter in which authorisation begins. A firm seeking to increase the scope of its Part IV permission generally pays fees for any additional fee-blocks it falls within as a result of the variation of permission. No periodic fees are payable where the variation of permission means the firm does not enter any new fee-blocks.

## **'On account' fee-payers**

- 2.8 Firms that paid us £50,000 or more in FSA fees in 2008/09 must, by 30 April 2009, pay 50% of their total 2008/09 FSA fees and 100% of their 2008/09 FOS levies. This payment is treated as an 'on account' payment against their 2009/10 fees, which are finalised in May 2009. By 1 September 2009 they must pay the balance of their 2009/10 FSA fees and FOS levies, and 100% of their FSCS levy.

## **Other fee-payers**

- 2.9 We start invoicing firms who paid FSA fees of less than £50,000 in 2008/09 for the full amount of their 2009/10 fees in June 2009. Firms have 30 days from the date of the invoice in which to pay.

## **Late payment**

- 2.10 If a firm does not pay its periodic fee and FSCS/FOS levies by the due date, we will levy a £250 surcharge and, from the due date, start to charge interest on any unpaid fee amount at 5% per annum above the Bank of England's repo rate. Where we do not receive payment, we are able to take civil and/or regulatory action against the firm to recover the debt. In 2008 we took action to cancel the permissions of firms who did not pay their fees and levies; they are no longer entitled to conduct regulated activities as a result.

## **Payment of regulatory fees and levies by instalments**

- 2.11 In response to industry feedback, we facilitated a market solution for firms so that they could pay regulatory fees and levies in instalments. We explained that an instalment payment system would be uneconomical for us to administer as any systems costs and bad debts would, directly or indirectly, have to be met by firms through regulatory fees. In addition, administering credit arrangements is not part of our statutory function and we considered that providing credit to fee payers was likely to be cheaper when done by an organisation whose core activity is financing rather than by us.
- 2.12 Following discussion with several potential credit providers, Premium Credit Limited was chosen by the industry as the company that offered a competitive product and one that would be made available to all authorised firms. The industry also chose to negotiate a three-year deal with Premium Credit Limited as this provided the opportunity to secure enhanced payment terms.

- 2.13 We are independent of this arrangement and have no contract in place with Premium Credit Limited. The current three-year deal has now ended and following the positive feedback of the arrangements, we are keen to ensure that firms will again have the opportunity to pay through an instalment option if they wish. Premium Credit Limited have indicated that they will be interested in providing this facility to firms, however, we are inviting any other credit providers who are interested in this market to come forward with their proposals by 9 March 2009. We will then facilitate a working group, with representatives from the trade associations and the Smaller Businesses Practitioner Panel, to review any proposals. Credit providers will be invited to present their proposals and we will feedback the industry's views in early April 2009.
- 2.14 Credit providers should be aware that any scheme must allow us to receive the full amount of a firm's invoice within our terms of payment. Furthermore, the credit provided should be structured in such a way that it does not adversely affect a firm's capital adequacy calculations.

**We invite potential credit providers who may wish to finance firms' 2009/10 regulatory fees to forward their proposals by 9 March 2009. Proposals should be made in writing and addressed to: The Manager, Revenue Operations, 25 The North Colonnade, Canary Wharf, London, E14 5HS.**

# 3 FSA Annual Funding Requirement (AFR) 2009/10

## Overview

- 3.1 In this chapter, we explain how our 2009/10 Business Plan (published alongside this CP) sets out the activities we propose to undertake in the coming year, together with the budget for resources needed to carry them out. Much has changed within the financial sectors we regulate since we set the budget for 2008/09 and, as a result, we have reprioritised those areas of our work that are more urgent. In response, the budget for 2009/10 is driven by the enhancement of our supervisory processes and our greater focus on executing our core activities effectively, as outlined in Sections One to Four of the Business Plan.
- 3.2 As the economic situation remains volatile and the international regulatory environment continues to evolve, we will retain a level of flexibility within the budget so that we can reassess our priorities and react to emerging risks as the need arises. We are also aware of some externally driven changes to our regulatory scope, which may eventually affect the 2009/10 budget but are not included at this stage, as the full costs of these changes are not known.

## 2009/10 AFR

- 3.3 Our budget for 2009/10 is £415m and this represents the costs of our ongoing regulatory activity (ORA). This is £76.6m (22.6%) higher than the equivalent budget of £338.4m for 2008/09. The original budget published for 2008/09 (£323m) was adjusted during the course of the year. The FSA Board approved an additional expenditure of £13.6m for the Supervisory Enhancement Programme and a required change in accounting treatment from the 'RightSpace' programme (£1.8m), leading to a revised budget of £338.4m.
- 3.4 The AFR is the amount of money that we need to raise from fees. The total amount required to fund our budgeted costs and to allow us to make an appropriate repayment on our borrowings is set out in Table 3.1. The total AFR for 2009/10 is £437.7m, an increase of 36.5% on 2008/09. Table 3.2 gives a fuller explanation of the £117m increase to our AFR by business driver.

- 3.5 In 2007/08, we explained our intention to spend up to £50m over a number of years on a programme of change across the organisation, including upgrading the skills and expertise of our people, staff reorganisation, improving our knowledge management capability and acquisition of additional office space required as part of our accommodation strategy.
- 3.6 We continue to make good progress with this change programme and still expect to complete it by March 2010 within the budgeted £50m. As explained in previous years, this investment will lead to benefits that will be realised over a longer period and will contribute to our move to a more outcomes-based regulatory approach. To avoid passing the whole cost on to fee-payers immediately in a single year, we are spreading the cost of the change programme over a number of years by borrowing funds, when necessary, and recovering that cost in fees over a period of up to ten years, thereby timing the cost to firms to coincide with the benefits. Consistent with our approach over the last two years, we have included £5m in the 2009/10 Annual Funding Requirement to cover this expenditure.

**Table 3.1: Comparison of the budgeted AFRs for 2009/10 and for 2008/09**

	2009/10 £m	2008/09 £m	Change £m	Change %
<b>Budget for ongoing regulatory activity (ORA)</b>	415.0	323.0	92.0	28.5
<b>Funding the transition to more outcomes-focused regulation</b>	5.0	5.0	-	-
<b>Movement in reserves</b>	4.1	(7.3)	11.4	n/a
<b>Recovery of 2008/09 expenditure on improved supervisory activities.</b>	13.6	0	13.6	n/a
<b>AFR total</b>	<b>437.7</b>	<b>320.7</b>	<b>117.0</b>	<b>36.5</b>

**Table 3.2: Explanation of movements in AFR by business driver**

	£m
<b>AFR 2008/09</b>	<b>320.7</b>
Recovery of 2008/09 expenditure on improved supervisory activities	13.6
Ongoing increased expenditure on improved supervisory activities (which includes increased Enforcement activity)	57.2
<i>Subtotal of expenditure on supervisory activities</i>	<i>70.8</i>
Increased technology and property infrastructure for expanded FSA operations	12.0
Additional contingency	9.1
Other operational costs	9.4
Other financial adjustments (including pension and reserves movements)	15.7
<b>TOTAL MOVEMENTS IN AFR</b>	<b>117.0</b>
<b>AFR 2009/10</b>	<b>437.7</b>

# 4 Allocation of 2009/10 AFR to fee-blocks

- 4.1 In this chapter, we set out the general principles that we apply when we allocate costs over fee-blocks. These are:
- where reasonable to do so, we will attribute costs (including an appropriate share of overheads) to fee-blocks based on the firm-specific activities we undertake in each fee-block;
  - where it is possible to identify regulatory activities that, while not firm-specific, can be associated with particular fee-block(s), we will allocate the costs of these activities (including an appropriate share of overheads) to those fee-block(s); and
  - we will allocate non-firm-specific costs (including an appropriate share of overheads) for activities that cut across many fee-blocks (for example those related to our work on financial capability) to fee-blocks in proportion to the costs that have been attributed to fee-blocks on the two bases described above.
- 4.2 Although the cost allocation is inherently imprecise (as it involves assumptions about future events), we are confident that the results of the allocation are a materially accurate reflection of how we currently intend to deploy our resources over the fee-blocks in 2009/10. However, our objectives require us to respond to circumstances as they develop and it is likely that the actual use of resources will differ from that assumed in the cost allocation. Where this proves to be the case, we will take any difference into account in setting fees for 2010/11.

## **Comparison with 2008/09 AFR allocation**

- 4.3 As stated in Chapter 3, we propose to raise an AFR of £437.7m in 2009/10, which is 36.5% higher than that published for 2008/09. Table 4.1 sets out the allocation of our 2009/10 AFR by fee block and compares it to that of 2008/09.
- 4.4 Generally, many of the fee-blocks reflect increases in AFR close to the overall increase. However, some are above this general trend. This is mainly a result of the allocation of the ongoing increased expenditure on improved supervisory activities which is directly targeted at the higher impact firms. The higher impact firms are primarily in fee-blocks A.1 (Deposit acceptors), A.2 (Home finance providers and administrators) and A.10 (Firms dealing as principal).

## **SABRE Alternative Instrument Identifier (AII)**

- 4.5 In 2009/10 we will implement the next phase of the SABRE II programme. Implementation of the programme will help increase our capability to detect and pursue insider dealing, complementing other initiatives to enhance our fight against market abuse. This next phase of work will deliver the capability to process transactions using the AII, which is necessary to complete our compliance with our Markets in Financial Instruments Directive (MiFID) obligations under the new European rules and guidance.
- 4.6 Firms affected are those reporting transactions in securitised derivatives to us in accordance with SUP 17 and market operators who provide facilities for trading in securitised derivatives. Fee rates for these firms appear in FEES 4 Annex 9. In the remainder of this CP we refer to these firms as fee-block A.20.
- 4.7 We are continuing to work with the industry to identify an appropriate means of funding this project targeted on the firms benefiting from this initiative. Table 4.1 assumes that we will levy a periodic fee to a new fee-block (A.20) set up in 2008/09 for this purpose. We will allocate periodic fees specifically to this fee-block and any potential over or under-spend in this area will be charged or refunded only to fee-payers within fee-block A.20.
- 4.9 The new group of fee payers was created as a result of the exceptional nature of the SABRE AII development and in recognition that affected firms have a particular interest in how the project is conducted. In CP08/02<sup>10</sup> we proposed that these firms be located in a new A.20 fee block.
- 4.10 P08/12<sup>11</sup> proposed that fees for SABRE AII will be payable over five years, beginning in 2007/2008. This corresponds to the life of the information system investment. We stated that £0.7m would be recovered from all affected firms in 2008/2009, which has occurred. In 2009/10 we will be recovering £2.2m. Further details on our plans for recovery of future costs are included in Chapter 5 paragraphs 5.12 to 5.14.

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10 [http://www.fsa.gov.uk/pubs/cp/cp08\\_02.pdf](http://www.fsa.gov.uk/pubs/cp/cp08_02.pdf) at 9.14

11 *Regulatory fees and levies – Rates proposals 2008/09 and feedback on CP07/19*

**Table 4.1: Proposed allocation of the AFR to fee-blocks for the period from 1 April 2009 to 31 March 2010**

Fee-block	Budgeted ORA Costs £m	Recovery of 2008/09 Costs £m	AFR 2009/10 £m	AFR 2008/09 £m	AFR variance
A.1	105.3	10.3	115.6	59.3	94.9%
A.2	10.3	0.8	11.1	6.3	75.8%
A.3	21.1	1.2	22.4	18.1	23.7%
A.4	52.8	1.1	53.9	44.2	21.9%
A.5	1.3	0.0	1.3	1.0	35.4%
A.6	1.5	0.3	1.7	1.3	34.2%
A.7	33.4	0.5	34.0	31.5	7.9%
A.9	6.3	(0.1)	6.2	5.9	3.8%
A.10	25.2	2.0	27.2	16.1	69.1%
A.12	24.8	2.2	27.0	21.2	27.6%
A.13	48.2	2.3	50.5	43.9	15.0%
A.14	8.1	0.2	8.3	6.8	22.1%
A.18	12.6	1.0	13.7	11.3	21.2%
A.19	40.8	0.5	41.2	34.4	19.7%
A.20*	2.1	0.1	2.2	0.7	216.1%
B	5.6	0.1	5.6	4.6	23.9%
C	1.3	0.2	1.5	1.5	3.7%
D	0.1	0.1	0.2	0.2	-20.2%
E	12.7	(0.6)	12.1	10.4	16.3%
F	1.4	0.2	1.6	1.6	-2.1%
G	0.1	0.3	0.4	0.4	0.2%
<b>TOTAL</b>	<b>415.0</b>	<b>22.7</b>	<b>437.7</b>	<b>320.7</b>	<b>36.5%</b>
*Applicable firms are included in FEES 4 Annex 9					

# 5 Periodic fees for authorised firms

*(FEES 4, draft rules are in Appendix 2)*

- 5.1 This chapter sets out our proposals for the 2009/10 periodic fees of authorised firms (the A fee-blocks) who form the majority of our fee-payers.
- 5.2 Proposals for the fees payable by other bodies (such as listed issuers of securities and designated professional bodies) are in Chapter 7 of this paper.

**The periodic fees proposals in this chapter require responses by 6 April 2009**

## **Proposed periodic fee rates 2009/10**

- 5.3 Setting periodic fee rates for 2009/10 requires three sets of data to be analysed together:
  - the allocation of fee-payers to fee-blocks as at 1 April 2009;
  - the allocation of the 2009/10 AFR to fee-blocks; and
  - tariff data from each fee-payer for use when calculating 2009/10 fees (generally based on the fee-payer's activity in, or reported in, 2008 or as at 31 December 2008).
- 5.4 The final fee rates for 2009/10 will also be affected by any difference between our actual costs and fee income for 2008/09, compared to what we expected when we set the 2008/09 fee rates. Any difference will not be fully quantified until after our year-end accounts have been audited.
- 5.5 Because all this data is not yet available to us, the periodic fee rates we are consulting on in this CP are to some extent based on assumptions and estimates. Table 5.1 sets out the data we have used to calculate the proposed periodic fee rates in this consultation.

**Fee-payers should be aware that this means that the final rates for 2009/10 – which will be made by our Board at its May 2009 meeting – could vary materially from those in this paper.**

**Table 5.1: Summary of data used to estimate 2009/10 periodic fee rates for consultation**

Fee-block	Tariff base	2009/10 (Proposed data, using estimates of 2009/10 fee-payers and tariff data)			2008/09 (Actual 2008/09 data applied to final 2008/09 fee rates)		
		AFR £m	No. of fee-payers	Tariff base	AFR £m	No. of fee-payers	Tariff base
A.1	Modified eligible liabilities	115.6	892	£3,235.5bn	59.3	912	£3,035.0bn
A.2	Number of mortgages or other home finance transactions	11.1	379	6.8m	6.3	378	9.1m
A.3	Gross premium income Gross technical liabilities	22.4	407	£45.4bn £103.9bn	18.1	413	£52.7bn £109.8bn
A.4	Adjusted gross premium income Mathematical reserves	53.9	286	£73.3bn £754.1bn	44.2	289	£78.8bn £873.7bn
A.5	Active capacity	1.3	65	£16.0bn	1.0	66	£16.0bn
A.7	Funds under management	34.0	2,371	£3,201.7bn	31.5	2,361	£3,852.9bn
A.9	Gross income	6.2	705	£5.4bn	5.9	682	£6.2bn
A.10	Traders	27.2	486	9,837	16.1	502	10,559
A.12	Relevant approved persons	27.0	1,872	72,137	21.2	1,876	73,319
A.13	Relevant approved persons	50.5	6,974	41,192	43.9	6,893	40,430
A.14	Relevant approved persons	8.3	941	5,647	6.8	973	6,198
A.18	Annual income	13.7	7,491	£1.3bn	11.3	7,749	£2.2bn
A.19	Annual income	41.2	16,039	£13.8bn	34.4	16,514	£15.3bn
A.20*	Volume of Contracts	2.2	88	1,884.7m	0.7	110	1,977.9m

\*Applicable firms are included in FEES 4 Annex 9

## Key changes to minimum fees and fee rates

- 5.6 Over the past few years we have been mindful of the cost of regulation to smaller firms and sought to keep our minimum fees at or below inflation. We therefore propose to freeze minimum fees at 2008/09 levels – approximately 10,000 small firms will see a net reduction in their FSA fees as a result of the proposed freeze on minimum fees and the reduction arising from the return of financial penalties.

- 5.7 As part of our process to simplify the fee-charging structure, we have reduced the number of charge bands in all but one fee-block, while still maintaining the flexibility to weight costs towards the appropriate firms where additional costs are being incurred.
- 5.8 As stated in Chapter 3, our AFR has increased by £117.0m. A significant part of the AFR increase is due to the on going increased expenditure on improved supervisory activities which, in the main, affects the higher impact firms. Other increased operating costs include: recovery of 2008/09 expenditure on improved supervisory activities; increased technology and property infrastructure for expanding our operations; additional contingency; and other financial adjustments (including pension and reserves movements).
- 5.9 We have allocated our costs in line with the cost allocation principles and the general increase in our overheads has been applied across all charge bands within the fee-blocks. The ongoing increased expenditure on our improved supervisory activities has been allocated to the main fee-blocks in which the higher impact firm's fall. The firms most affected fall under fee-blocks A.1 (Deposit acceptors), A.2 (Home finance providers and administrators) and A.10 (Firms dealing as principal).
- 5.10 Our expectation is that most firms, provided that their business has moved in line with our market expectations, will see fee increases that are very different to the increase in fee rates. For example, a firm in A.18 (Home finance providers, advisers and arrangers) with annual income of £3.0m in 2008/09, in charge band two where rates have increased by 122% will see an increase in fees of approximately 21% if its annual income has fallen by 40% (our current assumption). After deduction of financial penalties the increased cost to the firm will be approximately 15%.
- 5.11 We encourage firms to use our online fee calculator to see the amounts they are likely to pay in 2009/10 based on their actual tariff data and the draft fee rates that we are proposing. Further details of how to access the calculator are provided in paragraph 1.11 in Chapter 1. As stated earlier, the final fee rates may differ when we have the final population of fee-payers and confirmed tariff data.

### **Cost recovery for the development of SABRE AII (A.20)**

- 5.12 We are confirming that fees are payable for SABRE AII development costs for a period of five years. Fee-block A.20 (FEES 4 Annex 9) will only be valid until 31 March 2012.
- 5.13 It is likely that the SABRE AII system will continue running beyond 31 March 2012. In this case, depreciation and running costs will fall within the costs of our ongoing regulatory activity. Any surplus reserves from fees paid before this time will contribute to these costs.
- 5.14 We currently estimate that the development and running costs of SABRE AII for the period between 1 April 2009 and 31 March 2012 will be £8.8m. We propose that in each of the remaining four annual funding requirements, £2.2m will be recovered from firms paying fees under fee-block A.20. However, the final build and running costs will not be known until some time during the 2010/2011 AFR. When these costs are known we will review the overall amount to be recovered for the 2011/2012 AFR.

Q1 Do you have any comments on the proposed 2009/10  
FSA fee rates for authorised firms?

Please send your response by 6 April 2009.

# 6 Applying financial penalties 2009/10

- 6.1 This chapter sets out our proposed 2009/10 allocation of financial penalties received in 2008/09 to authorised firms (the A fee-blocks) and UKLA fee-payers (the E fee-block).
- 6.2 In some cases, enforcement action can result in a financial penalty being imposed on a person under the Financial Services and Markets Act 2000 (FSMA). Under FSMA we are required to apply those penalties for the benefit of authorised persons, except those for breaches of the Listing Rules, which must be used to benefit issuers of securities. Our policy for applying financial penalties to the benefit of fee-payers is published in Annex 4 of our Consolidated Policy Statement (PS08/5 ) on fees and levies.

## **Effect of 2008/09 penalties on 2009/10 fees**

- 6.3 In 2007/08 we changed our policy of returning financial penalties to fee-payers. As a result, enforcement fines are offset against the costs of a case in the fee-block(s) where the costs arose. The remaining funds are returned to all authorised firms (with the exception of the firm that was fined) in proportion to their respective contributions to the AFR.
- 6.4 Table 6.1 shows the allocation of penalties received so far in 2008/09, across the A (authorised firms) and the E (issuers of listed securities) fee-blocks. We will confirm the final 2009/10 penalty deductions to fees in the Policy Statement to this paper, in May/June 2009.

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12 *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)*

**Table 6.1: Penalties to be applied for the benefit of authorised persons and issuers of securities in 2009/10 – comparison with 2008/09**

Fee-block	2009/10			2008/09	
	AFR (£m)	Penalties to be applied for the benefit of fee-payers (£'000)	Reduction in fee amount payable – see note	Penalties to be applied for the benefit of fee-payers (£'000)	Reduction in fee amount payable – see note
A.1	115.6	6,907	5.9%	853	1.4%
A.2	11.1	661	5.9%	90	1.4%
A.3	22.4	1,337	5.9%	260	1.4%
A.4	53.9	3,222	5.9%	636	1.4%
A.5	1.3	78	5.9%	14	1.4%
A.6	1.7	103	5.9%	18	1.4%
A.7	34.0	2,029	5.9%	452	1.4%
A.9	6.2	369	5.9%	85	1.4%
A.10	27.2	1,679	6.1%	231	1.4%
A.12	27.0	1,615	5.9%	306	1.4%
A.13	50.5	3,018	5.9%	631	1.4%
A.14	8.3	497	5.9%	98	1.4%
A.18	13.7	818	5.9%	163	1.4%
A.19	41.2	2,499	6.0%	495	1.4%
A.20*	2.2	132	5.9%	10	1.4%
B (MTFs Only)	0.3	18	5.9%	0	0.0%
E	12.1	355	2.9%	0	0.0%
Total		25,340		4,343	

\*Applicable firms are included in FEES 4 Annex 9  
Note: The percentage reduction in fee amounts have been rounded down

# 7 Periodic fees for other bodies

- 7.1 This chapter sets out the proposed periodic fees for fee-payers other than authorised firms – for example, collective investment schemes and unauthorised mutuals.

**The proposed fees in this chapter require a response by 9 March 2009 for draft rules in Appendix 1 and 6 April 2009 for draft rules in Appendix 2 and 3.**

**Fee-payers should note that as we do not yet have all the data needed to set periodic fees, the final rates and fees for 2009/10 could vary materially from those in this chapter. Our Board will finalise the 2009/10 fees and fee rates in May 2009 and we will publish final rates in our feedback to this paper, in May/June 2009.**

## Service companies

*(FEES 4 Annex 2R, draft rules are in Appendix 2)*

- 7.2 We propose to increase the 2009/10 fees for these fee-payers by an average of 10%, consequent to the additional deployment of front-line supervision resources. Their fees are shown in the table below:

**Table 7.1: Periodic fees for service companies**

Organisation	Proposed 2009/10 fee £	Actual 2008/09 fee £	Variance
<b>Service companies</b>			
- Bloomberg LP	40,000	37,000	8.1%
- EMX Co Ltd	30,000	27,000	11.1%
- LIFFE Services Ltd	30,000	27,000	11.1%
- OMGEO Ltd	30,000	27,000	11.1%
- Reuters Ltd	40,000	37,000	8.1%
- Swapswire Ltd	30,000	27,000	11.1%
- Thomson Financial Ltd	30,000	27,000	11.1%

## Collective investment schemes

*(FEES 4 Annex 4R, draft rules are in Appendix 2)*

- 7.3 Collective investment schemes make up the C fee-block. In 2009/10 we are proposing a 3% reduction to the periodic fees for collective investment schemes, as set out Table 7.2. The basic fee is reducing from the 2008/09 level, to £650 for the majority of schemes. The number of funds/sub-funds has increased and therefore more firms fall into the higher charge bands, as a result we have been able to reduce the fee rates.

**Table 7.2: Comparison of 2009/10 proposed fees for collective investment schemes and fees in 2008/09**

Scheme type	Total aggregate number of funds/sub-funds	2009/10 Proposed Fee £	2008/09 Fee £	Variance
ICVC, AUT, Section 264 of FSMA or Section 270 of FSMA	1-2	650	670	-3.0%
	3-6	1,625	1,675	-3.0%
	7-15	3,250	3,350	-3.0%
	16-50	7,150	7,370	-3.0%
	>50	14,300	14,740	-3.0%
Section 272 of FSMA	1-2	2,650	2,730	-3.0%
	3-6	6,625	6,825	-3.0%
	7-15	13,250	13,650	-3.0%
	16-50	29,150	30,030	-3.0%
	>50	58,300	60,060	-3.0%

## Unauthorised mutuals

*(Draft rules in Appendix 3)*

- 7.4 Table 7.3 sets out the proposed 2009/10 fees for unauthorised mutuals. The fees rules for unauthorised mutuals do not form part of our Handbook rules. They are published on our website at: [www.fsa.gov.uk/Pages/Doing/small\\_firms/MSR/](http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR/). A decrease in the number of firms and total assets has resulted in increased rates in the higher charge bands.

**Table 7.3: Comparison of 2008/09 fees and 2009/10 proposed fee rates for unauthorised mutuals**

Total assets (£000)	Proposed 2009/10 fee	Actual 2008/09 fee	Variance
0 - 50	£55	£55	0.0%
> 50 - 100	£110	£105	4.8%
> 100 - 250	£180	£170	5.9%
> 250 - 1,000	£235	£225	4.4%
> 1,000	£425	£415	2.4%

## **Recognised Investment Exchanges and Recognised Clearing Houses**

*(FEES 4 Annex 6R, draft rules are in Appendix 1 and 2)*

- 7.5 The periodic fees for Recognised Investment Exchanges and Recognised Clearing Houses are set on an individual basis for each body, and are payable in two instalments during the year – on 30 April and 1 September.
- 7.6 The table below shows the proposed 2009/10 periodic fees for UK recognised bodies, as compared with 2008/09 levels. There is an average increase of 16% in the fees for UK recognised bodies. During 2008/09 there has been an increase in resources deployed in front-line supervision, following the addition of two clearing houses in 2007/08, which became fully operational towards the end of that financial year.
- 7.7 We propose to increase the periodic fees for Overseas Recognised Investment Exchanges from £25,000 to £30,000 in 2009/10 and for Overseas Recognised Clearing Houses from £55,000 to £60,000.
- 7.8 The actual fees set in 2009/10 as shown in Table 7.4 below take into account any refunds given in relation to the 2007/08 financial year. Some recognised bodies received significant refunds from 2007/08 to set against their 2008/09 fees. This is unlikely to be repeated at the 2008/09 year end. If you have any questions regarding these fees then please contact your relationship manager.

**Table 7.4: Comparison of 2008/09 periodic fees and proposed 2009/10 periodic fees for UK recognised bodies**

Name of UK recognised body	Proposed 2009/10 fee	Actual 2008/09 fee	Variance
Euroclear UK & Ireland Limited	£555,000	£489,000	13%
ICE Futures Ltd	£460,000	£385,000	19%
LIFFE Administration and Management	£650,000	£600,000	8%
LCH.Clearnet Limited	£610,000	£562,000	9%
The London Metal Exchange Limited	£418,000	£369,000	13%
London Stock Exchange plc	£545,000	£539,000	1%
SWX Europe Ltd	£165,000	£164,000	7%
EDX London Ltd	£95,000	£96,000	-1%
Plus Markets plc	£208,000	£154,000	35%
European Central Counterparty Ltd	£365,000	£250,000	46%
ICE Clear Europe Ltd	£390,000	£250,000	56%

## Designated professional bodies (DPBs)

*(FEES 4 Annex 5R, draft rules are in Appendix 1 and 2)*

- 7.9 The proposed AFR for DPBs has reduced by 20.2%.
- 7.10 We set individual periodic fees for each DPB, based on the estimated number of exempt professional firms in each body. Every DPB pays £10,000 in respect of its first exempt professional firm. The balance of the AFR is then distributed proportionally across the remaining exempt professional firms reported by each DPB.
- 7.11 Table 7.5 sets out the proposed 2009/10 periodic fees for each DPB based on the latest available information we have on numbers of exempt professional firms.

**Table 7.5: Comparison of periodic fees for DPBs**

Name of Designated Professional Body	Proposed 2009/10 fee	Actual 2008/09 fee	Variance
The Law Society of England and Wales	£70,630	£101,970	-30.7%
The Law Society of Scotland	£13,880	£15,890	-12.7%
The Law Society of Northern Ireland	£12,880	£14,220	-9.4%
The Institute of Actuaries	£10,110	£10,160	-0.5%
The Institute of Chartered Accountants in England and Wales	£25,380	£33,720	-24.7%
The Institute of Chartered Accountants of Scotland	£11,280	£12,030	-6.2%
The Institute of Chartered Accountants in Ireland	£10,600	£10,940	-3.1%
The Association of Chartered Certified Accountants	£16,330	£19,600	-16.7%
Council for Licensed Conveyancers	£11,060	£11,720	-5.6%
Royal Institute of Chartered Surveyors	£13,420	£15,010	-10.6%

## UK Listing Authority (UKLA)

*(FEES 4 Annex 7R, draft rules in Appendix 2)*

- 7.12 Table 7.6 summarises the proposed 2009/10 annual fee rates for issuers of securities. The fee rates in Table 7.6 are based on estimates of issuers' market capitalisation as at 30 November 2008. An increase in AFR and a fall in the number of firms have resulted in increased rates in the higher charge bands.

**Table 7.6: Comparison of actual UKLA annual fees 2008/09 and proposed UKLA annual fees 2009/10**

Fee Payable *	Proposed 2009/10		Actual 2008/09		Variance
	Rate	Fee at maximum £	Rate	Fee at maximum £	
£ million of Market Capitalisation					
<b>Minimum fee</b>	n.a.	3,425	n.a.	3,425	0.0%
<b>&gt;100 - 250</b>	24.105600	7,041	15.0660	5,685	23.9%
<b>&gt;250 - 1,000</b>	9.641600	14,272	6.0260	10,205	39.9%
<b>&gt;1,000 - 5,000</b>	5.934800	38,011	2.0050	18,224	108.6%
<b>&gt;5,000 - 25,000</b>	0.150800	41,027	0.03770	18,977	116.2%
<b>&gt;25,000</b>	0.048384	-	0.01008	-	-

\* Issuers solely with a listing of equity securities of an overseas company which is not a primary listing pay 80% of the fee otherwise payable

Q2: Do you have any comments on the proposed 2009/10 FSA fee rates for fee-payers other than authorised firms?

These proposals require a response by 9 March 2009 for draft rules in Appendix 1 and 6 April 2009 for draft rules in Appendix 2 and 3.

# 8 UK Listing Authority (UKLA) – revised vetting and sponsorship fee rates

*(FEES 3.2.5R, FEES 3 Annex 4 and FEES 3 Annex 5, draft rules are in Appendix 1)*

- 8.1 In our capacity as the UKLA this chapter sets out our proposals to:
- increase vetting fee rates; and
  - increase the application fee rate payable by applicants planning to become Sponsors.
- 8.2 These proposals will affect firms in the E fee-block 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 proposed fee rates in this chapter require a response by 9 March 2009**

## Background

- 8.3 In chapter 5 of CP08/18<sup>13</sup>, we consulted on a number of structural changes to UKLA vetting fees and introduced an administration fee for when issuers request changes to the Official List. The overall aim of those proposals was to more closely align the fees levied with the costs incurred by us. The consultation period for CP08/18 closed on the 16 January 2009 and in the light of the responses received and subject to FSA Board approval we will feedback and publish finalised rules in March 2009 to come into effect on 1 April 2009.
- 8.4 Following on from CP08/18 we have undertaken a review of our costs related to UKLA vetting transactions and applicants planning to become Sponsors. We propose to increase the fee rates for all vetting transactions across the board by 10% and increase the Sponsor applicant fee rate from £4,000 to £15,000. This is in line with our general policy that users should pay for regulatory work that is performed for their benefit, rather than being paid for by other fee payers in the same fee-block. These proposals are also planned to come into effect 1 April 2009.

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## **UKLA – vetting fee rates**

- 8.5 Our review has shown that our costs have significantly increased, reflecting in part the increased complexity of the transactions that require vetting. The current vetting fee rates, which have remained unchanged since 2004, will need to be increased to ensure we are able to recover our costs. For 2009/10 we propose to address this shortfall in cost recovery through an across the board increase in vetting fee rates of approximately 10%.
- 8.6 Table 8.1 shows the effect of the proposed increase.

**Table 8.1: FEES 3 Annex 5 Document vetting and approval fees in relation to listing and prospectus rules**

Fee type		Fee amount 2008/2009	Proposed Fee amount 2009/2010
Transaction vetting fees Transaction vetting fees relate to specific events or transactions that an issuer might be involved in during the year.			
Part 1 Fees			
Eligibility	New applicants	£1,300	£1,430
Category 1	Class 1 transactions Listing particulars for Depositary Receipts	£5,700	£6,270
Category 2	Listing particulars for issuers of specialist securities	£2,500	£2,600
Category 3	All other vetting only transactions	£2,500	£2,750
Category 4	Supplementary listing particulars	£500	£550
PART 2 FEES			
Category 1	Equity prospectus Equivalent document referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4) Depositary Receipt prospectus	£5,700	£6,270
Category 2	Equity registration document	£4,000	£4,400
Category 3	Equity securities note and summary Summary document referred to in PR 1.2.3R(8)	£2,500	£2,750
Category 4	Non-equity prospectus or base prospectus (excluding drawdown prospectus or base prospectus) Equivalent document referred to in PR 1.2.2R(2) or (3) or PR 1.2.3R(3) or (4)	£2,500	£2,750
Category 5	Non-equity registration document	£1,750	£1,925
Category 6	Non-equity securities note and summary Summary document referred to in PR 1.2.3R(8)	£600	£660
Category 7	Supplementary prospectus and any document produced in relation to LR16.3.6	£500	£550
Category 8	Drawdown prospectus or base prospectus	£600	£660

- 8.7 We propose to clarify that supplements vetted by us and produced in relation to Exchange Traded Funds are subject to a Category 7 fee. We have therefore amended the definition of Category 7 to make it clear that any documents produced in order to comply with LR 16.3.6 will fall within Category 7.

Q3. Do you have any comments on the proposed increase to the Vetting Fee rates?

These proposals require a response by 9 March 2009

- 8.8 We propose that in future years we will more regularly change vetting fee rates to bring them in line with our costs for undertaking these transactions. We will consult on any proposals to change these fee rates as part of our future fees consultation process.

### **New sponsor application fee**

- 8.9 We are also proposing to increase the application fee rate from £4,000 to £15,000 to bring our fees rates in line with the associated costs of assessing the eligibility of a new applicant seeking admission to the list of Sponsors. This fee is also in line with the London Stock Exchange's fee for new applicant Nominated Advisers. We expect this proposal to impact no more than three Sponsor applicants each year.
- 8.10 Prior to receipt of a formal application and fee, we will enter into a dialogue with the applicant to provide the firm with an indication of its likely success should it proceed to a formal application. The proposed change to the applicant fee rate does not seek to alter this aspect of our working relationship with applicants planning to become Sponsors.

Q4. Do you have any comments on the proposed increase to the Sponsor Application Fee?

These proposals require a response by 9 March 2009

# Section II

## Further fees policy proposals 2009/10

# 9 Special Project Fee – EU Directive implementation costs

- 9.1 In this chapter we provide feedback on responses to our proposal in CP08/18<sup>14</sup> to expand the role of Special Project Fees (SPFs) to recover EU Directive implementation costs. We explained in CP08/18 (Chapter 10) that for these purposes the SPF would fall under our general fee-raising powers in paragraph 17, Schedule 1 of FSMA (General SPF)<sup>15</sup>. We asked whether, in principle, firms agreed that we should use SPFs to recover our EU Directive implementation costs only from the firms affected by a particular Directive. The closing date for responses was 31 December 2008.
- 9.2 All firms are potentially impacted by this chapter given that future EU Directives could apply to them.
- 9.3 In Chapter 10 of this CP we consult specifically on using an SPF to recover Solvency II implementation costs of £4.2m in 2009/10 from only the insurers affected by this Directive. This is in addition to the SPF we consulted on in CP08/18 (Chapter 6) to recover £3.2m in 2009/10 for our Internal Model Approval Process (IMAP) costs relating to Solvency II. This IMAP SPF will be applied to the larger insurers (being a sub-set of the whole Solvency II population), as these firms are likely to seek to use the model approach for most or all of their business, including using group models. We are writing to these firms separately as part of the consultation process. To enable this to be completed we have extended the consultation period to 9 March 2009. Overall we are proposing to recover a total of £7.4m in 2009/10 for Solvency II implementation costs.

## Responses received and our feedback

- 9.4 We received 13 responses (including four Trade Associations). The majority of respondents supported, in principle, expanding the use of SPFs to target recovery of our EU Directive implementation costs from the firms affected by the Directive. We summarise below the responses received and provide our feedback under the five key areas focussed on by respondents.

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15 We also 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”)

- Criteria for using SPFs to recover EU Directive implementation costs.
- Scope, cost and timeframe of an SPF.
- Our internal accounting of SPF costs.
- Impact on periodic fees.
- Modifications of existing EU Directives.

### **Criteria for using SPFs to recover EU Directive implementation costs**

**Received responses:** Respondents questioned whether SPFs should be used to recover costs for every EU Directive and pointing out that in many cases they are likely to impact on all firms in a relevant fee-block. They also noted that it would not be reasonable for larger firms to always be expected to pay for additional work where the overall impact will be on a wider population of firms.

**Our feedback:** We agree with these comments. Our intention is to only use SPFs for recovery of implementation costs where the Directive affects a reasonable sub-set of a fee-block. We will also take account of the significance of the implementation costs relative to the Annual Funding Requirement (AFR) allocated to that fee-block. As discussed in Chapter 10 of this CP the proposals to recover £4.2m Solvency II implementation costs in 2009/10 fit these criteria.

We do not expect larger firms to pay for additional work where the overall impact would be on a wider population of firms. The criteria we set out above for deciding which Directives we propose using an SPF will prevent that from happening. Where a Directive affects all firms in a fee-block (or there is no reasonable size sub-set which is not affected by the Directive) we will recover the implementation costs through the AFR and recover them from across the whole fee-block.

### **Scope, cost and timeframe of an SPF**

**Received responses:** Respondents wanted more detail on what was within the scope of an SPF, the costs and when the implementation period for recovering the SPF costs starts and ends.

**Our feedback:** We agree that the construct of each SPF recovering implementation costs of EU Directives has to be made clear at the time we consult on a particular Directive. We address this for Solvency II specifically in Chapter 10. Similarly for future Directives we intend to do the following.

- State which of our activities fall within the scope of that particular proposed Directive implementation costs recovery SPF and the estimated level of costs we intend to recover in a given financial year. Our expectation is that they will include activities such as reviewing and redesigning our supervisory processes, reviewing and making changes to our business information systems and providing guidance to UK firms to assist their own implementation planning. Although we anticipate this will be different for some Directives.

- Start to recover those costs through an SPF when we anticipate they will be of a level that meets the significance criteria, discussed above, in a given financial year.
- End recovering those costs through an SPF when we anticipate that they will be of a level that no longer meets the significance criteria in a given financial year.

### **Our internal accounting of SPF costs**

**Received responses:** Respondents were concerned that our internal accounting processes would not identify accurately the costs that were specific to the activities that were within scope of a particular Directive SPF. They were also concerned that administering the necessary internal accounting processes would lead to an increase in our costs.

**Our feedback:** The implementation of an EU Directive that would meet the SPF criteria described above is already subject to rigorous budgeting processes, project management disciplines and internal governance structures. These ensure that there is no ‘scope creep’ and that costs are accurately allocated and accounted. There would be no increase in the cost of administering these processes as a direct result of using an SPF.

### **Impact on periodic fees**

**Received responses:** Some respondents expected that by recovering Directive costs through an SPF firms should see a proportionate fall in their periodic fees.

**Our feedback:** The Directive implementation costs are additional costs in any given year. If we do not recover them through an SPF then they will be added to the AFR, allocated to the fee-block that is affected by the Directive and recovered from the firms within that fee-block. By way of illustration, assume that for a given year the Directive implementation costs were the only additional costs within the AFR allocated to a fee-block. If we use an SPF to recover them, the periodic fees for all the firms within the fee-block will remain unchanged from the previous year. There is no proportionate fall in periodic fees resulting from using the SPF. Only the firms affected by the Directive would pay more fees through the targeted SPF. If we do not use a SPF then there would be an increase in periodic fees for all firms in the fee-block including the firms that are not affected by the Directive. Our rationale for using an SPF is that we target the increase in costs and fees to the firms that are affected by the Directive, where the criteria discussed above has been met.

### **Modification of existing EU Directives**

**Received responses:** Respondents asked whether we intended to use SPFs to recover the implementation costs where existing EU Directives are later modified.

**Our feedback:** We will apply the same criteria as described above. If the Directive being modified affects a reasonable sub-set within a fee-block and the costs of implementing the modification are significant then we will propose doing so. We would consult where we propose to use an SPF to recover implementation costs for a specific modification to a Directive for a given financial year.

## Policy outcome

- 9.5 We will adopt as our policy the use of SPFs to target the recovery of the implementation costs for EU Directives. We will propose using an SPF for a specific Directive (or modification to an existing Directive) where the:
- Directive affects a reasonable sub-set within a fee-block to warrant targeting recovery of the implementation costs to those firms only; and
  - implementation costs are estimated to be at a level, relative to the AFR allocated to the impacted fee-block, which would result in a significant increase in periodic fees for firms in the fee-block but are not affected by the Directive.
- 9.6 We will consult on a proposed SPF to recover implementation costs of a particular Directive (or modification to an existing Directive) the year before we propose using it.

# 10 Special Project Fee - Solvency II implementation costs

*(FEES 4, draft rules are in Appendix 2)*

- 10.1 In this chapter, we set out our proposals for a Special Project Fee (SPF) to recover part of our costs relating to the implementation of the Solvency II Directive. These costs cover continued work on putting in place the processes and staff necessary to enable us to progress towards its successful implementation. For 2009/10 these costs amount to £4.2m. This SPF is intended to apply to all the firms in fee-block A.3 (Insurers – general) and A.4 (Insurers – life) that will be affected by Solvency II, including A.6 (The Society of Lloyd’s). A minority of firms in A.3, and A.4 will not be affected by this SPF.

**The proposals in this chapter require a response by 6 April 2009**

## **Outcome of proposals made in CP08/18**

- 10.2 In CP08/18<sup>16</sup> (Chapter 10) we asked whether, in principle, firms agreed that we should expand the role of SPFs to target the recovery of EU Directive implementation costs to firms affected by the Directive. The closing date for responses was 31 December 2008. Most respondents supported this proposal in principle. In CP08/18 we also asked whether, in principle, firms agreed with using a SPF specifically to recover our Solvency II Directive implementation costs. Most respondents also supported this proposal in principle. Most responses made comments that were equally applicable to both proposals. Chapter 9 of this CP provides our feedback on these responses.
- 10.3 We conclude that we will adopt as our policy the use of SPFs to target the recovery of the implementation costs for EU Directives. Where we expect to use an SPF for these purposes we will consult during the year before we propose to use it. In summary when we consult we will state:

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- why the Directive meets the criteria of affecting a reasonable sub-set within a fee-block to warrant targeting recovery of the implementation costs to those firms only;
  - why the implementation costs are estimated to be at a level, relative to the Annual Funding Requirement (AFR) allocated to the impacted fee-block, which would result in a significant increase in periodic fees for firms in the fee-block but who are not affected by the Directive;
  - which of our activities fall within scope of that particular proposed Directive implementation costs recovery SPF and the estimated level of costs we intend to recover in a given financial year;
  - why the implementation costs meet the significance criteria to warrant starting to recover them in a given financial year; and
  - when we expect ending the use of an SPF for recovering the implementation costs for that Directive.
- 10.4 Some respondents made comments that related specifically to using an SPF to recover Solvency II implementation costs. We feed back on those comments below as we explain our proposals for this consultation.
- 10.5 As well as asking for views in principle on using an SPF to recover implementation costs for Solvency II, we also consulted in CP08/18 (Chapter 6) on a proposal to recover £3.2m in 2009/10 for our Internal Model Approval Process (IMAP) costs relating to the Directive. This IMAP SPF will be applied to the larger insurers (being a sub-set of the whole Solvency II population), as these firms are likely to seek to use the internal model approach for most or all of their business, including using group models. We are writing to these firms separately as part of the consultation process. To enable this to be completed we have extended the consultation period to 9 March 2009. Overall we are proposing to recover a total of £7.4m in 2009/10 for Solvency II implementation costs.
- 10.6 For the rest of this chapter we refer to the SPF for recovering the £4.2m Solvency II implementation costs as the non-IMAP SPF.

## **Proposals in this chapter**

### **Criteria for using a SPF for Solvency II Directive**

- 10.7 The Solvency II Directive meets the criteria set out above for using a SPF to recover the estimated £4.2m implementation costs for 2009/10. Approximately 346 (65%) of insurers in fee-blocks A.3 (Insurers – general), A.4 (Insurers – life) plus A.6 (The Society of Lloyd’s) are affected by Solvency II which is a reasonable sub-set of A.3 and A.4 fee-blocks. The £4.2m we are proposing to recover represents 6.5% of the total AFR allocated to these fee-blocks for 2009/10. If we were to allocate this £4.2m to the AFR and recover across all firms within these fee-blocks it would significantly increase the fees of the firms that would be excluded under a SPF arrangement.

## Scope, costs and timeframe of the non-IMAP SPF

- 10.8 The £4.2m costs arise from a number of related work-streams to put us in a position to meet our obligations. These obligations are to work with industry to successfully implement the Directive in the UK, and to ensure that following implementation, we are able to adequately supervise compliance by firms under the Solvency II regime. Respondents who commented on the proposals in CP08/18 asked for a greater breakdown of what activities were within the scope of non-IMAP SPF. In CP08/18 we stated that the following work-streams were in scope together with their project management:
- a review of our existing supervisory procedures and systems, including ARROW 2<sup>18</sup> and then the work of designing and implementing 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 We also stated that in relation to all the above implementation work-streams, we will incur significant costs related to the development and implementation of any required information technology (IT) solutions.
- 10.10 Our preparation for Solvency II is already part of a programme of work which is subject to rigorous budgeting processes, project management disciplines and internal governance structures. These ensure that costs are accurately allocated and accounted. We expect the costs of this programme for 2009/10 to be £4.2m, and as discussed above, meet the criteria for using a SPF. We expand on the in-scope activities referred to above by way of indication of broad areas of resource commitment, rather than by way of exhaustive list, as follows.
- Recruitment of the additional staff required to resource the programme of work which is in addition to resources required for continuing to regulate these firms under the current regime.
  - Change management implications for the supervisory system in terms of structure, process and requirements of the Own Risk and Solvency Assessment (ORSA).
  - Ensuring that post implementation we are able to adequately supervise firms' compliance with Pillar I requirements. In particular, developing new supervisory systems to monitor firms' regulatory capital levels in line with the Solvency Capital Requirement (SCR) and the Minimum Capital Requirement (MCR).
  - Planning of our operating and business model under the Solvency II regime and preparing for new and changed supervisory activities, including new authorisations, de-authorisation, transfers of business, restructuring, merger/acquisition/disposals, waivers and enforcement.

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18 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

- Development of new regulatory reporting forms including development of new, and/or enhanced, IT systems.
  - Development of new supervisory systems for group supervision and the supervision of The Society of Lloyd's under Solvency II.
- 10.11 Regarding the development of new or revising existing supervisory systems (including ARROW 2) respondents asked whether these changes would benefit firms that would not be paying the non-IMAP SPF. We have not yet addressed whether there might be any implications for non-Solvency II firms. However, in the 2009/10 financial year, we do not anticipate any work associated with such changes.
- 10.12 For 2009/10 we plan to begin the in-scope activities from April 2009. The implementation date will be included in the final Level 1 Directive text, upon adoption by the European Parliament and Council. At that time we will be issuing guidance for all firms in accordance with this time horizon. We note there is an element of uncertainty in the timing of European negotiations. The SPF proposed is based on our current understanding of the expected resource commitment in 2009/10. The amount of £4.2m represents the maximum that will be levied in 2009/10.
- 10.13 We anticipate that the level of non-IMAP implementation costs will meet the criteria for using a SPF in 2010/11 and 2011/12 but we will consult on the application of an SPF for the recovery of those costs in February 2010 and February 2011.

### **Identifying firms that are affected by Solvency II**

- 10.14 The non-IMAP SPF is intended to apply only to firms that are anticipated to come within scope as defined by the draft Directive (text dated 26th February 2008). This means that all insurers will be subject to this non-IMAP SPF unless any of the following exemptions apply.
- The firm's annual gross written premium income does not exceed €5 million and the firm's total of technical provisions does not exceed €25 million as set out in Directive article 4.
  - The firm undertakes reinsurance activity and is in run-off by 10 December 2007 as set out in Directive article 12.
  - The firm undertakes reinsurance activity and the firm's activities are conducted or fully guaranteed by government as set out in Directive article 11.
- 10.15 If a firm notifies us before 1 April 2009 that it intends to migrate out of the UK for regulatory purposes before Solvency II is implemented (October 2012, assuming current timetable) they will also be exempt from this non-IMAP SPF. If the firm notifies us during the 2009/10 financial year, they will be subject to pay the non-IMAP SPF.
- 10.16 This is in line with our policy for firms that apply to cancel their permissions. By way of illustration, if they apply before 1 April 2009 we will not levy a periodic fee for 2009/10. However, the cancellation of permissions must become effective (i.e. the firm ceases to be authorised) within three months from the start of 2009/10 – that is

by, 30 June 2009. If it is not effective by that date they will be liable to pay the periodic fee for the whole of 2009/10.

- 10.17 In the case of the non-IMAP SPF the firm is only notifying us of its intention not to be regulated in the UK when Solvency II is implemented. The circumstances that gave rise to the firm making the notification may change and may result in the firm still being regulated when Solvency II is implemented. So we propose that if a firm has made a notification before the 1 April 2009 – and therefore does not pay a non-IMAP SPF in 2009/10 but is still subject to UK regulation at the time Solvency II is implemented – it must pay the SPF it would have paid in 2009/10 if it had not made the notification.
- 10.18 For the purposes of identifying the population of firms that is not exempt from Solvency II (see paragraph 10.14 above) and are therefore subject to the non-IMAP SPF, we propose to set an exchange rate (EUR-GPB) in accordance with the conditions as set out in Directive article 302. This article says – “Where this Directive makes reference to the Euro, the exchange value in national currencies to be used with effect from 31 December of each year shall be the value which applies on the last day of the preceding October for which exchange values for the Euro are available in all Community currencies”. For the indicative non-IMAP SPF rates consulted on in this CP the exchange rate will be as at the 31st October 2007 and for the actual rates to be levied for the 2009/10 this will be the exchange rate as at 31st October 2008.

### **Allocation of non-IMAP SPF**

- 10.19 In CP08/18 we proposed that the £4.2m non-IMAP SPF for 2009/10 would be allocated to the firms affected by Solvency II in proportion to the level of periodic fees they will pay in 2009/10 as part of fee-blocks A.3, A.4, A.5 and A.6. Since this proposal we have considered further the administrative costs of this allocation method which falls outside our normal systems and procedures. We have concluded that it would be more efficient to allocate the non-IMAP SPF using the same tariff base and tariff data that is used to allocate the affected firms periodic fees. So we have added in FEES 4 Annex 2 (see Appendix 2 of this CP) a separate set of non-IMAP SPF fee rates that will apply to the firms subject to Solvency II. Firms can use these rates to calculate the non-IMAP SPF they would pay in 2009/10. Firms will not be able to use the fees calculator referred to in paragraph 1.11 of Chapter 1 for these purposes.
- 10.20 The non-IMAP SPF rates set out in FEES 4 Annex 2 will be based on tariff data for period ending 31 December 2008. The collection of this tariff data will not be complete until 28 February 2009. The rates at this stage are therefore indicative and the final rates for the 2009/10 non-IMAP SPF, which will be made by our Board at its May meeting, could vary materially from those in this paper. This is line with the position for periodic fees as explained in Chapter 5.

Q5: Do you agree that we should use a Special Project Fee (SPF) to target the recovery of our 2009/10 non-IMAP Solvency II implementation costs of £4.2m from only the firms that are affected by this Directive?

Please send your response by 6 April 2009.

# 11 Special Project Fee – refinancing transactions

*(FEES 3 Annex 8, draft rules are in Appendix 2)*

- 11.1 In this chapter we provide feedback on responses to our proposal in CP08/18<sup>19</sup> to expand the role of Special Project Fees (SPFs) to recover our additional supervisory costs where firms undertake a refinancing transaction. We explained in CP08/18 (chapter 10) that for these purposes the SPF would fall under our general fee raising powers in paragraph 17, Schedule 1 of FSMA (General SPF)<sup>20</sup>. We asked whether, in principle, firms agreed with this proposal and the closing date for responses was 31 December 2008.
- 11.2 The proposals in this chapter could affect all firms in the A fee-blocks defined in Part 1 of FEES 4 Annex 1R, except fee-block A.16. Table 11.2 at the end of this chapter lists the applicable fee-blocks.

**The proposals in this chapter require a response by 6 April 2009**

## Responses received and our feedback

- 11.3 In CP08/18 we proposed that a General SPF for refinancing transactions included:
- restructuring of regulatory capital; and/or
  - raising of additional capital; and/or
  - a corporate re-organisation; and/or
  - a merger or a takeover.
- 11.4 We also proposed:
- the amount of the fee will be calculated based on the number of hours our resources are needed, using a standard cost per hour;
  - the fee would include the costs of any external advisers we need to engage;

<sup>19</sup> *Regulatory fees and levies: policy proposals for 2009/10* (October 2008)

<sup>20</sup> We also 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)

- we will fix the fee when the event occurs (the firm needs to undertake a refinancing transaction) but we would not charge a fee where we anticipate our additional costs are less than £50,000; and
  - where the need for a refinancing transaction is to address actual or anticipated inadequate regulatory financial resources and the fee could materially contribute to the firm's financial failure, we will exercise the same discretion we do for firms who have difficulty in paying our fees as invoiced.
- 11.5 We stated that the rationale for using a General SPF for these purposes was the same as for Guidance SPFs (where the firm seeks guidance from us for such transactions and we raise an SPF under our section 157(4) (c) of FSMA). 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.
- 11.6 We received seven responses (including one Trade Association). The majority of respondents supported, in principle, expanding the use of SPFs in this way. More were supportive of using an SPF for a corporate reorganisation, merger or takeover than for restructuring of regulatory capital or raising additional capital. Respondents were also supportive of using a threshold for our costs, below which the fee would not be charged, and the exercising of discretion not to charge the fee where it would contribute materially to a firm's financial failure. We summarise below the responses received and provide our feedback under the three key areas focused on by respondents, which were:
- our rationale for using a General SPF for refinancing transactions;
  - raising additional capital internally within a group; and
  - calculating the fee and our internal accounting.

### **Our rational for using a General SPF for refinancing transactions**

**Received responses:** Respondents questioned our rationale for introducing a General SPF for refinancing transactions where we already have Guidance SPFs. They also noted that the restructuring of regulatory capital and raising additional capital transactions can be instigated by us or are needed as a natural consequence of our rules. These were seen as activities that form part of our normal supervision where the costs should be recovered through our periodic fees. They also believed that these types of refinancing transactions would not require significant supervision resources and therefore recovering the costs for individual firms through periodic fees would not be unfair on other firms in the fee-block.

**Our feedback:** We accept that Guidance SPFs already exist for some and could be applied to cover all the refinancing transactions set out above. The rationale for introducing a General SPF is that it enables us to initiate the fee and require payment where these refinancing transactions are undertaken. With Guidance SPFs we can only charge a fee if the firm specifically asks for our guidance in relation to them. We also accept that the restructuring of regulatory capital and raising of additional capital are activities that form part of our normal supervision where the costs should be recovered through periodic fees. In the vast majority of such transactions, this will be the case and we are not seeking to apply a General SPF to replace periodic fees as the way to recover our supervisory costs for these activities.

Our experience has shown that there are some refinancing transactions undertaken by some firms that draw on an exceptional amount of supervisory resource and other key functions – policy and our internal general counsel. This could be as a consequence of the complexity or innovative nature of such refinancing transactions or the complexity of the firm where it is part of a large UK or international group. These firms pay higher periodic fees and we expect that in most cases our supervision costs for even these complex refinancing transactions will be recovered through periodic fees.

In a minority of these cases, our supervisory costs for refinancing transactions (involving one or more of restructuring regulatory capital, raising additional capital or a corporate re-organisation) are significantly out of proportion to most of the complex refinancing transactions undertaken by a firm that is part of complex UK or international group. This is the point at which we feel it is appropriate to apply our policy of ‘user pays’ rather than recover these exceptional costs through periodic fees applied to all firms within a particular fee-block. The aim of the £50,000 additional costs threshold is to target such refinancing transactions. This should exclude raising a General SPF for refinancing transactions for larger firms as well as small and medium size firms.

### **Raising additional capital internally within a group**

**Received responses:** One respondent was supportive of using a General SPF for raising additional capital, but only where the capital was being raised externally.

**Our feedback:** We agree. Our supervision costs for refinancing transactions, which involve raising additional capital from within the group a firm is part of, do not reach the ‘exceptional’ levels referred to above and we do not believe they will in the future. We therefore propose to limit the use of a General SPF for raising additional capital to those that are raising the capital externally.

We have also given further consideration to situations where a firm is part of a group that is subject to consolidated supervision. We propose to use a General SPF, where additional capital is raised outside the group that is used to finance one or more authorised firm within the group. This again will be subject to the same £50,000 threshold. For reasons stated above we only expect it will be used in this situation in exceptional circumstances.

### **Calculating the fee and our internal accounting**

**Received responses:** Respondents emphasised that, when charging a General SPF for refinancing transactions, we need to have in place accounting systems that can accurately calculate the fee. In addition, where we use third parties, there needs to be a mechanism to agree the scope of work and appropriateness of their fees.

**Our feedback:** We already have robust budgeting processes and governance for managing projects. These include a system that collects time recorded by individuals working on a particular project. Our intention is to use these processes and systems to establish the number of hours worked on a particular refinancing transaction. We are consulting below on the hourly costs for each of the grades of individual likely to work on a particular refinancing exercise and from which key functions. We also consult on the operational process for setting up a General SPF, including where third parties are expected to be involved.

## Proposals in this chapter

- 11.7 Taking account of the responses to CP08/18, we are now consulting on using a General SPF for refinancing transactions.
- 11.8 The refinancing transactions that the General SPF will be applied to include the types listed in paragraph 11.3. We are also now proposing to include transactions that change the structure of - or benefits accruing from - with-profits funds, or attributions and re-attributions of inherited estates.
- 11.9 The fee will be calculated based on the number of hours individuals work on the specific refinancing transactions. The hourly rate will be based on the costs we use for funding our projects internally. These are average staff costs per hour of each grade within each of the key functions that could be involved in a particular transaction. The three key functions are Supervision, Policy and General Counsel and we propose to use an average cost per hour across these functions for each grade. Table 11.1 sets out for these key functions the grades of individual and hourly rates that will be used for General SPF refinancing transactions, which commence from 1 June 2009. We will consult separately when we revise these rates in the future.

**Table 11.1: Hourly rate for areas and grades of individuals within them**

	Supervision, Policy, General Counsel
<b>Administrator</b>	£25
<b>Associate</b>	£50
<b>Technical Specialist</b>	£85
<b>Manager</b>	£90
<b>Head of Department</b>	£135
Notes: (i) Hourly rate is an average across each function for each grade (ii) Any time spent by a Director, a Managing Director or the Chief Executive Officer will be charged at the same hourly rate as a Head of Department	

- 11.10 For refinancing transactions that involve raising additional capital, we will only apply a General SPF where the capital is being raised externally. Where a firm is part of a group and capital is being raised from outside, which will be used to finance one of more authorised firms within the group, we will charge the authorised firm that pays the highest periodic fees (even if it does not receive any of the additional capital raised). We believe that the group is best placed to decide which entity should bear the cost and can re-direct the cost as it feels appropriate.
- 11.11 As with Guidance SPFs, we will write to the firms involved to let them know:
- our intention to charge a General SPF;
  - the expected scale and duration of the transaction; and
  - the costs we expect to incur to complete the transaction.

11.12 Depending on the scale and duration of the refinancing transaction we may ask the firm to make an initial on-account payment at the start of the transaction and monthly or other regular fee payments thereafter until the work is complete. We will discuss these details on a case-by-case basis with the firm at the outset. This will include the extent of any third party involvement and associated costs. Overall, we propose not to charge a fee where we anticipate our additional costs are less than £50,000.

Q6: Do you agree with our proposals for charging a General Special Project Fee (SPF) for refinancing transactions?

Please send your responses by 6 April 2009.

**Table 11.2: A fee-blocks affected by the proposals in this chapter**

	Activity group	
A.1	Deposit acceptors.	Yes
A.2	Home finance providers and administrators.	Yes
A.3	Insurers – general.	Yes
A.4	Insurers – life.	Yes
A.5	Managing agents at Lloyd's.	Yes
A.6	The Society of Lloyd's.	Yes
A.7	Fund managers.	Yes
A.8	No longer used.	N/A
A.9	Operators, Trustees and Depositories of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes.	Yes
A.10	Firms dealing as principal.	Yes
A.11	No longer used.	N/A
A.12	Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both).	Yes
A.13	Advisory arrangers, dealers or brokers (not holding or controlling client money or assets, or both).	Yes
A.14	Corporate finance advisors.	Yes
A.15	No longer used.	N/A
A.16	Pensions review levy firms (Financial Services Compensation Scheme levies only).	No
A.17	No longer used.	N/A
A.18	Home finance providers, advisers and arrangers.	Yes
A.19	General insurance mediation.	Yes

# 12 Payment Services Directive (PSD) – new scope activities

*(Draft rules in Appendix 4)*

- 12.1 This chapter outlines our fees proposals for all firms undertaking or wishing to undertake payment services activities in the UK. These activities will come under the scope of our regulation on 1 November 2009. We are taking this opportunity to outline our proposals for application and periodic fees. We will also provide details for incoming EEA firms and firms that wish to vary their permission for payment services activities. Firms affected will be all firms currently regulated by us (except credit unions) and located in the A.1 fee-block (deposit acceptors), other FSMA firms wishing to undertake payment services activities, and firms that are not yet regulated by us that wish to undertake payment service activities in the UK.

**The proposals in this chapter require a response by 6 April 2009**

- 12.2 The Payment Services Directive (EU) will be implemented in the United Kingdom (UK) by the Payment Services Regulations 2009 (the Regulations). Under the Regulations, we are the competent authority to regulate firms undertaking listed activities. We must levy fees to recover costs incurred setting up the new framework and for ongoing costs, such as supervision.
- 12.3 We are consulting on application fees, variation of permission fees and the tariff base for annual periodic fees in this CP. We also explain our tariff base and our rationale for not charging fees to certain firms. The ongoing regulatory costs that we incur from 1 November 2009 to 31 March 2010 will be recovered in the following year, 2010/11. For non A.1 fee-block firms they will be apportioned based on the number of registered and authorised firms in 2010/11. This will provide a benefit for firms who wish to avail themselves of the advantages of regulation and register or become authorised early. We will consult on the fee rates in February 2010. Table 1 sets out the application fees and tariff base for all firms. The last section of this chapter will explain the Financial Ombudsman Service fees proposal for Payment Service Providers (PSPs).
- 12.4 We acknowledge the Regulations are a different regime to FSMA, however where possible we have maintained consistency with our existing fees policy. More information on our existing fees policy can be found in our annual Consolidated Policy Statement (PS08/5<sup>21</sup>) published in May 2008.

## **Types of firms covered by the Payment Services Regulations**

12.5 In this chapter, we will refer to the following categories of PSPs:

- small payment institutions (small PIs);
- authorised payment institutions (authorised PIs);
- A.1 (Deposit acceptors) fee-block firms (except credit unions) currently authorised by the FSA;
- financial institutions with deemed PSP authorisation (under Article 88(2) of the PSD);
- small e-money issuers;
- inward pass porting EEA PSPs; and
- the National Savings Bank, Post Office Limited, Bank of England, government departments and local authorities

12.6 Table 12.1 below compares the proposed fees for these firms.

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21 *Consolidated Policy Statement on fee-raising arrangements and regulatory fees and levies 2008/09 – Including feedback on CP07/19, CP08/2, CP08/7 and ‘made rules’*

**Table 12.1: Summary of proposed application fees and tariff base FSA fee regime for PSPs**

Type of firm	Application fee	Minimum annual periodic fee	Tariff base for variable annual periodic fee:
Small PIs*	£500	£400	None
Authorised PIs*# – one or more activities (a) to (e)	£5,000	£400	Income measure
Authorised PIs*# – activities (f) and/or (g) only	£1,500	£400	Income measure
Authorised PIs*# – any activity and more than 5,000 agents on authorisation	£25,000	£400	Income measure
Small e-money issuers	None	£400	None
FSMA firms in A.1 Fee-block (deposit acceptors) except credit unions	None	£400	Modified Eligible Liabilities
National Savings Bank, Post Office Ltd, Bank of England municipal banks, government departments	None	None	None
* Includes newly regulated PSPs and FSA authorised firms not in our A.1 (deposit acceptors) fee-block seeking permission to undertake payment services			
# Financial Institutions seeking deemed authorisation will pay 50% of the otherwise applicable authorisation fee			

### **Application fees for firms seeking to become small PIs or authorised PIs**

- 12.7 In this section we set out our proposal on application fees for small PIs and authorised PIs. PSPs that are neither banks, buildings societies nor e-money issuers and not otherwise exempt must either become authorised as payment institutions or registered as small PIs.
- 12.8 PSPs meeting certain criteria do not have to be authorised but can choose to register as small PIs. One of the criteria is that the threshold volume of payment services transactions in the 12 months preceding the application cannot exceed €3m per

month. We propose the application fee for firms seeking registration as a small PI to be £500. This fee reflects our consideration of complexity and the amount of work we anticipate to register these firms.

- 12.9 Other PSPs will need to apply for authorisation as authorised PIs. There are two dominant factors that affect the complexity and the work required for the authorisation application and therefore the application fee. These factors are the type of activities a firm wishes to undertake, and the number of agents a firm has.
- 12.10 Schedule 1 Part 1, paragraph (a) to (g) of the draft Regulations establishes seven types of payment service activities for which permission is needed from us. A firm seeking permission to undertake activities (f) (money remittance) and/or (g) (consent given by telecommunications, digital or IT device) only will be charged a £1,500 application fee in line with the complexity of the application.
- 12.11 The assessment of systems and controls is only undertaken for applicants seeking authorisation and permission for activities (a) to (e). Firms are required to submit more information and the authorisation process is more complex than for activities (f) and (g). We therefore propose a £5,000 application fee for firms seeking authorisation to undertake these activities.
- 12.12 To recover costs we incur registering agents, we propose that firms with more than 5,000 agents will pay a £25,000 application fee, regardless of the type of activities for which they are seeking authorisation. We anticipate very few applicants will have more than 5,000 agents; the majority are anticipated to have fewer than 100 agents. If a significant number of agents are required to be placed on our register during the application process, we want to ensure our costs are recovered. There will be no charge for firms adding or removing agents after the application.
- 12.13 Firms in A.1 fee-block are exempt from registration and authorisation requirements under the Regulations. We will therefore not levy any application fees.
- 12.14 The Regulations provide that financial institutions undertaking payment services before 25 December 2007, who would otherwise be required to become authorised, can notify us and apply for deemed authorisation. Overall, the complexity of the notification process is less than application for authorisation since less information is required from the firm. However, the complexity of the notification process, like the authorisation process, is dependent on the type of activities a financial institution wishes to undertake and the number of agents it has. We propose that financial institutions applying for deemed authorisation through the notification process pay a fee which is equal to 50% of the authorisation fee they would otherwise be required to pay.
- 12.15 Certified small e-money issuers appear on our register but are not subject to FSMA supervision. These firms will be automatically entitled to provide payment services and will not be charged an application fee.
- 12.16 EEA firms passporting into the UK and UK firms passporting outwards will be exempt from application fees in accordance with current fees rules. Our proposal for A.1 firms tariff base appears in paragraphs 12.32 and 12.33.

Q7: Do you agree with our proposed application fees for firms seeking registration and authorisation to undertake payment service activities?

Please send your responses by 6 April 2009

## **Variation of Permission for registered and authorised PIs**

- 12.17 Our existing rules on variation of permission ensure that FSMA-authorised firms pay 50% of the application fee when they apply for authorisation for permissions covered by a different fee-block. Where they are increasing the scope of their permission and remain in the same fee-block a £250 fee is payable. The proposal below aims to maintain consistency with this regime where possible.
- 12.18 The Regulations establish classes of activities subject to oversight by us. An applicant will need to communicate the activities it wishes to undertake and apply for the corresponding authorisation from us. We propose that in a situation where an authorised PI proposes to expand its activities from (f) and/or (g) to include one or more of activities (a) to (e) (Sch 1 Pt 1 of the Regulations) it will pay 50% of the £5,000 authorisation fee. In the case of a payment services institution applying to reduce the scope of its permissions, there will be no fee. This approach is consistent with our existing fees policy.
- 12.19 Where a small PI or authorised PI already has permission for one or more of activities (a) to (e) and wishes to add one or more activities (a) to (g), they will be charged a £250 fee to expand the scope of their permission. Similarly, if a firm has permission for only one of activities (f) or (g) and seeks to add the other activity (f) or (g), a £250 fee will apply.
- 12.20 Where a small PI's activities exceed the €3m threshold (see paragraph 12.7) we propose that they will be required to submit a new application to seek authorisation and the full application fee (dependent on activities) will be applicable. This will not be treated as a variation of permission since the assessment requires substantially more information, and is therefore more complex.
- 12.21 Where a non-A.1 firm is authorised to undertake regulated activities by us, if it applies for authorisation or registration as a PSP, the full application fee will be payable.

Q8: Do you agree with the proposed fees for variation of permission and variation of scope for small PIs and authorised PIs?

Please send your responses by 6 April 2009

## **Tariff base and minimum periodic fees for small PIs and authorised PIs**

- 12.22 In this section we set out our proposal for a tariff base and minimum periodic fees for small PIs and authorised PIs.

- 12.23 We propose that small PIs will pay a flat periodic fee of £400 per year. This fee reflects the level of supervisory effort anticipated and associated overheads, for a firm of this type.
- 12.24 Small e-money issuers will be subject to similar supervision requirements as small PIs. Therefore we propose to levy a minimum periodic fee of £400. We propose new SPIs, APIs and small e-money issuers that apply during the financial year will be levied periodic fees on a quarterly pro-rata basis for their first AFR. We use this approach for other FSMA firms (FEES 4.2.6).
- 12.25 We propose that authorised PIs will pay a minimum periodic fee to cover supervision and overhead costs. This minimum fee will be £400, the same minimum fee for small PIs.
- 12.26 An additional variable periodic fee is also proposed for authorised PIs. We base periodic fees of this type on a common metric or tariff base. We select a tariff base that we consider best represents the size of a business and the likelihood of risks posed to achieving our regulatory objectives. Following research and informal consultation with industry, it is our view that the income of a PSP derived from regulated payment services activities in the United Kingdom, is the most appropriate common measure. The Regulations will provide methods for calculating PSPs' own funds, one of which is Method C which relies on an income measure.<sup>23</sup> We propose to incorporate the four income indicators in Method C in this tariff base. These indicators are:
- interest income;
  - interest expenses;
  - gross commissions and fees received; and
  - gross other operating income.
- 12.27 The European Commission provides definitions of these four indicators in a document on their website.<sup>24</sup> Firms will need to consider this information in order to calculate their tariff base.
- 12.28 In order to calculate periodic fees, we propose that authorised PIs will be required to submit tariff data for income for the financial year ended in the calendar year ending 31 December. We propose that authorised PIs will need to submit this tariff data by 28 February of the following year. This information will be used to calculate fees for the upcoming AFR beginning 1 April. We expect to invoice firms in September. This is the same approach we take for FSMA firms.
- 12.29 We expect a non-linear relationship between firms' income and the likely impact on our regulatory work. Therefore, to calculate a firm's final periodic fee we will propose banding and different rates for different levels of income in a future consultation.
- 12.30 We propose to use the same tariff base for authorised PIs for inward passporting EEA firms that we propose for UK authorised PIs and we propose to apply a percentage discount on periodic fees.<sup>25</sup> This is done for existing FSMA firms since

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23 Payment Services Directive (Article 8) and the draft Payment Services Regulations (Schedule 3, Part 2, section 18)

24 European Commission, Your questions on PSD: Payment Services Directive 2007/64/EC at p111. [http://ec.europa.eu/internal\\_market/payments/docs/framework/transposition/faq-2008\\_12\\_18\\_en.pdf](http://ec.europa.eu/internal_market/payments/docs/framework/transposition/faq-2008_12_18_en.pdf) The EC updates FAQ periodically and this website may change.

supervisory responsibilities are split between the home and host states; in this case we will supervise conduct of business (COB) but will not be responsible for regulation of prudential requirements and monitoring compliance with authorisation conditions. We will consult on the percentage discount in our February 2010 Fees CP alongside fee rates for PSPs. There will be no extra periodic FSA fees for UK firms passporting outwards.

- 12.31 If an authorised PI does not comply with notice to submit tariff data by the due date fees will be levied using tariff data that is a multiplication of the previous year's valuations of its business by 1.10. There will also be an additional £250 administration fee. If in this case the combined total of the administration fee and periodic fee does not surpass the minimum fee of £650, the amount of £650 will be payable.
- 12.32 If it is too costly for an authorised PI to identify income from its UK business it may to use tariff data based on its total income.
- 12.33 We propose that recently established authorised PIs can make projections in line with the policy for FSMA firms proposed in CP08/18<sup>26</sup> Chapter 2. The only anticipated policy difference arises from the fact that it is likely applicants will already be undertaking activities in the UK that will soon be regulated. Projections for fees purposes can therefore be based on these figures.

Q9: Do you agree with the proposed tariff base and minimum periodic fees for small PIs and authorised PIs?

Please send your responses by 6 April 2009

## Tariff base for A.1 fee-block FSMA firms

- 12.34 We consider that all firms already authorised under FSMA and allocated to the A.1 fee-block will provide payment services by virtue of their part IV permission. For the regulation of payment services we propose that A.1 firms will be subject to a periodic fee based on the existing A.1 fee-block tariff data they already submit. Credit unions are exempt from the Regulations and will not be levied fees. The tariff base for the A.1 fee-block is Modified Eligible Liabilities (MEL) and bandings for MELs are set out in FEES 4 Annex 1 Part 2. We propose to use the same tariff base in the A.1 fee-block for existing authorised A.1 firms as we believe it provides a reasonable proxy for the level of payment services activities undertaken by these FSMA firms. This approach also reduces the administrative costs to firms and ourselves as we do not need to collect a different type of tariff data from these firms. There will be a minimum fee for payment services for applicable A.1 firms of £400.
- 12.35 A.1 (except credit unions) firms will therefore be subject to two tariff rates in order to calculate their total periodic fees. One is the tariff rate that currently applies to the A.1 fee-block, the second will be the proposed tariff rate to recover costs for those PSPs allocated to the A.1 fee-block. This tariff rate will be consulted on in our February 2010 Fees CP. There will be no application fees for A.1 firms.

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25 Policy Statement PS08/5 at 7.12 has more details.

26 *Regulatory fees and levies: policy proposals for 2009/10* (October 2008)

Q10: Do you agree with our proposed tariff base for A.1 fee-block firms in relation to their payment services?

Please send your responses by 6 April 2009

- 12.36 We propose that incoming EEA firms paying fees under the A.1 fee-block and not authorised under an EEA state's equivalent of the Regulations will pay an additional periodic fee for their UK payment services activities. This fee will be based on the firm's MELs and modified by a percentage deduction to fees which would otherwise be payable if the firm was UK authorised. This approach is consistent with our existing arrangements for incoming EEA firms. We will consult on the percentage deduction in February 2010.

**Application and periodic fees for municipal banks, credit unions, the National Savings Bank, Post Office Limited, Bank of England, government departments and local authorities**

- 12.37 Certain bodies will be exempt from authorisation and registration requirements and therefore application fees. These are municipal banks, the National Savings Bank, Post Office Limited, Bank of England, government departments and local authorities. Credit unions are entirely exempt from the Regulations.
- 12.38 Of these, municipal banks and the National Savings Bank will be exempt from requirements set by our COB rules. This means they are exempt from our supervision for payment services. We therefore propose not to levy periodic fees for these firms.
- 12.39 The Post Office Ltd (PO) must comply with our COB rules for payment services but it does not carry out payment services in its own name and at its own responsibility to any significant extent - it acts generally as an agent for another firm. The principal firm is responsible for the manner in which the PO carries out such services and it is that firm which will be subject to our supervision. Accordingly, there is no justification for charging a periodic fee to the PO any more than there is for any other agent. However, we will reconsider this issue if the PO should cease acting as agent and start to do significant payment services business in its own name.
- 12.40 The Bank of England must comply with COB rules when it is not acting in its capacity as a monetary authority or carrying out other functions of a public nature. We understand that the Bank of England does not carry out a material amount of payment services in such capacity. As a result we propose not to recover periodic fees from the Bank of England.
- 12.41 Government departments and local authorities are subject to COB rules if they are not carrying out functions of a public nature. We are currently not aware of any government departments or local authorities undertaking such activities and, as a result, we do not expect them to do so on a large scale in the future. We are proposing not to levy periodic fees for these departments and authorities.

Q11: Do you agree with our proposal not to levy application or periodic fees for municipal banks, credit unions, the National Savings Bank, Post Office Limited, Bank of England, government departments and local authorities?

Please send your responses by 6 April 2009

### **Recovery of set-up costs**

- 12.42 We are taking this opportunity to provide information on set-up costs we will incur for our payment services regime. We currently estimate these costs to be £6 million and will be recovered from both FSMA and non-FSMA fee paying PSPs in scope of the Regulations as a part of their periodic fees. We will review the allocation of these set up costs when we have a better understanding of the number and type of firms that become registered or authorised. We plan to recover these costs over a three to five year period commencing in 2010/11. The recovery of these costs will be reflected in the fee rates that we will consult on in the future.

## **Payment services fees proposal for the FOS**

### **Background**

- 12.43 CP08/14 proposed the extension of the compulsory jurisdiction of the FOS to PSPs<sup>27</sup>. We are now consulting on the funding arrangements for the FOS in this CP.
- 12.44 The FOS budget is covered by a combination of a general levy on all firms and a case fee charged on individual firm complaints handled by the FOS (though the first three cases per firm per year are free).
- 12.45 Details of the proposals for the FOS general levy for 2009/10 are set out in Chapter 16 of this CP. The FOS is consulting separately on the level of its case fee for the year. This section of the CP sets out proposals on how PSPs will contribute to the general levy. We propose that case fees should be charged in the normal way.
- 12.46 The FOS general levy is calculated on the basis of industry funding blocks, which are generally based on our fee blocks. Each industry block has its own tariff base, which is used to determine an individual firm's contribution to the general levy. There is a minimum levy for individual firms in each industry block, with no maximum limit. Firms are allocated individual levies on a 'straight line' basis, i.e. their levy increases uniformly in line with the amount of 'relevant business' transacted by the firms.

### **Proposals**

- 12.47 Many firms offering payment services are already authorised by us and are subject to the compulsory jurisdiction of the FOS, including for their payment service activities. These firms already contribute to the funding of the FOS through the general levy and will continue to do so through their existing industry blocks.

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27 *Implementation of the Payment Services Directive – changes to the FSA Handbook*, August 2008

- 12.48 However, we will need to make separate arrangements for PSPs coming into our regulation for the first time as a result of the implementation of the PSD. We propose to establish a new block for these firms, to be called '11 – Fee paying payment service providers'. This block will cover businesses providing payment services for the first time, as well as consumer credit firms providing payment services, as they will move from the consumer credit jurisdiction of the FOS. It will exclude firms in any other industry block.
- 12.49 This approach mirrors that proposed by us which groups newly authorised PSPs in the same fee-block. It is also in line with our general principle that firms should contribute to the costs of the FOS in a fair and equitable way with minimal cross subsidy, based on regulated activity.

Q12: Do you agree that there should be a separate industry block for payment service providers?

Please send your responses by 6 April 2009

### **Tariff base and levy**

- 12.50 The tariff base is the measure used to calculate each firm's share of any general levy. In practice, we use a size of business proxy for the potential impact of any firm.
- 12.51 We are proposing that the tariff base for authorised PIs should be based on the same income measure as for our fees. This is in line with the general principle that FOS tariff bases should follow our tariff bases as far as possible. However, the amount charged in levy will not reduce as the level of income increases, since the likelihood of making use of the FOS generally increases in line with the size of the business.
- 12.52 For smaller PIs and small e-money issuers we propose to charge a flat fee of £75 a year.

Q13: Do you agree with the proposal that the FOS tariff-base should be based on income for authorised PIs and on a flat fee basis for small PIs and small e-money issuers?

Please send your responses by 6 April 2009

### **Arrangements for the 2009/10 financial year and the 2010/11 financial year**

- 12.53 FOS coverage for PSPs will begin on 1 November 2009 and firms will become liable for FOS case fees and the general levy from that date. However, while case fees will be collected from the beginning of this period, once firms have used up their three free cases, we will not collect the general levy for the remaining five months of 2009/10 until the 2010/11 year.
- 12.54 FOS will keep under review the proposal to offer free cases to firms that do not pay a levy in 2009/10, depending on the caseload.

# 13 Insurance Special Purpose Vehicles (ISPVs)

*(FEES 4 Annex 1 Part 2, A.3 and A.4, Fees 3 Rule 3.2.7 (p), draft rules in Appendix 2)*

- 13.1 This chapter sets out our proposal for changing the tariff base for firms ceding risks to ISPVs. We are proposing changes to the A.4 (insurers – life) periodic fee-tariff base and a new fee for waivers associated with ISPVs. Firms affected by this proposal are UK authorised ISPVs and firms allocated to A.3 and A.4 fee-blocks which have ceded or will cede risks to ISPVs, whether the ISPVs are UK authorised or otherwise.

**The proposals in this chapter require a response by 6 April 2009**

## Background

- 13.2 The Reinsurance Directive (RID) enabled Member States to allow an authorisation and supervision regime for ISPVs. This regime was implemented on 31 December 2006 following consultation in CP06/12. A policy statement was published in Chapter 8 of CP06/16 and further feedback was provided in Handbook Notice 59. The regime allowed insurers and reinsurers to cede risks to ISPVs, which a handful of firms have done in order to take advantage of tax benefits. The initial fees policy for ISPVs was consulted on in Chapter 4 of CP06/10. We are now taking this opportunity to update our fees regime to reflect our experiences in regulating the firms involved.
- 13.3 One consideration we have in setting fees is the resources expended by us to supervise or process applications. For ISPV applications we have identified the costs attributable to waivers normally sought by firms ceding risks to ISPVs and we now propose to charge waiver fees for insurers ceding risks to ISPVs. On periodic fees, we have reviewed our experience of supervising insurers who have ceded risks to ISPVs and found that our fees regime is inconsistent with the extent of supervisory resources required. As a result, this chapter proposes changes to the method by which fees are calculated for the ceding insurer to bring them more into line with the costs that have been incurred. We also propose to prevent the

allocation of all UK ISPVs to A.4 fee-block (Insurers - life). This is because an ISPV only undertakes reinsurance business which is an activity that fits under A.3 fee-block (general insurers).

## **Resources required to process ISPV authorisations and associated waivers**

- 13.4 We set our authorisation fees taking into account the complexity of the application involved. The current authorisation fee for an ISPV is aligned to the 'moderately complex' band, currently £5,000. We are satisfied that the current authorisation fee for ISPVs is appropriate and satisfies our existing application fee policy (CP08/05, Chapter 8).
- 13.5 However we recognise that our resources authorising and assessing waivers for ISPVs is well above this fee and that a significant amount can be attributed to assessment of waivers applied for by the ceding firm.

## **Charging waiver fees**

- 13.6 Firms ceding risks to ISPVs will need to apply for waivers in order to take full advantage of ceding risks to it.
- 13.7 Waivers granted to firms ceding risks to ISPVs have so far modified INSPRU 1.2.28R and GENPRU 2 Annex 7R, in addition to a consequential reporting modification of IPRU(INS) 9.12R. Modifications have also been granted to INSPRU 1.6.5R to enable the ISPV to count contingent loans or subordinated debt as capital and GENPRU 1.3.9R has been modified for the cedant to avoid double-counting that capital. In the future, it is also possible that waivers to INSPRU 1.1.92A, to reduce the mathematical reserves used to calculate the ceding insurer's minimum capital requirements, may be applied for where an ISPV is externally funded. We anticipate that in future, ceding insurers will apply for waivers for most of the rules above.
- 13.8 In all cases, the ceding insurer or reinsurer applies for these waivers and benefit accrues to the cedant. We note that waivers to modify INSPRU 1.6.5R apply to the ISPVs, but we consider that these benefit the cedant firm by enabling the ISPV to be financed appropriately.
- 13.9 The work involved in processing waiver applications is significant. Substantial time at managerial level in Actuarial, Policy and General Counsel's Division was required for waivers already processed. These cases were then referred to the Regulatory Transactions Committee (RTC) comprising six senior staff. We acknowledge the recent introduction of the ISPV regime and that future cases exhibiting similar characteristics to those already processed will use more resources at associate level and not be referred to the RTC. Keeping this in mind, we anticipate that costs of the resources required by us to process waivers associated with an ISPV application will exceed £20,000.

- 13.10 We strive to achieve a fair allocation of fees within fee-blocks and we consider it fair to recover fees from a defined population of firms that will receive benefits from substantial work done by us. Since waivers associated with ISPVs can be considered inextricable from the ISPV application, we considered incorporating these costs into the application fee. However, the benefits of the waiver accrue primarily to the cedant so it is not appropriate to combine the application and waiver fees. We therefore propose that firms ceding risks to an ISPV will pay a £20,000 waiver fee.

Q14: Do you agree with our proposal to levy a £20,000 waiver fee for firms ceding risks to an ISPV?

### **Periodic fees for ISPVs**

- 13.11 Periodic fees reflect the risks to our statutory objectives posed by groups of firms. Periodic fees are also based on the type of regulatory activities and our supervisory resources applied to address those risks. More information can be found in CP08/05 in Chapter 3.
- 13.12 ISPVs are currently subject to the minimum periodic fee payable for fee blocks A.3 and A.4. In 2008/09 this was £430. The fixed periodic fees were set for ISPVs on the basis that our supervision would be focused on the ceding firm's risk management and how that is reflected in its individual capital assessment. As a result, we anticipated that ISPVs would generally require low levels of direct supervision and there will be no change to the supervision of the ceding insurer. At the time of the introduction of the ISPV regime, our fees policy was not updated to take into account changing tariff base as a result of ceding risks. We are now taking the opportunity to align our fees regime with the supervisory resources for the ceding firm.

### **Periodic fees – A.3 general insurers and A.4 life insurers ceding to ISPVs**

- 13.13 Our experience of supervising existing cedants and ISPVs shows that there has been no decrease in supervisory resources for the ceding firm following the ceding of risks to an ISPV. We also anticipate that firms ceding risks to ISPVs in the future will not be subject to decreased supervision as a result of ceding these risks. From a payment for benefit perspective, we do not regard it as fair that costs for supervision related to a firm's risks are borne by other fee payers in the same fee block, as currently occurs when the cedant is a life insurer ceding risks to an ISPV.
- 13.14 Both general and life insurance firms may cede risks to an ISPV. Insurance firms are allocated to the A.3 fee-block (insurers – general) and the A.4 fee-block (insurers - life). The tariff base for the A.3 fee-block is a combination of gross premium income and gross technical liabilities. There is no change to an A.3 firm's tariff base as a result of ceding risks to an ISPV and appropriate fees are levied.

13.15 Fees in the A.4 fee-block are measured by adjusted gross premium income and mathematical reserves. This means that when a life insurer in the A.4 fee-block cedes risks to an ISPV, its tariff base currently decreases because of the corresponding decrease in its mathematical reserves. We propose that gross mathematical reserves in respect of liabilities of life reinsurers reinsured with an ISPV are therefore included in the value of the liabilities that are used to calculate the cedant's fee tariff data. This would also achieve a consistent approach among life insurers (A.4 fee-block) and general insurers and pure reinsurers (A.3 fee-block) in respect of ISPVs.

Q15: Do you agree with the proposed changes to the A.4 tariff base for firms ceding risks to ISPVs?

Please send your responses by 6 April 2009

# 14 FSA fees policy clarification

*(Fees 4 Annex 1 Part 2, draft rules in Appendix 2)*

- 14.1 In this chapter, we explain proposed amendments to guidance on fee-tariff data that non-investment insurance intermediaries must report. This proposal follows similar clarifications in Chapter 9 of CP08/18 for mortgage mediation. We believe this guidance will help firms in the A.19 fee-block calculate their tariff data more consistently and accurately.

**The proposals in this chapter require a response by 6 April 2009**

- 14.2 In CP08/18 we provided clarification and explanation to mortgage providers on how they should calculate fee-tariff data (annual income) for their mortgage mediation activities (the A.18 fee-block) depending on the distribution channels they use. We did not consult on changes to policy but on guidance aimed to make our fees regime easier to understand. We are now consulting on changes to guidance for insurance mediation activities and not changes to the policy. The proposed changes to the guidance aim to more clearly explain the A.19 fee-tariff base and what type of income we intend firms to take into account.
- 14.3 The explanation of the policy and the revised Handbook text we propose in this section applies to all insurers allocated to A.3 fee-block (insurers - general) fee-block for non-investment insurance business, who are also allocated to the A.19 fee-block. A.19 fees for insurance intermediaries do not apply to contracts of insurance for which the insurer pays a fee under the A.4 fee-block (insurance – life).

## **Purpose of the changes**

- 14.4 We are proposing some additional explanatory notes in the A.19 tariff base to clarify the following. For calculating A.19 tariff data;
- insurers must report tariff data under both Parts (a) and (c) in the A.19 tariff base if they carry out a combination of direct sales and act as intermediaries for other insurers;

- if insurers 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 insurers, and transactions in which insurers involve non-authorised intermediaries (i.e. introducers); and
- insurers reporting in Part (a) should treat a transaction as generating nil income if they either received no remuneration for that transaction, or they paid an amount to an authorised intermediary that exceeds any fee received.

## Background

14.5 General insurers are allocated to the A.3 fee-block for their insurance-arranging activities. They are also in the A.19 fee-block following consultation in CP192 (July 2003), which ensures equal treatment for fees between all insurance intermediaries, whether or not they are also insurers.<sup>28</sup> We are also treating insurers that sell direct in the same way as those selling through intermediaries, so that fees payable for general insurance mediation activity fairly reflect the extent to which all firms are conducting that activity.

### A.19 tariff base – annual income

- 14.6 The A.19 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 insurance 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 insurance mediation activity...’.
  - Part (b): ‘in relation to the activities set out in (a), for any insurance mediation activity carried out by the firm for which it receives payment from the insurer on a basis other than that in (a), the amount of premiums receivable on the contracts of insurance resulting from that activity multiplied by 0.07’.
  - Part (c): ‘if the firm is an insurer, in relation to the activities set out in (a), the amount of premiums receivable on its contracts of insurance multiplied by 0.07, excluding those contracts of insurance which...’.
- 14.7 Part (b) applies to non-monetary remuneration and is not relevant to the issue we are clarifying here.

### A.19 fees for insurance providers

14.8 Part (c) – (the ‘commission equivalent’) – is a substitute for fees/commission and other income related to mediation. It is calculated by applying a multiplier (0.07) to the value of premiums received by most types of its contracts of insurance. We introduced

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28 CP192 *Further consultation on fees for mortgage firms and insurance intermediaries* (July 2003)

the ‘commission equivalent’ for insurers for the same reasons that we did so for mortgage lenders in PS192.<sup>29</sup> The reason is to ensure that A.19 fees are payable for direct selling, as well as advising and/or arranging by intermediaries who are not authorised firms.

- 14.9 It is helpful to recall our policy intention for mortgage intermediaries which the policy for insurance intermediaries is based on. Regarding mortgage lenders, 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.’
- 14.10 It therefore follows that an insurer doing a mix of direct sales and acting as an intermediary would also 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 insurers. The tariff bases in Part (a) and (c) therefore reflect the different distribution channels an insurer can have in insurance business, i.e. combining direct sales, sales through other intermediaries (whether authorised or not) and being an intermediary for other insurers.
- 14.11 In practice, we expect insurers to report most if not all of their A.19 tariff data under Part (c). In transactions where they are acting as intermediary for another insurer or receive income from business generated through FSA-authorised intermediaries, insurers must also complete Part (a) with a figure greater than nil. Just as we propose for mortgage lenders in CP08/18, we are adding a note to the A.19 tariff base in FEES 4 Annex 1R (Part 2) to highlight this to insurers.

### **Direct sales and sales by non-authorised intermediaries**

- 14.12 Part (c) exclusion (i) of the A.19 tariff base states that the commission equivalent excludes insurance contracts that ‘result from insurance mediation activity by another firm, where a payment has been made by the insurer to the firm under (a)’. ‘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 an insurer entering into insurance contracts as a result of both the insurer selling direct and intermediation by a non-authorised firm. If the intermediation is done by an authorised firm, that intermediary will itself report its fees/commission in its own A.19 tariff data, under Part (a).

### **Sales by authorised intermediaries**

- 14.13 Similarly, the ‘net amount retained’ that an insurer reports under Part (a) should exclude any income passed to another authorised firm, as that firm will report the income in its own A.19 tariff data under Part (a). This is stated in Note 2 to the A.19 tariff base: ‘For the purposes of calculating annual income, ‘net amount retained’ means all the commission, fees, etc in respect of insurance mediation activity that the firm has not rebated to customers or passed on to other firms (for example, where there is a commission chain)...’

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29 PS192 *Feedback and made text from CP192* (December 2003)

- 14.14 Insurers have to include in their Part (a) tariff data any fees or commission they have passed on to non-authorized intermediaries. Otherwise the extent of insurance mediation activity between authorized firms in general would not be captured in full.
- 14.15 There is no gap in the fees payable for general insurance mediation activities, between authorized insurance intermediaries and insurance providers. Nor are we double-counting between them, as each sector is paying A.19 fees in respect of its own insurance mediation activities, calculated according to the relevant part(s) of the tariff base.

### **Part (a) – ‘net amount retained’**

- 14.16 We considered whether insurers can deduct income from their A.19 Part (a) tariff data that they choose to pay to their authorized intermediaries, even though the insurers have not received a fee directly from the borrower. In other words, can an insurer (Firm A) net off from its Part (a) tariff data, any fees or commission it paid to an authorized firm (Firm B) if Firm A had not itself received any remuneration from the party to the contract of insurance? This approach would mean Firm A can take account of negative amounts resulting from insurance transactions, for its A.19 tariff data calculation under Part (a).
- 14.17 We do not believe this approach is correct. If a firm (whether insurer or not) in the A.19 fee-block has not itself received a fee from a customer for its insurance advising or arranging, it is not retaining any annual income from that particular transaction. For example, insurers may choose not to charge a fee to the customer, but will nonetheless pay their authorized intermediaries a fee from their own funds.
- 14.18 In this situation, the insurer is making a commercial choice to relinquish payment for entering into the insurance contract. The overall income from the transaction would show as a negative amount to the insurer, but other intermediaries further down in the chain 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 insurance mediation activity across authorized firms, which is the aim of the A.19 tariff base. The A.19 fees would therefore not be fairly distributed between authorized firms, with firms further down in commission chains being penalised.
- 14.19 For this reason, we expect an insurer in the following circumstances (detailed in 14.20) to count the income from an individual transaction as nil when calculating any data reportable in Part (a) of A.19 fee-block.
- 14.20 The insurer is in a commission chain and has either not received a fee from the customer for the contract of insurance or has received a fee from the customer for the contract of insurance and has passed it all to an authorized intermediary.
- 14.21 This applies even though the insurer’s net position in the transaction is a negative amount because it has paid the authorized intermediary a fee exceeding what the customer paid.

14.22 We are adding an explanatory note to this effect in the A.19 tariff base.

Q16: Do you agree with our draft explanatory text in the A.19 tariff base, to clarify the tariff data reportable by home finance providers?

Please send your responses by 6 April 2009

# Section III

## Funding the Financial Services Compensation Scheme (FSCS) 2009/10

# 15 FSCS management expenses levy limit 2009/10

*(FEES 6, draft rules in Appendix 1)*

- 15.1 In this chapter we consult on the FSCS's management expenses levy limit (MELL) for 2009/10<sup>30</sup>. This represents the maximum that can be levied under the rules, not necessarily the amount the FSCS would levy within the coming year. Management expenses are the non-compensation costs that are incurred or are expected to be incurred by the FSCS in connection with its functions. We must set a limit on the amount that can be levied and have to allow the FSCS adequate resources to perform its functions in an efficient and economic way. The levy limit applies from 1 April 2009, which is the start of the FSCS's new financial year to 31 March 2010. The deadline for responses on this limit is 9 March 2009. The draft rule is in Appendix 1.
- 15.2 We only consult on the MELL of the FSCS. The compensation-costs levy, that is the amount levied to pay for valid claims, is determined by the FSCS and is not consulted on. For the latest information on the compensation cost levy, please see the FSCS Plan and Budget 2009/10 published on its website: [www.fscs.org.uk/industry/publications/industry](http://www.fscs.org.uk/industry/publications/industry).

**The FSCS MELL proposals in this chapter require a response 9 March 2009**

## **FSCS MELL 2009/10**

- 15.3 The proposed MELL for 2009/10 is £1bn, comprising of budgeted management expenses of £34.2m; specific deposit-taking default expenses expected to be incurred in the coming year of £645.3m<sup>31</sup> and a reserve contingency of £320.5m (which would only be levied if needed).

30 The legislative basis for the FSCS having a management expenses levy is set out in s223 Financial Services and Markets Act 2000. Chapter 6 of the FEES manual provides further detail, including about the MELL. The management expenses of the FSCS are split into two parts: base costs, which represent the core costs of the FSCS as an organisation, and specific costs, which are the costs directly attributable to carrying out the business of paying compensation. These terms are defined in the Glossary to the FSA's Handbook, which can be found at <http://fsahandbook.info/FSA/html/handbook/Glossary>.

31 The interest rate on the facilities from the Bank of England/HM Treasury is 12 month LIBOR plus 30 basis points. The interest rate is reset at the first of each month using the average of 12 month LIBOR over the preceding five working days. Estimates used within the above figures are based on rates applicable at 31 December 2008. Interest accrued in a financial year is due to be paid by the FSCS on 1 October of the following year.

- 15.4 Last year we originally set the MELL at £30.2m. This included budgeted management expenses of £24.7m and an additional reserve contingency of £5.5m. The 2008/09 MELL was re-examined by the FSA board in September and October and raised to £1bn to reflect costs resulting from the defaults of a number of deposit takers, including Bradford & Bingley, Heritable Bank, Kaupthing Singer & Friedlander and Landsbanki Islands hf 'Icesave' at that time. Since then London Scottish Bank has also been declared in default.
- 15.5 In order to fund the compensation relating to these defaults, the FSCS borrowed from the Bank of England. These loans have either been or are expected to be refinanced by the Treasury. Interest costs on borrowings by the FSCS are classed as a specific cost element of the management expenses, not a regular business cost. This means that the interest costs are attributable only to the class in which the defaults arose, namely the Deposit class. The increased MELL of £1bn in 2008/09 arose from the likely impact of known but unquantifiable increases to the FSCS management expenses (interest payments in particular, where the actual interest rates will continue to fluctuate).
- 15.6 The MELL for 2009/10 will also be £1bn. In setting the MELL consideration has been given to both the continuing interest payments and the need for the FSCS to strengthen its capability in light of recent events. The proposed MELL also includes a sizeable reserve contingency (£320.5m based on current estimates of interest costs) to reflect the uncertainty recognised when the MELL was increased in October 2008. We are satisfied that this represents an acceptable budget for the running of the FSCS in 2009/10.
- 15.7 In practice, the FSCS will not raise all of the funding permitted by the limit, but only its budgeted costs, unless there is a specific event or events that may include a rise in interest costs over the budgeted amount.
- 15.8 Table 15.1 shows how the MELL we are consulting on relates to the amounts that firms are asked to contribute to the FSCS's management expenses.
- 15.9 The tables in this chapter are based on figures as at 15 December 2008, with applicable interest rate changes applied as at 31 December 2008.

**Table 15.1: Overview of FSCS budget information**

	2009/10 Budget £m	Initial 2008/09 Budget £m	Increase/ (Decrease) £m
Regular business costs	25.1	23.8	1.3
Enhanced organisational costs	3.1	-	3.1
Consumer awareness programme	4.0	-	4.0
Project related costs	2.0	0.9	1.1
Total business costs	34.2	24.7	9.5
Plus Specified deposit default costs	645.3	-	645.3
Total management expenses	679.5	24.7	654.8
Reserve contingency within MELL	320.5	5.5	315.0
MELL	1,000.0	30.2	969.8

- 15.10 A breakdown of the budget for 2008/09, the revised forecast for 2008/09 (based on figures to September 2008) and the proposed budget for 2009/10 is provided in Table 15.2.

**Table 15.2: Synopsis of FSCS budget information**

	2009/10 Budget £m	Initial 2008/09 Budget £m	Increase/ (Decrease) £m
Staff and Outsource costs	15.6	15.4	0.2
Accommodation and office services	2.8	3.0	(0.2)
Professional fees (inc audit and tax)	3.8	2.4	1.4
Depreciation	0.7	0.8	(0.1)
IT costs (excluding Strategic Review costs)	0.3	0.7	(0.4)
Other costs (inc FSA Agency costs and PI insurance and Contingency)	1.9	1.5	0.4
<b>Total regular business costs</b>	<b>25.1</b>	<b>23.8</b>	<b>1.3</b>

- 15.11 The figures in Table 15.1 and 15.2 show that regular business costs are expected to increase by £1.3m.
- 15.12 In order to sustain current performance and to be able to respond more effectively, the FSCS need to enhance their organisational and Information Technology (IT) structures. These include strengthening areas such as Risk, Business Contingency Planning and changes to support work on cross border issues and the Banking Reform work.
- 15.13 Addressing growing consumer needs will be an important part of the FSCS's work and a provision of £4m has been allocated to a Consumer Awareness Programme, which was one of the proposals<sup>32</sup> put forward as part of the Banking and Compensation Review (BCR) project, undertaken jointly with us. Project-related costs also include a non-reoccurring provision of £1m relating to another BCR proposal.<sup>33</sup> These are mainly IT costs related to the implementation of a 'single customer view' to facilitate a faster payout in the event of a banking default.
- 15.14 A significant part of operational costs of the FSCS for 2009/10 is the cost of outsourcing. The FSCS continues to use outsourcing facilities to allow flexibility in dealing with fluctuating numbers of claims received and they believe this remains the most cost effective and efficient means of coping with short-term peaks and troughs in workflow.
- 15.15 The events surrounding the specified deposit defaults has required the FSCS to incur an increased level of activity and costs in 2008/09, which are expected to continue in part in the following year and are reflected in the 2009/10 budget.
- 15.16 The reserve contingency is £320.5m for 2009/10. This contingency allows the FSCS to levy additional funds without further formal consultation. A call on the contingency reserve would reflect specific events, which could lead to higher claims and associated costs than anticipated, so it is likely to be widely known. The FSCS has committed to liaise with relevant parties (e.g. the FSA and trade associations) ahead of raising such an additional levy.
- 15.17 The level of reserve contingency requested is not intended to reflect the specific or known costs of future failures, but is indicative of the costs involved in dealing with large defaults within tight timeframes and the uncertainties in the current financial climate. It should also be noted that a 0.25% change in LIBOR rates has an estimated £47m effect on interest costs payable.
- 15.18 Table 15.3 shows current planning assumptions for claims in 2008/09 broken down by type, on which the FSCS has estimated its 2009/10 management expenses.

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32 [http://www.fsa.gov.uk/pubs/cp/JointCP\\_banking\\_stability.pdf](http://www.fsa.gov.uk/pubs/cp/JointCP_banking_stability.pdf) (at 5.18 onward)

33 [http://www.fsa.gov.uk/pubs/cp/JointCP\\_banking\\_stability.pdf](http://www.fsa.gov.uk/pubs/cp/JointCP_banking_stability.pdf) (at 5.66)

**Table 15.3: Assumptions of FSCS claims and output for 2008/09 and 2009/10**

Type of Claim	Received claims		Resolved claims	
	Updated Assumptions 2008/09	Assumptions for 2009/10	Updated Assumptions 2008/09	Assumptions for 2009/10
Mortgage Endowments	4,000	3,000	5,694	3,000
Other Investments (excluding Pacific Continental)	1,550	1,600	1,350	1,750
Other Investments – Pacific Continental	2,400	1,600	1,100	2,900
Mortgage Advisers	100	150	75	150
Pensions review and FSAVC	670	600	795	840
Split Capital	600	50	2,400	140
Insurance Intermediaries	800	800	750	750
Deposits (excluding specified deposit defaults)	3,250	4,250	3,250	4,250
<b>Total<sup>34</sup></b>	<b>13,370</b>	<b>12,050</b>	<b>15,414</b>	<b>13,780</b>

- 15.19 In addition to the received claims shown in the table above, during 2008/09 the FSCS dealt with claims arising from specified banking defaults: 2.5m claims for Bradford & Bingley; 214,000 claims for Landsbanki Islands hf; 10,000 claims for London Scottish Bank; 8,000 claims for Kaupthing Singer & Friedlander and 450 claims for Heritable Bank.
- 15.20 The FSCS believe that overall the volume of claims for 2009/10 will continue to decline in some areas, although claim numbers may become much more volatile and less predictable than in previous years given uncertainties in the current financial climate.
- 15.21 Current projections assume that the FSCS will continue in 2009/10 to make more decisions than the number of claims received and so the outstanding work in progress will reduce.

Q17 Do respondents have any comments on the proposed 2009/10 management expenses levy limit figure?

This proposal requires a response by 9 March 2009.

34 General Insurance claims are measured by number of payments made and amount rather than the number of claims received.

## **Compensation cost estimates for 2009/10**

- 15.22 The FSCS provides an initial indication of its current estimated compensation figures and their related funding through levies in its Plan and Budget for 2009/10. This will be available on its website at: [www.fscs.org.uk](http://www.fscs.org.uk)
- 15.23 The FSCS will confirm its actual levy requirements in early April 2009.

# Section IV

## Financial Ombudsman Service (FOS) general levy 2009/10

# 16 FOS general levy 2009/10

*(FEES 5 Annex 1R, draft rules in Appendix 2)*

- 16.1 In this chapter, we consult on the proposed FOS 2009/10 general levy for firms under the compulsory jurisdiction. In Annex 3 we set out the proposed tariff rates for firms in each industry block. The FOS budget and case fees, and the general levy paid by voluntary jurisdiction firms are subject to the FOS's own consultation.<sup>35</sup>

The FOS general levy proposals in this chapter require response by 6 April 2009

## **FOS funding and budget**

- 16.2 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 us that they are exempt. The case fees are paid by firms that have cases referred to the FOS<sup>36</sup>. Since 2008/09 case fees have only been charged for the fourth and subsequent cases per firm per year. FOS proposes that the number of free cases will remain the same in 2009/10, but to increase the case fee to £500. This is subject to the outcome of the FOS consultation which started in January and ends 23 February 2009.
- 16.3 This chapter discusses the levy on firms that are subject to the FOS's compulsory jurisdiction. However, the total budget figures shown cover all the FOS's jurisdictions. FSMA requires the FOS's budget to distinguish between the compulsory, voluntary and consumer credit jurisdictions<sup>37</sup>. The overall budget requirement of £92.8m is divided between the jurisdictions as follows.

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35 The FOS Corporate Plan and 2009/10 budget was published in January 2009 and is available at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

36 The FSA's power to raise the general levy from authorised firms arises from section 234 of 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.

37 From 6 April 2007 the new consumer credit jurisdiction came into force, for which levy income is collected from consumer credit licensees by the Office of Fair Trading

**Table 16.1: Division of FOS 2009/10 budget across its jurisdictions**

	<b>£'m</b>	<b>%</b>
Compulsory jurisdiction (CJ)	88.3	95.1%
Voluntary jurisdiction (VJ)	0.9	1.0%
Consumer credit jurisdiction (CCJ)	3.6	3.9%
<b>Total</b>	<b>92.8</b>	<b>100%</b>

- 16.4 The overall income budget is expected to rise from £64.4m (the current forecast for 2008/09) to £92.8m in 2009/10, and includes £0.3m to build up the FOS's reserves. Details of expenditure are included in the FOS Corporate LAN and 2009/10 budget, which was published in January 2009 .
- 16.5 The increase is primarily driven by the need to resolve a significantly higher number of cases in 2009/10. The FOS aims to resolve 165,000 cases in 2009/10 compared to a forecast of 115,000 in 2008/09. The higher number is driven by two main factors:
- the need to reduce the wait that some customers are experiencing as a result of the high number of cases in 2008/09; and
  - an expectation that the number of new complaints will rise in 2009/10.
- 16.6 The FOS expects to have approximately 62,000 unresolved cases by the end of the current financial year. While they expected a significant reduction in the number of new cases for 2008/09, mainly due to a fall in the number of mortgage endowment and unauthorised overdraft charge cases, this has been offset by significant increases in other products, relating particularly to credit-card default charges and PPI cases.
- 16.7 The FOS is forecasting significantly higher levels of new complaints in 2009/10 in all areas except PPI, credit card charges and mortgage endowments (at least 150,000 new cases compared to the current forecast of 120,000 new cases in 2008/09, up from a 2008/09 budget of 90,000 new cases). The increases are based on assumptions around the impact of current market conditions on complaint numbers (in particular disputes in respect of lending and investment performance).
- 16.8 Staff costs are a key area of increased expenditure in 2009/10. This includes a mix of directly-employed and outsourced adjudicators. The unit cost budget (defined as the total costs (except financing) divided by the number of case closures) for 2009/10 is £559 (up from £544 forecast in the current financial year).

### **General levy/case fee split 2009/10**

- 16.9 Table 16.2 summarises how the proposals for the next financial year compare with this year's funding of the FOS:

**Table 16.2:** Comparison of FOS funding in 2008/09 and 2009/10

	<b>Proposals for 2009/10 (subject to FOS consultation)</b>	<b>2008/09 Forecast</b>	<b>2008/09 Budget</b>
Budgeted expenditure	£92.5m	£62.7m	£60.0m
Budgeted income	£92.8m	£64.4m	£62.7m
General levy/case fee split	21:79	29:71	30:70
General levy	£17.7m (plus £1.8m to be raised from consumer credit firms).	£17.7m (plus £1.0m to be raised from consumer credit firms).	£17.2m (plus £1.8m to be raised from consumer credit firms).
Case fees	£73.4m	£45.7m	£43.7m
Estimated number of case closures	165,000	115,000	110,000
Case fees	£500	£450	£450
Free cases	Three	Three	Three

- 16.10 It is proposed that the 2009/10 levy will recover 21% of the FOS's income and case fees will recover 79%. This means that firms generating complaints will pay a greater proportion of the FOS costs than firms generating few or no complaints.

### **Tariff rates by industry block**

- 16.11 The draft rules (FEES 5 Annex 1R) are in Appendix 2 to this paper. Annex 3 gives an overview of tariff rates for each industry block in 2008/09 and the proposed rates for 2009/10, so firms can see the comparison.
- 16.12 There is a minimum levy in each industry block and in most cases the levy then increases in proportion to the amount of 'relevant business' (i.e. business done with private individuals) for each firm.
- 16.13 The FOS has calculated the proposed cost of running each industry block, based on the number of case-handling staff it estimates will be needed to deal with the expected number of complaints for that industry block.
- 16.14 Although the proposed overall levy for 2009/10 would be an increase on the budget for 2008/09, the levies for most industry blocks will remain the same and in a number of cases will decrease. The industry blocks where the largest increases in the levy are proposed are Block 1 (Banks, building societies and home finance providers) and Block 17 (General Insurance brokers). This is because the proportion of complaints against firms in those blocks is expected to increase relative to the FOS's

overall caseload. However, it is estimated that nearly 83% of firms liable to pay the levy will only pay the minimum levy for their industry block.

- 16.15 This is due primarily to an increase in current account and mortgage related complaints (Block 1) and complaints about the mis-selling of PPI (Block 17). To reflect the fact that it is primarily the larger firms in Block 17 that sell PPI, a tariff band will be introduced for firms earning £470,000 and above of relevant annual commission income. Block 4 (life insurers) and Blocks 8 and 9 (advisory arrangers, dealers or brokers) will all see a decrease in the minimum levy, due to the fall in the number of mortgage endowment cases. There is a small increase in the flat fee for Block 16 (home finance providers, advisers and arrangers) to reflect the increase in complaints about mortgage intermediation.
- 16.16 The proposed 2009/10 general levy rates compared to 2008/09 tariff rates are shown in Annex 3. The proposed total levy of £17.7m does not include a further £1.8m to be raised as a levy from consumer credit firms. Individual firms can calculate the impact on them of the proposed fees and levies using our online fees calculator, available at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/)
- 16.17 The general levy tariff rates will be finalised in May 2009 for the 2009/10 fee period. Case fees are set by the FOS and approved by us, following approval of the FOS 2009/10 budget by us in March 2009. They will come into force on 1 April 2009.

Q18: Do you have any comments on the proposed 2009/10 FOS general levy rates?

This proposal requires a response by 6 April 2009]

## The supplementary levy

- 16.18 The requirements on firms to pay annual fees and case fees to fund the operation of the FOS include provisions for a supplementary levy towards the costs of establishing the FOS.<sup>39</sup>
- 16.19 The supplementary levy has not been charged since 2002/03, as in that year the FOS was able to write off the remaining establishment costs from reserves.<sup>40</sup> As they are no longer required, we propose now to remove the provisions for the supplementary levy from the Handbook.

Q19: Do you agree that the provisions in the Handbook for the supplementary levy should be removed?

This proposal requires a response by 6 April 2009

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39 FEES 5.6

40 CP161, December 2002



# Compatibility statement and cost benefit analysis

## 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 our fees and FSCS and FOS levies. Section 155(9) of FSMA (together with paragraph 4(2) (b) of Schedule 7 for the UKLA), exempts us from having to carry out cost benefit analysis on our fees and FOS levies. However, the rule setting the FSCS management expenses levies limit is not exempted from cost benefit analysis, and this analysis on the proposed 2009/10 limit is set out at the end of this annex.

We discuss our Annual Funding Requirement for 2009/10, which these fees proposals aim to recover, in Chapters 3 and 4 of this paper. There is also further information in our Business Plan for 2009/10<sup>1</sup>.

The FSCS Management Expenses Levy Limit (MELL) and indicative compensation costs for 2009/10 are in Chapter 15. The FSCS publishes its plan and budget on its website: [www.fscs.org.uk](http://www.fscs.org.uk).

Chapter 16 and Annex 3 contain details of the FOS’s expected expenditure in 2009/10. The FOS is consulting on its Corporate Plan and 2009/10 budget, available at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

## Compatibility with our statutory objectives

The draft FSA rules we are consulting on here build on our earlier consultations on the policy framework for our funding arrangements, including the proposed fee rates for the next financial year. Therefore we believe that the current proposals are compatible with our general duties in section 2 of FSMA.

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1 *FSA Business Plan 2009/10* (February 2009)

In discharging our general 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 regulatory fees and levies rates 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.

### **FSCS**

The role of the FSCS is, in general, to provide compensation to consumers of financial products when authorised firms are unable to meet their obligations. The existence of a compensation scheme provides a safety net offering protection to consumers, which in turn leads to greater confidence in their dealings with financial firms, benefiting all firms and leading to a stronger financial system.

The proposed FSCS MELL ensures the FSCS has adequate resources to perform its functions for the coming year, including some of the wider functions envisaged by the Banking Compensation Reform proposals.

In setting the MELL, the FSCS must consider both known and unknown demands it might reasonably expect to face in the coming year. Therefore, it is retaining a reserve contingency for the coming year, which should prevent disruption to the FSCS's work if they need to exceed their operating budget for unexpected reasons. The compensation scheme forms part of our consumer protection toolkit and detriment to consumers would result if it was unable to process claims and pay compensation because it was unnecessarily constrained by an inappropriate levy limit.

Setting an FSCS MELL figure has no material significance for the public awareness and the reduction of financial crime objectives.

### **FOS**

The proposals in Chapter 16 relating to the FOS general levy do not alter the structure of the FOS funding arrangements on which we have consulted previously<sup>2</sup>. The considerations taken into account in deciding the proposed FOS funding arrangements are unchanged from previous years, so we do not set them out here<sup>3</sup>.

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<sup>2</sup> See CP74 *Funding the Financial Ombudsman Service* (November 2000) Annex B

<sup>3</sup> See Annex 1 of CP06/2 *Regulatory fees and levies 2006/07* (February 2006), CP208 *Consultation on funding the Financial Ombudsman Service 2004/05* (December 2003)

## **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 our proposals in this CP take account of these principles.

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

Our fee rates are set to recover our costs in carrying out our responsibilities under FSMA and associated legislation. We endeavour to carry out this work in the most efficient and economic way possible, concentrating on areas of activity that pose the greatest degree of risk to our statutory objectives. Further details of our priorities for the forthcoming year are in our Business Plan for 2009/10.

The proposals to clarify our existing policy on fees for general insurance mediation will assist firms in A.3 (Insurers – general) and A.19 (General insurance mediation) to calculate their A.19 tariff data more efficiently and in accordance with our policy intentions. Further details are set out in Chapter 14.

The FSCS is operationally independent, but accountable to us, which means that our resources are not directly involved in these proposals.

Our rules for the FSCS include a similar requirement on them to use their resources in the most efficient and economic way when carrying out their functions. Setting the MELL after public consultation encourages good internal management and effective operating procedures.

### *The principle that a burden to be imposed should be proportionate to the benefits*

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

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

As set out in Chapter 3, our total budget for 2009/10 is £415m. Our Business Plan 2009/10 highlights our priorities for the forthcoming year, based on our overall aim, which is to use a risk-based approach to maintain efficient, orderly and clean financial markets and to help retail consumers achieve a fair deal.

We believe our budgeted expenditure is proportionate, given the scale of the activities needed to address the risks to our objectives that we highlight in our Business Plan and Financial Risk Outlook. Our AFR for 2009/10 is £437.7m, which is 36.5% higher than that published in 2008/09. This increase reflects additional expenditure in 2008/09 and further expenditure to be continued through in 2009/10 is driven by the enhancement of our supervisory processes and our greater focus on executing our core activities effectively, as outlined in Sections One to Four of the

Business Plan. It also reflects the adjustments made for the continuation of our programme of change across the organisation, including upgrading the skills and expertise of our people, staff reorganisation, improving our knowledge management capability and acquisition of additional office space required as part of our accommodation strategy. In 2007/08 we explained our intention to spend £50m over a number of years on this change programme. This investment will lead to benefits that will be realised over a longer period and will contribute to our move to a more outcomes-based regulatory approach.

Our system of cost allocation to fee-blocks, set out in Chapter 4, seeks to ensure that the total fees paid by fee-payers within a fee-block, equals the costs of the resources we allocate to their regulation. Therefore at fee-block level, fees reflect the resource allocation that arises from the process of assessing and prioritising the risks to our statutory objectives. In Chapters 5 and 7 we set out our proposals for reflecting our cost allocation for 2009/10 in the periodic fees for authorised firms and other bodies we regulate.

The following proposals deliver greater consistency between the fees we charge and the costs and complexity of tasks we carry out in fulfilling our statutory functions.

- Our proposals in Chapter 8 for the UK Listing Authority vetting and sponsor application fees, to bring them in line with the costs we incur.
- Our proposals in Chapters 10 and 11 for the use of Special Project Fees (SPFs) for targeting the recovery of our Solvency II Directive implementation costs and our costs when firms undertake significant refinancing transactions to the firms that are affected by, or benefit from, the supervisory work we undertake.
- Our proposals in Chapter 13 for Insurance Special Purpose Vehicles (ISPVs) to target the recovery of our setting up and ongoing supervision costs to the firms who benefit from these arrangements.

Our proposals for the Payment Services Directive (PSD) in Chapter 12 introduce application fees and set out our approach for levying ongoing periodic fees for firms undertaking and wishing to undertake payment services activities in the UK. Under the Payment Services Regulations we must levy fees to recover costs incurred setting up the new framework and for ongoing costs, such as supervision. We have based these proposals on our existing fees policy.

The proposed MELL is designed to allow the FSCS to operate in the next financial year without being unreasonably constrained, while also not imposing an unreasonable financial burden on firms. Without a suitable MELL, the FSCS would not be able to deal with claims efficiently and market confidence would suffer with knock-on detriment to firms.

The FSCS's MELL for this year are substantially larger than previous years as a result of dealing with the recent deposit-taking defaults.

However, it should be noted that the measures described in Chapter 15, whereby the FSCS has borrowed funds from the Treasury with a repayment plan structured over a number of years (with allowance for recoveries in respect of the defaults concerned), has been structured in this way in order to minimise the immediate impact of these defaults. Had these measures not been implemented, the FSCS would have needed to levy a greater amount, which would have placed a disproportionate burden upon the firms concerned. In addition, had decisive action not been taken, confidence would have suffered further, leading to further detriment across the whole financial sector.

The firms affected by the interest costs relating to the banking default all belong to the Deposit class. This is because interest costs are classified as specific costs, which are only attributable to the class in which the defaults arose. Therefore there is no disproportionate effect on firms in other classes. Firms in the Deposit class are charged FSCS levies in proportion to their share of protected deposits.

### *The desirability of facilitating innovation in connection with regulated activities*

Our fee and levy proposals have no significant effect on this principle.

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

When setting our fees, we consider the fact many financial services firms are globally mobile and the level of regulatory costs – both direct (fees) and indirect (compliance costs) – is one influence affecting their decisions about where to locate. By ensuring our fees are proportionate we should limit the extent to which our fees influence those decisions.

We believe the proposals to set a FSCS MELL or FOS general levy rates have no material significance to this principle.

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

Adverse effects on competition may arise if our rules erect unnecessary barriers to market entry, or lead to similar firms being treated differently (or different firms the same).

We believe the proposals to set an FSCS MELL or FOS general levy rates have no material significance to this principle.

### *The desirability of facilitating competition between those subject to our regulation*

Our fees policy can substantially facilitate competition where we set application fees. As explained in our Consolidated Policy Statement (PS 08/5<sup>4</sup>), the level of these fees

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<sup>4</sup> 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)

is set so that the total cost of the application process is shared between those entities applying for authorisation and those that are already authorised. In contrast, we do not believe there are significant opportunities to facilitate competition in setting our periodic fees.

We believe the proposals to set an FSCS MELL or FOS general levy rates have no material significance to this principle.

### *Most appropriate method*

In carrying out 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 the proposals relating to our fees are the most appropriate means of raising the funding requirement to maintain our statutory objectives because they:

- are consistent with and build upon the fee-raising arrangements, which have operated since N2 (1 December 2001 – when the FSA got its powers);
- are strongly influenced by the risk-based approach to achieving our statutory objectives, which we have adopted and set out for 2009/10 in our Business Plan; and
- are compatible with the legal framework provide by both FSMA and our Handbook.

FSMA requires there to be a compensation scheme and for a limit to be set on the amount it can levy firms for management expenses in any period. If no limit were set, the compensation scheme would be unable to operate.

Setting this limit by a rule, following an open consultation period, allows scrutiny of the FSCS's budget proposals by stakeholders and helps encourage good resource management. For the reasons set out in Chapter 15, we believe that the proposed levy limit and contingency margin (which will be set in a proportionate manner) strike the most appropriate balance between ensuring that FSCS has the resources to fulfil its duties and giving firms some certainty about the size of their total contribution in 2009/10. We believe that these proposals are the most appropriate way to meet our objective.

The proposals make no changes to the FOS fees rules other than to the FOS general levy tariff rates and ensure that the FOS continue to operate effectively and efficiently. Our reasons for believing the proposed levies are the most appropriate way of doing this is set out in Chapter 16.

## **Cost benefit analysis**

FSMA requires a cost-benefit analysis comparing the position if the FSCS MELL is set as proposed, with the position if the limit were not set, or set at a lower amount.

- If the limit were not set, the position is clear – the FSCS would be unable to operate.

- If the limit were set at a lower amount than proposed, the FSCS would either not have the resources to deal adequately with the expected number of claims or – in the case of the contingency margins – would have more limited flexibility to deal with unexpected events during the year ahead.

In either case the FSCS's output would be affected to the detriment of consumers, as it could compromise its claims handling. If the FSCS is unable to meet its obligations and consumer protection is undermined then both of the above should be rejected on CBA grounds because the costs (associated with loss of consumer protection) will far outweigh any benefits to firms resulting from reduced levies.

The FSCS's present intention is to operate within its current budget for 2009/10 and not to use the reserve contingency unless consumer detriment would result from its inability to handle necessary additional claims activity by relying solely upon its budgeted operating costs. The need to use the reserve contingency will be kept under review by the FSCS and would also be subject to further advance discussion with relevant parties, including trade bodies, prior to raising an additional levy to fund the reserve contingency.



# List of consultation questions

Consultation questions requiring response	Relevant chapters
Q1: Do you have any comments on the proposed 2009/10 FSA fee rates for authorised firms?	Chapter 5
Q2: Do you have any comments on the proposed 2009/10 FSA fee rates for fee-payers other than authorised firms?	Chapter 7
Q3: Do you have any comments on the proposed increase to the Vetting Fee rates?	Chapter 8
Q.4 Do you have any comments on the proposed increase to the Sponsor Application Fee?	Chapter 8
Q5: Do you agree that we should use a Special Project Fee (SPF) to target the recovery of our 2009/10 non-IMAP Solvency II implementation costs of £4.2m from only the firms that are affected by this Directive?	Chapter 10
Q6: Do you agree with our proposals for charging a General Special Project Fee (SPF) for refinancing transactions?	Chapter 11
Q7: Do you agree with our proposed application fees for firms seeking registration and authorisation to undertake payment service activities?	Chapter 12
Q8: Do you agree with the proposed fees for variation of permission and variation of scope for small PIs and authorised PIs?	Chapter 12
Q9: Do you agree with the proposed tariff base and minimum periodic fees for small PIs and authorised PIs?	Chapter 12
Q10: Do you agree with our proposed tariff base for A.1 fee-block firms in relation to their payment services?	Chapter 12
Q11: Do you agree with our proposal not to levy application or periodic fees for municipal banks, credit unions, the National Savings Bank, Post Office Limited, Bank of England, government departments and local authorities?	Chapter 12
Q12: Do you agree that there should be a separate industry block for payment service providers?	Chapter 12

Consultation questions requiring response	Relevant chapters
Q13: Do you agree with the proposal that the FOS tariff-base should be based on income for authorised PIs and on a flat fee basis for small PIs and small e-money issuers?	Chapter 12
Q14: Do you agree with our proposal to levy a £20,000 waiver fee for firms ceding risks to an ISPV?	Chapter 13
Q15: Do you agree with the proposed changes to the A.4 tariff base for firms ceding risks to ISPVs?	Chapter 13
Q16: Do you agree with our draft explanatory text in the A.19 tariff base, to clarify the tariff data reportable by home finance providers?	Chapter 14
Q17: Do respondents have any comments on the proposed 2009/10 management expenses levy limit figure?	Chapter 15
Q18: Do you have any comments on the proposed 2009/10 FOS general levy rates?	Chapter 16
Q19: Do you agree that the provisions in the Handbook for the supplementary levy should be removed?	Chapter 16

# FOS general levy – overview and industry blocks 2009/10

Industry Block	Description	Tariff basis	Proposed 2009/10 gross tariff rate	Actual 2008/09 Tariff rate	Proposed 2009/10 minimum levy per firm	Actual 2008/09 minimum levy per firm	Proposed 2009/10 gross total	Actual 2008/09 Gross total	Proposed 2009/10 contribution by block	Actual 2008/09 Contribution by block
1	Deposit acceptors, home finance providers and administrators (excluding firms in block 14)	Per relevant account	0.027	0.023	£100	£100	£7,273,594	£6,216,746	41.1%	36.1%
2	Insurers – general (excluding firms in blocks 13 & 15)	Per £1000 of relevant annual gross premium income	0.126	0.126	£100	£100	£3,130,688	£3,140,026	17.7%	18.2%
3	Society of Lloyd's		n/a	n/a	n/a	n/a	£28,000	£28,000	0.2%	0.2%
4	Insurers – life (excluding firms in block 15)	Per £1000 of relevant adjusted annual gross premium income	0.025	0.049	£100	£100	£1,781,063	£3,141,796	10.1%	18.3%
5	Fund managers	Flat fee	0	0	£200	£200	£180,000	£191,400	1.0%	1.1%
6	Operators, trustees and depositaries of collective investment schemes	Flat fee	0	0	£50	£50	£20,000	£21,300	0.1%	0.1%
7	Dealers as principal	Flat fee	0	0	£50	£50	£14,000	£13,300	0.1%	0.1%
8	Advisory arrangers, dealers or brokers holding and controlling client money and/or assets	Per relevant approved person	55	80	£55	£80	£990,094	£1,931,200	5.6%	11.2%
9	Advisory arrangers, dealers or brokers not holding and controlling client money and/or assets	Per relevant approved person	35	40	£35	£40	£990,094	£1,042,480	5.6%	6.1%
10	Corporate finance advisors	Flat fee	0	0	£50	£50	£14,000	£24,500	0.1%	0.1%
13	Cash plan health providers	Flat fee	0	0	£50	£50	£600	£600	0.0%	0.0%
14	Credit unions	Flat fee	0	0	£50	£50	£24,000	£25,350	0.1%	0.1%
15	Friendly societies whose tax exempt business represents 95% or more of their total relevant business	Flat fee	0	0	£50	£50	£3,500	£3,850	0.0%	0.0%
16	Home finance providers, advisers and arrangers	Flat fee	0	0	£65	£60	£470,156	£462,060	2.7%	2.7%
17	General insurance mediation	Per £1,000 of relevant business annual income	0.16	0	£75	£60	£2,780,313	£964,200	15.7%	5.6%
	<b>Total – all blocks</b>						<b>£17,700,101</b>	<b>£17,206,808</b>		

# Location of fees and levy rules and guidance in our 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)

<b>Chapter and annexes</b>	<b>Summary of fees rules and guidance</b>
<b>FEES 1</b>	<b>Application and Purpose</b>
<b>FEES 2</b>	<b>General Provisions</b>
<b>FEES 3</b>	<b>Application, Notification and Vetting fees</b>
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
<b>FEES 4</b>	<b>Periodic fees</b>
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
Annex 10R	Periodic fees for MTF operators
<b>FEES 5</b>	<b>Financial Ombudsman Service Funding</b>
Annex 1R	Annual Fees
<b>FEES 6</b>	<b>Financial Services Compensation Scheme Funding</b>
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](http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR))

# List of non-confidential respondents to CP08/18 – Chapter 10 Special Project Fees<sup>1</sup>

Association of British Insurers

Association of Friendly Societies

AVIVA

AXA

Barclays Bank

British Bankers' Association

Friends Provident Life and Pensions

Lloyd's

London Investment Banking Association

C Narrainen

Openwork

Prudential Assurance

Standard Life

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<sup>1</sup> Chapter 10 was seeking in principle views on the use of Special Project Fees to recover EU Directive implementation costs generally, Solvency II Directive implementation costs in particular for 2009/10 and to recover additional supervisory costs associated with refinancing transactions. Closing date for responses to was 31 December 2008



# Draft rules and guidance for consultation and response by 9 March 2009

## **FEE PROVISIONS (2009/10) INSTRUMENT 2009**

### **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), (1B) 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);
  - (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 on 1 April 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 Fee Provisions (2009/10) Instrument 2009.

By order of the Board  
XX March 2009

## Annex

### Amendments to the Fees manual (FEES)

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

This instrument includes text being consulted on from other draft instruments that form part of the consultation under CP 09/07 or assumes such text in relation to the numbering of certain sections.

...

#### 3 Annex 4 R Application fees in relation to listing rules

##### Part 1

...

##### Part 2

Sponsor Application Fees	
Fee type	Fee amount
Application for approval as <i>sponsor</i>	£ <del>4,000</del> <u>15,000</u>

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

##### Part 1

Fee type		Fee amount
Transaction vetting fees Transaction vetting fees relate to specific events or transactions that an <i>issuer</i> might be involved in during the year.		
Eligibility	New applicants	£ <del>1,300</del> <u>1,430</u>
Category 1	<i>Class 1 transactions</i> <i>Listing particulars</i> for Depositary Receipts	£ <del>5,700</del> <u>6,270</u>

Category 2	<i>Listing particulars for issuers of specialist securities</i>	£2,500 <u>2,600</u>
Category 3	All other vetting only transactions	£2,500 <u>2,750</u>
Category 4	<i>Supplementary listing particulars</i>	£500 <u>550</u>

## 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.

Category 1	Equity <i>prospectus</i> Equivalent document referred to in <i>PR</i> 1.2.2R(2) or (3) or <i>PR</i> 1.2.3R(3) or (4) Depositary Receipt <i>prospectus</i>	£5,700 <u>6,270</u>
Category 2	Equity <i>registration document</i>	£4,000 <u>4,400</u>
Category 3	Equity <i>securities note and summary</i> Summary document referred to in <i>PR</i> 1.2.3R(8)	£2,500 <u>2,750</u>
Category 4	Non-equity <i>prospectus</i> or <i>base prospectus</i> (excluding drawdown <i>prospectus</i> or <i>base prospectus</i> ) Equivalent document referred to in <i>PR</i> 1.2.2R(2) or (3) or <i>PR</i> 1.2.3R(3) or (4)	£2,500 <u>2,750</u>
Category 5	Non-equity <i>registration document</i>	£1,750 <u>1,925</u>
Category 6	Non-equity <i>securities note and summary</i> Summary document referred to in <i>PR</i> 1.2.3R(8)	£600 <u>660</u>
Category 7	<i>Supplementary prospectus and any details produced in a document in relation to LR 16.3.6.</i>	£500 <u>550</u>
Category 8	Drawdown <i>prospectus</i> or <i>base prospectus</i>	£600 <u>660</u>

...

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

Table. Fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	£ <del>70,515</del> £50,985	30 April <del>2008</del> <u>2009</u>
	...	

4 Annex 6 R Annex 6 Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

...

Part 1 – Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK& Ireland Limited	£261,000 <u>£244,500</u>	30 April 2008 <u>2009</u>
ICE Futures Europe Ltd	£177,000 <u>£192,500</u>	30 April 2008 <u>2009</u>
LIFFE Administration and Management	£274,500 <u>£300,000</u>	30 April 2008 <u>2009</u>
LCH Clearnet Limited	£285,500 <u>£281,000</u>	30 April 2008 <u>2009</u>
The London Metal Exchange Limited	£173,500 <u>£184,500</u>	30 April 2008 <u>2009</u>
London Stock Exchange plc	£349,000 <u>£269,500</u>	30 April 2008 <u>2009</u>
SWX Exchange Ltd <u>SWX Europe Ltd</u>	£69,500 <u>£77,000</u>	30 April 2008 <u>2009</u>
EDX London Ltd	£52,000 <u>£48,000</u>	30 April 2008 <u>2009</u>
PLUS Markets Plc	£75,000 <u>£77,000</u>	30 April 2008 <u>2009</u>
European Central Counterparty Limited	£250,000 <u>£125,000</u>	30 April 2008 <u>2009</u>
ICE Clear Europe Limited	£250,000 <u>£125,000</u>	30 April 2008 <u>2009</u>
...		

...

...

6 Annex 1 R Financial Services Compensation Scheme – Management Expenses Levy Limit

This table belongs to FEES 6.4.2R	
Period	Limit on total of all management expenses levies attributable to that period (£)
...	
1 April 2008 to 31 March 2009	£1,000,000,000 provided that £600,000,000 may be recovered in respect of <i>specific costs</i> relating to the declaration by the <i>FSA</i> on 27 September 2008 that Bradford & Bingley plc is <i>in default</i> only.
<u>1 April 2009 to 31 March 2010</u>	<u>£1,000,000,000</u>



# Draft rules and guidance for consultation and response by 6 April 2009

## **PERIODIC FEES (2009/2010) AND OTHER FEES INSTRUMENT 2009**

### **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), (1A), (1C) and (2) (Fees);
  - (2) section 101 (Listing rules: general provisions);
  - (3) section 156 (General supplementary powers);
  - (4) section 157(1) (Guidance);
  - (5) section 234 (Industry Funding);
  - (6) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
  - (7) 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 on 1 June 2009.

### **Amendments to the Handbook**

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.
- F. The Dispute Resolution: Complaints sourcebook (DISP) is amended in accordance with Annex C to this instrument.

### **Citation**

- G. This instrument may be cited as the Periodic Fees (2009/2010) and Other Fees Instrument 2009.

By order of the Board  
XX May 2009

## Annex A

### Amendments to the Glossary of definitions

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

Insert the following new definition in the appropriate alphabetical position.

ceding insurer's waiver (in *FEES*) a waiver granted on the application of an insurer that waives or modifies its obligations under any one or more of GENPRU 2 Annex 7R, INSPRU 1.1.92AR and INSPRU 1.2.28R in order to enable it to:

- (a) treat amounts recoverable from an ISPV as:
  - (i) an admissible asset; or
  - (ii) reinsurance for the purposes of calculating its mathematical reserves; or
  - (iii) reinsurance reducing its MCR; or
- (b) otherwise ascribe a value to such amounts.

Delete the following definition.

supplementary levy (~~in *FEES*) a levy, additional to the general levy, for the purposes of recovering the establishment costs.~~

## Annex B

### Amendments to the Fees manual (FEES)

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

[This draft rules instrument includes text being consulted on from other draft instruments that form part of the same consultation under CP 09/07, or assumes such text in relation to the numbering of certain sections.]

#### Application

1.1.2 R This manual applies in the following way:

(1) *FEES* 1, 2 and 3 apply to:

(a) ...

...

(r) every insurer applying for a ceding insurer's waiver.

...

3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) fee payable	Due date
...		
<u>(za) any firm in any one or more of the A fee-blocks defined in FEES 4 Annex 1R Part 1, except fee-block A.16</u>	<u>Special Project Fee for refinancing in accordance with FEES 3 Annex 8R</u>	<u>30 days of the date of the invoice</u>
<u>(zb) an applicant for a ceding insurer's waiver</u>	<u>£20,000</u>	<u>On or before the date the application is made.</u>

...

3 Annex 1 R Authorisation fees payable

...

Part 2 – Complexity Groupings Straightforward Cases R

...

Moderately Complex Cases R

Moderately Complex Cases	
Activity Grouping	Description
...	
A.3	<i>UK ISPVs</i>
A.4	<i>UK ISPVs</i>
...	

Complex Cases R

Complex Cases	
Activity Grouping	Description
...	
A.3	Insurers - general (excluding <i>friendly societies</i> and <i>UK ISPVs</i> )
A.4	Insurers - life (excluding <i>friendly societies</i> and <del><i>UK ISPVs</i></del> )

...

After FEES 3 Annex 7R, insert the following new Annex. The text is not underlined.

### 3 Annex 8 R Special Project Fee for refinancing

- (1) The Special Project Fee for refinancing (“the SPFR”) is payable by a *firm* if:
  - (a) it falls within any of the A fee-blocks defined in Part 1 of *FEES 4 Annex 1R*, except if it is in fee-block A.16 only;
  - (b) it engages or prepares to engage in the activity set out in (2); and
  - (c) none of the circumstances in (3) apply.
- (2) The activity referred to in (1)(b) involves the *firm* undertaking or making arrangements for any financing mechanism or transaction with a view to any one or more of the following:
  - (a) raising additional capital; or
  - (b) facilitating a large scale restructuring of the *firm* and/or the *group* to which it belongs, including:
    - (i) mergers or acquisitions;
    - (ii) reorganising the *firm*’s or its *group*’s structure; and
    - (iii) *retribution*;
  - (c) any other significant modification of a *firm*’s structure or debt.
- (3) No SPFR is payable where:
  - (a) the amount calculated in accordance with (6) totals less than £50,000; or
  - (b) The *FSA* has given any *guidance* to the *firm* in relation to an activity within (2) and charged for it; or
  - (c) the transaction only involves the *firm* seeking to raise capital within the *group* to which it belongs.
- (4) Where the transaction involves raising capital outside the *group* to which the *firm* belongs, any SPFR in relation to that transaction is only payable by the largest *firm* in that *group*. The largest *firm* is the one that pays the highest periodic fee in the financial year 2009/10.
- (5) The definition of *group* is limited for the purposes of calculating the SPFR to *parent undertakings* and their *subsidiary undertakings*.
- (6) The SPFR is calculated as follows:
  - (a) Determine the number of hours, or part of an hour, taken by the *FSA* in

relation to regulatory work conducted as a consequence of the activities referred to in (2).

- (b) Next, multiply the applicable figure in the table at (9) or the figure in (8), whichever applies, by the number of hours or part hours obtained under (a).
  - (c) Then add any fees and disbursements invoiced to the *FSA* by any *person* in respect of services performed by that *person* for the *FSA* in relation to assisting the *FSA* in performing the regulatory work referred to in (a).
  - (d) The resulting figure is the fee.
  - (e) The number of hours or part hours referred to in (a) are the number of hours or part hours as recorded on the *FSA*'s systems, by *persons* employed by the *FSA*, in relation to the regulatory work referred to in (a).
- (7) The first column in the table at (9) sets out the relevant pay grades of those employed by the *FSA* and the second column sets out the hourly rates chargeable in respect of each pay grade.
- (8) Where any transaction falling within (2) requires work to be conducted by a *person* employed by the *FSA* who is not within any of the pay grades listed in the first column of the table at (9), the applicable rate will be £135 per hour.
- (9) Table of hourly rates:

<i>FSA</i> pay grade	Hourly rate (£)
Administrator	25
Associate	50
Technical Specialist	85
Manager	90
Head of Department	135

...

Amend the following as shown.

- 4.1.6 G The *FSA* will allocate penalties received for the benefit of relevant fee payers by way of a permitted deduction specified in FEES 4 Annex 2 R, ~~or in the case of listed issuers, as notified to issuers annually, for the relevant year.~~



...

4.3.6 R (1) ...

...

- (5) Paragraphs (1) and (2) do not apply to any Solvency 2 fee or Solvency 2 Implementation fee (as defined in Part 1 of *FEES 4 Annex 2 R*) and such fees ~~is~~ are not taken into account for the purposes of the split in (1). Instead any Solvency 2 fee or Solvency 2 Implementation fee is payable on the date specified in (1)(a) or (2) (depending on which applies to the rest of its periodic fee) or any earlier date required by (3) or (4).

...

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

...

Part 2

...

Activity Group	Tariff-base
...	
A.4	ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES
	<del>Except for UK ISPVs:</del> ...
	...
	... <b>Notes:</b> (1) ... (2) ... (3) <del>For UK ISPVs the tariff base is not relevant and a flat fee set out in FEES 4 Annex 2 R is payable</del> <u>an insurer shall include in its calculation of adjusted gross premium income (AGPI) and mathematical reserves (MR) the value of MR and AGPI relating to all risks ceded to ISPVs.</u>
...	

A19	<p>ANNUAL INCOME</p> <p>...</p> <p>Notes on annual income:</p> <p>...</p> <p><u>(5) The same firm may receive income under (a) and (c).</u></p> <p><u>(6) A firm must include in (a) any income it receives from insurance mediation activity carried on by another person with respect to any general insurance contracts or pure protection contracts into which the firm has entered as insurer.</u></p> <p><u>(7) In calculating the net amount retained, a firm may not deduct amounts that it rebates to a person other than another firm, a person falling within the extended definition of firm in Note (4) or the firm's customer.</u></p> <p><u>(8) A firm may only deduct amounts under (a) in calculating its net amount retained if the amount is to be deducted from income that the firm must include under (a). Therefore for example:</u></p> <p><u>(a) if an insurer (Firm A) pays a firm commission for arranging a general insurance contract or pure protection contract under which Firm A is the insurer, Firm A may not take that expense into account in calculating its annual income if Firm A does not receive a fee from the insured or another person in respect of that contract; and</u></p> <p><u>(b) if an insurer (Firm A) pays a firm (Firm B) commission for arranging a general insurance contract or pure protection contract under which Firm A is the insurer, Firm A receives a payment from the insured under that transaction and the amount payable to Firm B exceeds the amount payable by the insured, Firm A may not take that excess into account in calculating its annual income and must instead net the sum payable by the insured to zero.</u></p>
...	

...

Part 1

This table shows the tariff rates applicable to each fee block

(1)	...	
	(a)	...
	(b)	an additional fee calculated by multiplying the <i>firm's</i> tariff base by the appropriate rates applying to each tranche of the tariff base, as indicated (Note 1).
...		
(3)	...	...
<u>Note 1</u>	<p><u>In the case of activity groups A.3 and A.4 there are two tariff rates. The rate in column 1 applies to all <i>firms</i> in their respective fee-blocks. The rate in column 2 relates to the Solvency 2 Implementation fee and <i>firms</i> must determine their obligation to pay this fee by reference to Part 5 of this Annex. The total periodic fee for each of these fee-blocks is determined by adding the amounts obtained under both columns.</u></p>	
Activity Group	Fee payable	
A.1	...	
	£ million of Modified Eligible Liabilities (MELs)	Fee (£/£m or part £m of MELs)
	0 – 0.5	0
	...	
	>10 – 200	<del>24.72</del> <u>31.76</u>
	>200 - 2,000	<del>24.69</del> <u>31.76</u>
	>2,000 - 10,000	<del>24.61</del> <u>31.76</u>
	>10,000 - 20,000	<del>24.43</del> <u>45.74</u>
	>20,000	<del>24.26</del> <u>45.74</u>

	...		
A.2	Minimum fee (£)	525	
	No. of mortgages	Fee (£/mortgage)	
	...		
	51 - 500	<del>4.92</del> <u>8.46</u>	
	501 - 1,000	<del>1.98</del> <u>2.56</u>	
	1,001 - 50,000	<del>1.48</del> <u>2.56</u>	
	50,001 - 500,000	<del>0.51</del> <u>1.46</u>	
	>500,000	<del>0.11</del> <u>0.32</u>	
A.3	<b>Gross premium income (GPI)</b>	<u>Column 1</u> ( <u>General periodic fee</u> )	<u>Column 2</u> ( <u>Solvency Implementation Fee</u> )
	Minimum fee (£)	430	<u>25.04</u>
	£ million of GPI	Fee (£/£m or part £m of GPI)	
	0 – 0.5	0	<u>0</u>
	>0.5 - 2	<del>2,134.95</del> <u>2,461.92</u>	<u>143.35</u>
	>2 - 5	<del>1,983.75</del> <u>2,461.92</u>	<u>143.35</u>
	>5 - 20	<del>1,860.84</del> <u>2,461.92</u>	<u>143.35</u>
	>20 - 75	<del>592.39</del> <u>799.42</u>	<u>46.55</u>
	>75 - 150	<del>519.31</del> <u>799.42</u>	<u>46.55</u>
	>150	<del>73.20</del> <u>104.85</u>	<u>6.11</u>
	PLUS		
	<b>Gross technical liabilities (GTL)</b>	<u>Column 1</u>	<u>Column 2</u>
	Minimum fee (£)	0	<u>0</u>

	£ million of GTL	Fee (£/£m or part £m of GTL)	
	0 – 1	0	<u>0</u>
	>1 - 5	<del>51.03</del> <u>60.30</u>	<u>3.63</u>
	>5 - 50	<del>47.30</del> <u>60.30</u>	<u>3.63</u>
	>50 - 100	<del>43.89</del> <u>60.30</u>	<u>3.63</u>
	>100 - 1,000	<del>13.83</del> <u>18.96</u>	<u>1.14</u>
	>1,000	<del>5.54</del> <u>7.59</u>	<u>0.46</u>
	...		
A.4	<b>Adjusted annual gross premium income (AGPI)</b>	<u>Column 1</u>	<u>Column 2</u>
	Minimum fee (£)	215	<u>10.09</u>
	£ million of AGPI	Fee (£/£m or part £m of AGPI)	
	0 - 1	0	<u>0</u>
	>1 – 50	<del>637.87</del> <u>736.36</u>	<u>34.57</u>
	>50 – 1,000	<del>594.67</del> <u>736.36</u>	<u>34.57</u>
	>1,000 - 2,000	<del>408.20</del> <u>551.76</u>	<u>25.91</u>
	>2,000	<del>280.26</del> <u>378.82</u>	<u>17.79</u>
	PLUS		
	<b>Mathematical reserves (MR)</b>	<u>Column 1</u>	<u>Column 2</u>
	Minimum fee (£)	215	<u>9.73</u>
	£ million of MR	Fee (£/£m or part £m of MR)	
	0 – 1	0	<u>0</u>
	>1 – 10	<del>33.55</del> <u>42.04</u>	<u>1.9</u>
	>10 - 100	<del>30.71</del> <u>42.04</u>	<u>1.9</u>
	>100 - 1,000	<del>20.79</del> <u>22.09</u>	<u>1</u>

	>1,000 - 5,000	<del>14.63</del> <u>22.09</u>	<u>1</u>
	>5,000 - 15,000	<del>11.36</del> <u>14.93</u>	<u>0.68</u>
	>15,000	<del>8.83</del> <u>14.93</u>	<u>0.68</u>
	...		
A.5			
	Minimum fee (£)	580	
	£ million of Active Capacity (AC)	Fee (£/£m or part £m of AC)	
	0 - 50	0	
	>50 - 150	<del>114.91</del> <u>122.49</u>	
	>150 - 250	<del>96.71</del> <u>122.49</u>	
	>250	<del>28.37</del> <u>61.93</u>	
A.6	Flat fee	<del>1,284,725</del> <u>1,725,071</u>	
	<u>PLUS</u>		
	<u>Solvency 2</u> <u>Implementation</u> <u>Flat Fee</u>	<u>£83, 237.24</u>	
A.7	For class 1(C), (2) and (3) <i>firms</i> :		
	...		
	£ million of Funds under Management (FuM)	Fee (£/£m or part £m of FuM)	
	...		
	>10 - 100	<del>50.28</del> <u>58.27</u>	
	>100 - 2,500	<del>16.17</del> <u>14.68</u>	
	>2,500 - 10,000	<del>9.00</del> <u>14.68</u>	
	>10,000	<del>1.02</del> <u>1.80</u>	
	...		

...		
A.9	...	
	£ million of Gross Income (GI)	Fee (£/£m or part £m of GI)
	...	
	>1 – 5	<del>842.83</del> <u>991.25</u>
	>5 – 15	<del>828.57</del> <u>991.25</u>
	>15 - 40	<del>820.36</del> <u>991.25</u>
	>40	<del>809.18</del> <u>978.76</u>
A.10	...	
	No. of traders	Fee (£/trader)
	...	
	3 – 5	<del>2,564.00</del> <u>3,937</u>
	6 – 10	<del>1,852.00</del> <u>2,677</u>
	11 – 50	<del>1,712.00</del> <u>2,677</u>
	51 - 200	<del>1,482.00</del> <u>2,957</u>
>200	<del>1,196.00</del> <u>2,957</u>	
...		
A.12	...	
	No. of persons	Fee (£/person)
	...	
	2 – 4	<del>1,125.00</del> <u>1,232.00</u>
	5 – 10	<del>570.00</del> <u>528.00</u>
	11 – 25	<del>418.00</del> <u>528.00</u>
	26 - 150	<del>221.00</del> <u>275.00</u>
151 – 1,500	<del>167.00</del> <u>275.00</u>	

	>1,500	<del>412.00</del> <u>168.00</u>
	...	
A.13	For class (2) firms	
	...	
	No. of persons	Fee (£/person)
	...	
	2 – 4	<del>1,002.00</del> <u>1,136.00</u>
	5 – 10	<del>978.00</del> <u>1,136.00</u>
	11 – 25	<del>939.00</del> <u>1,136.00</u>
	26 - 500	<del>835.00</del> <u>1,014.00</u>
	501 – 4,000	<del>767.00</del> <u>1,014.00</u>
	>4,000	<del>724.00</del> <u>1,014.00</u>
	...	
A.14	...	
	No. of persons	Fee (£/person)
	...	
	2	<del>1,258.00</del> <u>1,534.00</u>
	3 – 4	<del>1,194.00</del> <u>1,534.00</u>
	5 – 10	<del>1,098.00</del> <u>1,534.00</u>
	11 - 100	<del>1,042.00</del> <u>1,407.00</u>
	101 – 200	<del>729.00</del> <u>1,407.00</u>
	>200	<del>438.00</del> <u>1,407.00</u>
	...	
A.18	...	
	£ thousands of Annual Income (AI)	Fee (£/£ thousand or part £ thousand of AI)

	...	
	>100 - 1,000	<del>5.18</del> <u>9.61</u>
	>1,000 - 5,000	<del>4.33</del> <u>9.61</u>
	>5,000 - 10,000	<del>3.46</del> <u>9.61</u>
	>10,000 - 20,000	<del>2.60</del> <u>8.20</u>
	>20,000	<del>2.18</del> <u>6.87</u>
A.19	...	
	£ thousands of Annual Income (AI)	Fee (£/£ thousand or part £ thousand of AI)
	...	
	>100 - 1,000	<del>4.31</del> <u>4.66</u>
	>1,000 - 5,000	<del>3.77</del> <u>4.66</u>
	>5,000 - 15,000	<del>2.60</del> <u>4.66</u>
	>15,000 - 100,000	<del>1.04</del> <u>1.63</u>
	>100,000	<del>0.42</del> <u>0.66</u>
B. Market Operators	£20,000	
B. Service companies	Bloomberg LP	<del>£37,000</del> <u>£40,000</u>
	EMX Co Ltd	<del>£27,000</del> <u>£30,000</u>
	LIFFE Services Ltd	<del>£27,000</del> <u>£30,000</u>
	OMGEO Ltd	<del>£27,000</del> <u>£30,000</u>
	Reuters Ltd	<del>£37,000</del> <u>£40,000</u>
	Swapswire Ltd	<del>£27,000</del> <u>£30,000</u>
	Thomson Financial Ltd	<del>£27,000</del> <u>£30,000</u>

Part 2

This table shows the permitted deductions that apply:

Activity group	Nature of deduction	Amount of deduction
A.1	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.2	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.3	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply to any Solvency 2 fee (as defined in Part 1) <u>or Solvency 2 Implementation fee as applicable under Part 5.</u>
A.4	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply to any Solvency 2 fee (as defined in Part 1) <u>or Implementation fee as applicable under Part 5.</u>
A.5	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). <u>The deduction does not apply to any Solvency 2 Implementation fee as applicable under Part 5.</u>
A.6	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1). The deduction does not apply <u>to any Solvency 2 flat fee or Solvency 2 Implementation flat fee (as defined in Part 1).</u>
A.7	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.8	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)

		1)
A.9	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.10	...	<del>1.4</del> <u>6.1%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.12	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.13	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.14	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.18	...	<del>1.4</del> <u>5.9%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)
A.19	...	<del>1.4</del> <u>6.0%</u> of the fee payable by the <i>firm</i> for the activity group (see Part 1)

...

## Part 5

This Part sets out when a Solvency 2 Implementation fee is due for *firms* in the A.3 and A.4 fee-blocks.

- (1) The Solvency 2 Implementation fee is only payable by a *firm* if it meets all the conditions in (2) and neither of the conditions in (3).
- (2) The conditions in this paragraph are:
  - (a) *FEES* 4.3.13R (Firms Applying to Cancel or Vary Permission Before Start of Period) does not apply with respect to the relevant fee-blocks;
  - (b) the *firm* has not notified the *FSA* before the start of the financial year 2009/10 that it intends to migrate out of the *United Kingdom* for regulatory purposes before the proposed Solvency II Directive is implemented;

- (c) its gross premium income or adjusted gross premium income, as appropriate, referred to in FEES 4 Annex 1 Part 2, exceeds EUR 5 million;
  - (d) its gross technical liabilities or mathematical reserves, as appropriate, referred to in FEES 4 Annex 1, Part 2, exceed EUR 25 million.
- (3) The conditions in this paragraph are:
- (a) the firm is a reinsurance undertaking that has, by 10 December 2007, ceased to conduct new insurance business and only administers its existing portfolio in order to terminate its activity as a reinsurance undertaking;
  - (b) it is a reinsurance undertaking whose insurance business is conducted or fully guaranteed by the United Kingdom government for reasons of substantial public interest in the capacity of reinsurer of last resort.
- (4) Where a firm has notified the FSA that it intends to migrate out of the United Kingdom for regulatory purposes before the proposed Solvency II Directive is implemented in the United Kingdom but when the proposed Directive is implemented that firm remains in the United Kingdom for regulatory purposes, it must pay the Solvency 2 Implementation fee for each financial year commencing 1 April 2009 for which the Solvency 2 Implementation fee would have applied to the firm but for the firm notifying the FSA of its intention to migrate.
- (5) Paragraph (5) of FEES 4.3.6 R does not apply in relation to a firm liable to pay a Solvency 2 Implementation because of (4). Instead, such a firm shall pay its Solvency 2 Implementation fee within 30 days of the date of the invoice.
- (6) For the purposes of this Part, the exchange rate from the Euro to the pound sterling is calculated as at the last day of the October preceding the financial year of the FSA in question for which the exchange rates for the currencies of all European Union member states were published in the Official Journal of the European Union.

...

4 Annex 4 R Periodic fees in relation to collective investment schemes payable for the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

Part 1 – Periodic fees payable

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fund factor	Fee (£)
ICVC, AUT, Section 264 of the Act Section 270 of the Act	<del>670</del> <u>650</u>	1-2	1	<del>670</del> <u>650</u>
		3 – 6	2.5	<del>1,675</del> <u>1,625</u>
		7 - 15	5	<del>3,350</del> <u>3,250</u>
		16 - 50	11	<del>7,370</del> <u>7,150</u>
		>50	22	<del>14,740</del> <u>14,300</u>
Section 272 of the Act	<del>2730</del> <u>2650</u>	1-2	1	<del>2,730</del> <u>2,650</u>
		3-6	2.5	<del>6,825</del> <u>6,625</u>
		7-15	5	<del>13,650</del> <u>13,250</u>
		16-50	11	<del>30,030</del> <u>29,150</u>
		>50	22	<del>60,060</del> <u>58,300</u>

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

Table. Fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	<del>£70,515</del> £50,985	30 April <del>2008</del> <u>2009</u>
	<del>£31,455</del> £19,645	1 September <del>2008</del> <u>2009</u>
The Law Society of Scotland	<del>£15,890</del> £13,880	1 July <del>2008</del> <u>2009</u>

The Law Society of Northern Ireland	£14,220 £12,880	1 July <del>2008</del> <u>2009</u>
The Institute of Actuaries	£10,160 £10,110	1 July <del>2008</del> <u>2009</u>
The Institute of Chartered Accountants in England and Wales	£33,720 £25,380	1 July <del>2008</del> <u>2009</u>
The Institute of Chartered Accountants of Scotland	£12,030 £11,280	1 July <del>2008</del> <u>2009</u>
The Institute of Chartered Accountants in Ireland	£10,940 £10,600	1 July <del>2008</del> <u>2009</u>
The Association of Chartered Certified Accountants	£19,600 £16,330	1 July <del>2008</del> <u>2009</u>
The Council for Licensed Conveyancers	£11,720 £11,060	1 July <del>2008</del> <u>2009</u>
Royal Institution of Chartered Surveyors	£15,010 £13,420	1 July <del>2008</del> <u>2009</u>

4 Annex 6 R Annex 6 Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

...

Part 1 – Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK& Ireland Limited	£261,000 <u>£244,500</u>	30 April <del>2008</del> <u>2009</u>
	£228,000 <u>£310,500</u>	1 September <del>2008</del> <u>2009</u>
ICE Futures Europe Ltd	£177,000 <u>£192,500</u>	30 April <del>2008</del> <u>2009</u>
	£208,000 <u>£267,500</u>	1 September <del>2008</del> <u>2009</u>

LIFFE Administration and Management	£274,500	30 April 2008
	<u>£300,000</u>	<u>2009</u>
	£325,500	1 September
	<u>£350,000</u>	<u>2008 2009</u>
LCH Clearnet Limited	£285,500	30 April 2008
	<u>£281,000</u>	<u>2009</u>
	£276,500	1 September
	<u>£329,000</u>	<u>2008 2009</u>
The London Metal Exchange Limited	£173,500	30 April 2008
	<u>£184,500</u>	<u>2009</u>
	£195,500	1 September
	<u>£233,500</u>	<u>2008 2009</u>
London Stock Exchange plc	£349,000	30 April 2008
	<u>£269,500</u>	<u>2009</u>
	£190,000	1 September
	<u>£275,500</u>	<u>2008 2009</u>
SWX Exchange Ltd <u>SWX Europe Ltd</u>	£69,500	30 April 2008
	<u>£77,000</u>	<u>2009</u>
	£84,500	1 September
	<u>£88,000</u>	<u>2008 2009</u>
EDX London Ltd	£52,000	30 April 2008
	<u>£48,000</u>	<u>2009</u>
	£44,000	1 September
	<u>£47,000</u>	<u>2008 2009</u>
PLUS Markets Plc	£75,000	30 April 2008
	<u>£77,000</u>	<u>2009</u>
	£79,000	1 September
	<u>£131,000</u>	<u>2008 2009</u>
European Central Counterparty Limited	£250,000	30 April 2008
	<u>£125,000</u>	<u>2009</u>

	<u>£240,000</u>	<u>1 September 2009</u>
ICE Clear Europe Limited	<u>£250,000</u> <u>£125,000</u>	<u>30 April 2008 2009</u>
	<u>£265,000</u>	<u>1 September 2009</u>
...		

Part 2 – Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
Cantor Financial Futures Exchange	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
The Chicago Mercantile Exchange	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
Chicago Board of Trade	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
EUREX (Zurich)	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
National Association of Securities and Dealers Automated Quotations (NASDAQ)	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
NQLX LLC	<u>£25,000</u>	<u>1 July 2008</u>
New York Mercantile Exchange Inc.	<u>£25,000</u>	<u>1 July 2008 2009</u>
	<u>£30,000</u>	
The Swiss Stock Exchange	<u>£25,000</u>	<u>1 July 2008 2009</u>

	<u>£30,000</u>	
Sydney Futures Exchange Limited	£25,000 <u>£30,000</u>	1 July 2008 <u>2009</u>
<del>US Futures Exchange LLC</del>	£25,000	<del>1 July 2008</del>
ICE Futures US Inc	£25,000 <u>£30,000</u>	1 July 2008 2009
<del>RMX Risk Management Exchanges AG</del>	£25,000	<del>1 July 2008</del>
SIS x-clear AG	£55,000 <u>£60,000</u>	1 July 2008 <u>2009</u>
Eurex Clearing AG	£55,000 <u>£60,000</u>	1 July 2008 <u>2009</u>
ICE Clear US Inc	£55,000 £60,000	1 July 2008 <u>2009</u>
CME Clearing	£55,000 <u>£60,000</u>	1 July 2008 <u>2009</u>
Any other <i>overseas investment exchange</i> recognised as such by a <i>recognition order</i> made in the period	£25,000 <u>£30,000</u>	...
Any other <i>overseas clearing house</i> recognised as such by a <i>recognition order</i> made in the period	£55,000 <u>£60,000</u>	...

...

4 Annex 7 R Periodic fees in relation to the Listing Rules for the period 1 April 2008 2009 to 31 March ~~2009~~ 2010

Fee type	Fee amount
----------	------------

Annual fees for the period 1 April <del>2008</del> <u>2009</u> to 31 March <del>2009</del> <u>2010</u>	
....	

Table 1

...

Table 2

Tiered annual fees for all other issuers

Fee payable	
...	
£ million of Market Capitalisation	Fee (£/£m or part £m of Market Capitalisation)
...	
>100 - 250	<del>15.066000</del> <u>24.105600</u>
>250 - 1,000	<del>6.026000</del> <u>9.641600</u>
>1,000 - 5,000	<del>2.005000</del> <u>5.934800</u>
>5,000 - 25,000	<del>0.037700</del> <u>0.150800</u>
>25,000	<del>0.010080</del> <u>0.048384</u>

There is deducted from the fee specified in FEES 4 Annex 7 R, 2.9% of the fee payable by *listed issuers* (in LR)

4 Annex 8 R Annex 8, Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April ~~2008~~ 2009 to 31 March ~~2009~~ 2010

...

Table 1

...

Table 2

Fee payable	
...	
£ million of Market Capitalisation	Fee (£/£m or part £m of Market Capitalisation)
...	
>100 - 250	<del>12.05280</del> <u>19.384880</u>
>250 - 1,000	<del>4.8208</del> <u>7.713280</u>
>1,000 - 5,000	<del>1.6040</del> <u>4.747840</u>
>5,000 - 25,000	<del>0.0302</del> <u>0.120640</u>
>25,000	<del>0.0081</del> <u>0.038707</u>

4 Annex 9 R Periodic fees in respect of securitised derivatives for the period from 1 April 2008 2009 to 31 March ~~2009~~ 2010

## Part 1

...

For the purposes of this Annex "relevant contracts" are all transactions entered into by *firms* in *securitised derivatives* entered into on or settled through *LIFFE* or Eurex Clearing AG, and the "relevant period" is 1 January ~~2007~~ 2008 to 31 December ~~2007~~ 2008 inclusive.

The fee shown in the table below for *firms* (but not for *market operators*) will be subject to a deduction of ~~1.4%~~ 5.9%, as if that fee were a periodic fee charged under FEES 4.3.3R, and the deduction were a deduction set out in Part 2 of FEES 4 Annex 2.

Fee amount for <i>firms</i>	
Number of relevant contracts entered into by the <i>firm</i> during the relevant period	Fee amount
...	
101 – 1,000	<del>£150</del> <u>500</u>

1,001 – 100,000	£700 <u>2,500</u>
100,001 – 1,000,000	£1,900 <u>7,500</u>
1,000,001 – 5,000,000	£4,800 <u>17,500</u>
5,000,001 – 20,000,000	£8,800 <u>32,000</u>
>20,000,000	£13,400 <u>50,000</u>
...	

...

## 5 Financial Ombudsman Service Funding

...

5.1.7 G The purpose of this chapter is to set out the requirements on *firms* to pay annual fees (through a *general levy* ~~and supplementary levy~~ invoiced and collected by the *FSA* on behalf of *FOS Ltd*) and case fees (invoiced and collected directly by *FOS Ltd*) in order to fund the operation of the *Financial Ombudsman Service*. ~~This chapter also contains a requirement on firms to pay a supplementary levy towards the costs of establishing the Financial Ombudsman Service. It~~ This chapter also provides for *unauthorised persons* to pay case fees to *FOS Ltd* in respect of any *relevant complaints* which it handles.

...

5.4.1 R ...

- (5) If a *firm* does not submit a complete statement by the date on which it is due in accordance with this *rule* and any prescribed submission procedures:
- (a) ...
  - (b) the *general levy* ~~and any supplemental levy~~ will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if a *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, on the basis of the information provided to *FSA* for the purposes of *FEES* 4.4.2R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

...

## 5.6 The supplementary levy [deleted]

- 5.6.1 G For the purposes of calculating the ~~supplementary levy~~, the FSA will apportion the ~~establishment costs~~ between the ~~industry blocks~~ in the same proportions as the operating costs for the purposes of the ~~general levy~~. The ~~supplementary levy~~ will therefore be raised from ~~firms~~ on the same basis and at the same time as the ~~general levy~~ (see part 2 of FEES 5 Annex 1R). [deleted]
- 5.6.2 G The ~~establishment costs~~ will be recovered via the ~~supplementary levy~~ over the first three full ~~financial years~~ of the ~~Financial Ombudsman Service's~~ operation. [deleted]
- 5.6.3 G The amount of ~~establishment costs~~ to be raised each year through the ~~supplementary levy~~ will be specified in part 2 of FEES 5 Annex 1R. [deleted]
- 5.6.4 G The ~~supplementary levy~~ will be identified separately from the ~~general levy~~ for the purposes of invoicing ~~firms~~ and ~~VJ participants~~. [deleted]
- 5.6.5 R A ~~firm~~ must pay to the FSA a ~~supplementary levy~~ towards the costs of establishing the ~~Financial Ombudsman Service~~. [deleted]
- 5.6.6 R A ~~firm's supplementary levy~~ is a sum payable in accordance with the fee tariffs set out in part 2 of FEES 5 Annex 1R and will be calculated by following the steps set out in FEES 5.3.8R. [deleted]
- 5.6.7 G Under the ~~standard terms~~, ~~VJ participants~~ will also be required to pay an amount calculated on a similar basis towards the costs of establishing the ~~Voluntary Jurisdiction of the Financial Ombudsman Service~~. [deleted]
- ...
- 5.7.1 G A ~~firm~~ must pay annually to the FSA the ~~general levy~~ and ~~any supplementary levy~~ to which it is subject, on or before the later of 1 April and 30 calendar ~~days~~ after the date when the invoice is issued by the FSA
- ...
- 5.8.1 R A ~~firm~~ which becomes subject to the ~~Financial Ombudsman Service~~ part way through a ~~financial year~~ must pay a rateable proportion of the ~~general levy~~ and the ~~supplementary levy~~ as indicated in Table FEES 4.2.6R, as if that table applied to the quarter in which a ~~firm~~ becomes subject to the ~~Financial Ombudsman Service~~.
- ...
- 5.9.2 G ~~Firms~~ which cease to be ~~authorised~~ and therefore subject to the ~~Compulsory Jurisdiction~~ part way through the year will not receive a refund of their ~~general levy~~ (or ~~supplementary levy~~) except in exceptional circumstances. ~~Firms~~ will continue to be liable for any case fees relating to ~~chargeable~~

cases closed by the *Financial Ombudsman Service* after they cease to be *authorised*. Firms will be charged the standard case fee where the complaint was closed by the *Financial Ombudsman Service* before the end of the year in which their *authorisation* ceased. The special case fee will apply to any complaint closed after the end of that year since the *firm* will no longer be contributing to the *general levy*.

...

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

Introduction: annual budget

1. The *annual budget* for ~~2008/09~~ 2009/10 approved by the *FSA* is ~~£62.6m~~ 92.5m

Part 1: General levy ~~and supplementary levy~~

2. The total amount expected to be raised through the *general levy* in ~~2008/09~~ 2009/10 will be ~~£17.2m~~ £17.7m (net of £1.8m to be raised from consumer credit firms.)

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

3. ~~No establishment costs will be raised in 2008/09 by the 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 block 14)	...	<del>£0.023</del> <u>£0.027</u> per relevant account, subject to a minimum levy of £100
...		
4 – Insurers – life (excluding <i>firms</i> in block 15)	...	<del>£0.049</del> <u>£0.025</u> per £1,000 of relevant adjusted annual gross premium income, subject to a minimum levy of £100

5 - Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i> )	<b>Relevant funds under management</b> <u>Flat fee</u>	...
...		
8 - Advisory arrangers, dealers or brokers holding and controlling <i>client money</i> and/or assets	...	<del>£80</del> <u>£55</u> per relevant <i>approved person</i> subject to a minimum levy of <del>£80</del> <u>£55</u>
9-Advisory arrangers, dealers or brokers not holding and controlling <i>client money</i> and/or assets	...	<del>£40</del> <u>£35</u> per relevant <i>approved person</i> subject to a minimum levy of <del>£40</del> <u>£35</u>
...		
12 -	N/A for <del>2008/9</del> <u>2009/10</u>	
...		
16 - <i>Home finance providers, advisers and arrangers</i> (excluding <i>firms</i> in blocks 13, 14 & 15)	...	Levy of <del>£60</del> <u>£65</u>
17 - General insurance mediation (excluding	<u>Flat fee annual income</u> (as defined in <u>MIPRU 4.3</u> ) relating to <u>firm's</u>	Levy of <del>£60</del> <u>£0.16</u> per <u>£1,000</u> of <u>annual income</u> (as defined in <u>MIPRU 4.3</u> ) relating to <u>firm's relevant business</u> subject to a

<i>firms in blocks 13, 14 &amp; 15)</i>	<u><i>relevant business</i></u>	<u><i>minimum levy of £75</i></u>
---	---------------------------------	-----------------------------------

## Annex C

### Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

#### DISP Sch 3 Fees and other required payment

...

DISP        G  
Sch 3.2

Type of fee	Trigger event	Date/Time for payment	Amount/rate	<u>Handbook reference</u>
...				
<u>Supplementary levy</u>	Annual invoice from <i>FOS Ltd</i>	(1) On or before the later of 1 April and 30 calendar days after the date when the invoice is issued by <i>FOS Ltd</i> ; or (2) for amounts exceeding the <i>minimum levy</i> , quarterly, at the beginning of each quarter, by direct debit.	Amount of <i>relevant business</i> according to applicable tariff base; or <i>minimum levy</i> .	FEES 5.6 FEES 5.7 Part 2 of FEES 5 Annex 1 R
...				



# Draft rules Unauthorised Mutuals for response by 6 April 2009

**PERIODIC FEES (UNAUTHORISED MUTUAL SOCIETIES REGISTRATION)  
(2009/2010) INSTRUMENT 2009**

**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 138 (General rule-making power);
  - (2) section 156 (General supplementary powers);
  - (3) section 157(1) (Guidance); and
  - (4) paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on 1 June 2009.

**Amendments to the FSA’s rules**

- D. The Unauthorised mutuals registration fees rules are amended in accordance with the Annex to this instrument.

**Citation**

- E. This instrument may be cited as the Periodic Fees (Unauthorised Mutual Societies Registration) (2009/2010) Instrument 2009.

By order of the Board  
XX

## Annex

### Amendments to the Unauthorised mutuals registration fees rules

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

Amend Annex 1R as shown.

#### ANNEX 1R

#### PERIODIC FEES PAYABLE FOR THE PERIOD 1 APRIL ~~2008~~ 2009 TO 31 MARCH ~~2009~~ 2010

##### Part 1

##### Periodic fee payable by Registered Societies (on 30 June ~~2008~~ 2009)

This fee is not payable by a *credit union*.

Transaction	Total assets (£'000s)	Amount payable (£)
Periodic Fee	0 – 50	£55
	> 50 to 100	<del>405</del> <u>110</u>
	> 100 to 250	<del>170</del> <u>180</u>
	> 250 to 1,000	<del>225</del> <u>235</u>
	> 1,000	<del>415</del> <u>425</u>

##### Part 2

##### Methods of payment of periodic fees

A periodic fee must be paid using either direct debit, credit transfer (BACS/CHAPS), cheque, switch or by credit card (Visa/Mastercard only). Any payment by permitted credit card must include an additional 2% of the sum paid.



Draft rules and guidance  
Payment Services for  
consultation and response  
by 6 April 2009

## **FEES (PAYMENT SERVICES) INSTRUMENT 2009**

### **Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following provisions of the Payment Services Regulations 2009 (S.I. 2009/209) (“the Regulations”):
    - (a) regulation 82 (Reporting requirements);
    - (b) regulation 92 (Costs of supervision); and
    - (c) regulation 93 (Guidance);
  - (2) the following provisions of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 156 (General supplementary powers);
    - (b) section 234 (Industry Funding); and
    - (c) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority).
- 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) Annex A and Part 1 of Annex B come into force on 1 May 2009.
  - (2) The remainder of this instrument comes into force on 1 November 2009.

### **Amendments to the Handbook**

- D. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- E. The Fees manual (FEES) is amended in accordance with the Annex B to this instrument.

### **Notes**

- F. In the Annexes to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

**Citation**

G. This instrument may be cited as the Fees (Payment Services) Instrument 2009

By order of the Board  
XXX

## Annex A

### Amendments to the Glossary of definitions

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

[The draft rules attached to CP08/14 (Implementation of the Payment Services Directive – changes to the FSA handbook) set out Handbook Glossary definitions relating to the Payment Services Directive (Directive 2007/64/EC). These definitions are used throughout the text of this draft instrument and have not been set out here.]

#### Comes into force on 1 May 2009

Insert the following new definition in the appropriate alphabetical position.

fee-paying  
payment  
service  
provider                    a payment institution, a credit institution as defined in article 4(1)(a) of the  
BCD or an e-money issuer.

PSR                    the Payment Services Regulations.

Amend the following definitions as shown.

*firm*                    ...  
  
(5)                    (in FEES 1 to 5) includes :  
                          (a) an authorised payment institution;  
                          (b) a small payment institution; and  
                          (c) an EEA authorised payment institution carrying on payment  
                          services in the United Kingdom.

*participant  
firm*                    (1)                    ...  
  
                          (2)                    (in FEES 1 and FEES 6) a *firm* specified in paragraph (1) above:  
                          (a) that is not a member; or  
                          (b) except to the extent it provides payment services .

## Annex B

### Amendments to the Fees manual (FEES)

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

#### Part 1: Comes into force on 1 May 2009

##### Application

1.1.2 R This manual applies in the following way:

(1) *FEES* 1, 2 and 3 apply to:

...

(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~~ permission (including any future proposed amendments to those approaches);

(p) every applicant applying for authorisation as an authorised payment institution or registration as a small payment institution under the *Payment Services Regulations*; and

(q) every firm applying for variation of its authorisation or registration under the *Payment Services Regulations*.

...

##### Purpose

...

2.1.5 G Paragraph 17 of Schedule 1 and section 99 to the *Act* and regulation 92 of the *PSR* enable the *FSA* to charge fees to cover its costs and expenses in carrying out its functions. The corresponding provisions for the *FSCS* levy and *FOS* levies and case fees are set out in *FEES* 6.1 and *FEES* 5.2 respectively. *Fee-paying payment service providers* are not required to pay the *FSCS* levy but are liable for *FOS* levies.

2.1.5A G Regulation 92 of the *PSR* provides that the functions of the *FSA* under the regulations are treated for the purposes of paragraph 17 of Schedule 1 to the *Act* as functions conferred on the *FSA* under the *Act*. Paragraphs 17(2) and (3) however have not been included by the *PSR*. These are, respectively, the *FSA* obligation to ensure that the amount of penalties received or expected to be received are not to be taken into account in determining the amount of any fee payable and the provision that allows fees to be raised to repay

borrowed monies in respect of expenses incurred before or after the coming into force of the Act or the Bank of England Act 1998.

...

- 2.1.11 G Whilst paragraph 17(2) of Schedule 1 to the Act has not been applied to the fee-raising power of the FSA under the PSR, regulation 92(2) of the PSR requires the FSA to apply amounts paid to it by way of penalties imposed under the regulations towards expenses incurred in carrying out its functions under the regulations or for any incidental purpose.

...

#### Recovery of Fees

- 2.2.3 G Paragraph 17(4) of Schedule 1 and section 99(5) to the Act permit the FSA to recover fees (including fees relating to payment services and, where relevant, FOS levies), and section 213(6) permits the FSCS to recover shares of the FSCS levy payable, as a debt owed to the FSA and FSCS respectively, and the FSA and FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts. Also, FOS Ltd (in respect of case fees) may take steps to recover any money owed to it (including interest).

...

- 3.1.6 G ...

- 3.1.6A G Application fees for authorisation or registration under the PSR are set out in FEES 3 Annex 7R. The fee depends on the type of payment services a firm wishes to carry on and whether it will be a small payment institution or an authorised payment institution. The fee may also depend on the number of agents it has.

...

- 3.2.5 G (1) The appropriate authorisation or registration fee is an integral part of an application for, or an application for a variation of, a *Part IV permission or authorisation or registration under the Payment Services Regulations*. Any application received by the FSA without the accompanying appropriate fee, in full and without deduction (see FEES 3.2.1R), will not be treated as an application made, incomplete or otherwise, in accordance with section 51(3)(a), or section 44, of the Act or regulation 5(3) or 12(3) of the PSR. Where this is the case, the FSA will contact the applicant to point out that the application cannot be progressed until the appropriate fee has been received. In the event that the appropriate authorisation fee, in full and without deduction, is not forthcoming, the application will be returned to the applicant and no application will have been made.



3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) fee payable	Due date
...		
<p>(u) An applicant for <u>authorisation as an authorised payment institution under regulation 5 of the PSR</u></p>	<p><u>FEES 3 Annex 7R, paragraphs (2), (3) or (4) as applicable.</u></p> <p><u>Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1R part 6 the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 7R</u></p>	<p><u>On or before the date the application is made.</u></p>
<p>(v) An application by a <u>small payment institution for authorisation as an authorised payment institution because regulation 15 of the PSR applies</u></p>	<p><u>FEES 3 Annex 7R, paragraphs (2), (3) or (4) as applicable.</u></p>	<p><u>On or before the date the application is made.</u></p>
<p>(w) An applicant for <u>registration as a small payment institution under regulation 12 of the PSR</u></p>	<p><u>FEES 3 Annex 7R, paragraph (1) or (4) as applicable.</u></p> <p><u>Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1R part 6 the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 7R</u></p>	<p><u>On or before the date the application is made.</u></p>

<p><u>(x) An authorised payment institution applying to vary its authorisation under regulation 8 of the PSR.</u></p>	<p><u>(1) If the payment services carried on by the authorised payment institution prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the PSR and any of the payment services in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 7R which apply to that application.</u></p> <p><u>(2) Where the authorised payment institution:</u></p> <p><u>(i) already has authorisation to provide payment services within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the PSR and wishes to add one or more other of the services in (a) to (g); or</u></p> <p><u>(ii) has authorisation to provide payment services in either paragraph (f) or (g) of Part 1 of Schedule 1 to the PSR and wishes to extend its authorisation to include the other paragraph ((f) or (g));</u></p> <p><u>the fee payable is £250 irrespective of the number of agents it has.</u></p> <p><u>(3) In cases where the variation involves only the reduction (and no other increases) of the types of payment services to be carried on after the variation, no fee is payable.</u></p>	<p><u>On or before the date the application is made.</u></p>
---	--	--

<p><u>(y) A small payment institution applying to vary its registration under regulation 12 of the PSR</u></p>	<p><u>(1) If the payment services carried on by the small payment institution prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the PSR and any of the payment services in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 7R which apply to that application.</u></p> <p><u>(2) Where the small payment institution:</u></p> <p><u>(i) is already registered to provide payment services within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the PSR and wishes to add one or more other of the services in (a) to (g); or</u></p> <p><u>(ii) is registered to provide payment services in either paragraph (f) or (g) of Part 1 of Schedule 1 to the PSR and wishes to extend its registration to include the other paragraph ((f) or (g));</u></p> <p><u>the fee payable is £250 irrespective of the number of agents it has.</u></p> <p><u>(3) In cases where the variation involves only the reduction (and no other increases) of the types of payment services to be carried on after the variation, no fee is payable.</u></p>	<p><u>On or before the date the application is made.</u></p>
--	---	--

<u>(z) A financial institution notifying the FSA in accordance with regulation 121(3)(a) of the PSR.</u>	<u>50 % of the highest of the tariffs set out in FEES 3 Annex 7 R, paragraphs (2), (3) or (4) which apply to that application.</u>	<u>On or before the date the application is made.</u>
--	--	---

...

3 Annex 1R Authorisation fees payable

...

Part 6 - Change of legal status

An application involving only a simple change of legal status for the purposes of FEES 3.2.7 R(a), <u>FEES 3.2.7(u)</u> and <u>FEES 3.2.7(w)</u> is from an applicant:	
(1) which is a new legal entity intending to carry on the business, using the same business plan, of an existing <i>firm</i> with no outstanding regulatory obligations cancelling its <i>Part IV permission or authorisation or registration under the PSR</i> , and	
(2) which is to:	
	(a) have the same or narrower <i>permission or scope of authorisation or registration under the PSR</i> , and the same <i>branches</i> (if any), as the <i>firm</i> ;
	(b) assume all of the rights and obligations in connection with the <i>regulated activities and payment services</i> carried on by the <i>firm</i> ;
	(c) continue the same compliance arrangements and compliant client asset and <i>client money</i> procedures, as the <i>firm</i> , subject to any changes required only as a result of the change of legal status;
	(d) continue with a risk profile and arrangements for controlling and monitoring risk which will not be materially different from those of the <i>firm</i> ; and
	(e) have the individuals within the <i>firm</i> that are responsible for <i>insurance mediation activity</i> perform the same role for the applicant.

...

3 Annex 7 R

Fees payable for authorisation as an authorised payment institution or registration as a small payment institution in accordance with the Payment Services Regulations

Authorisation and registration fees payable

<u>Application type for authorisation or registration under Parts 2 and 3 of the <i>Payment Services Regulations</i></u>	<u>Amount payable</u>
<u>(1) <i>small payment institution</i></u> <u>(Note 1)</u>	<u>£500</u>
<u>(2) <i>authorised payment institution</i> - where the applicant is applying for authorisation to carry on <i>payment services</i> in paragraphs (f) (money remittance) and/or (g) (consent given by electronic device) of Part 1 of Schedule 1 to the <i>PSR</i></u> <u>(Note 1)</u>	<u>£1,500</u>
<u>(3) <i>authorised payment institution</i> - where the applicant is applying for authorisation to carry on <i>payment services</i> in any one or more of paragraphs:</u> <u>(a) (cash placed on payment account);</u> <u>(b) (cash withdrawals enabled);</u> <u>(c) (execution of direct debts etc);</u> <u>(d) (execution of direct debits etc where credit line available);</u> <u>(e) (issuing payments and transactions);</u> <u>of Part 1 of Schedule 1 to the <i>PSR</i></u> <u>(Note 1)</u>	<u>£5,000</u>
<u>(4) <i>authorised payment institution</i> or <i>small payment institution</i> – where the applicant has or intends to have more than 5,000 <i>agents</i></u> <u>(Note 1)</u>	<u>£25,000</u>

Notes:

1. Where an applicant for authorisation as an *authorised payment institution* or registration as a *small payment institution* has or intends to have more than 5,000

agents, only (4) applies even if it may, but for this provision, fall within (1), (2) or (3) as well.

## Part 2: Comes into force on 1 November 2009

...

4.1.3 G Most of the detail of the periodic fees that are payable by *firms* is set out in *FEES 4 Annexes 1–8 1 to10*. Most of the provisions of the Annexes will vary from one financial year to another. Accordingly fresh *FEES 4 Annexes* will come into force, following consultation, for each financial year.

4.1.4 G (1) ...

...

(3) The periodic fees for *fee-paying payment service providers* are set out in *FEES 4 Annex 10R*. This annex sets out the activity groups, tariff base and valuation dates for these *firms*.

...

4.1.6 G The *FSA* will allocate penalties received for the benefit of relevant fee payers by way of a permitted deduction specified in *FEES 4 Annex 2R* or *FEES Annex 10R* as applicable, or in the case of listed issuers, as notified to issuers annually, for the relevant year.

...

4.2.7 R A *firm* (other than an *ICVC* or *UCITS qualifier*) which becomes authorised, or registered or whose *permission and/or payment service activities* ~~is~~ are extended, during the course of the financial year must pay a fee which is calculated by:

(1) identifying each of the tariffs set out in Part 1 of *FEES 4 Annex 2R* and/or *FEES 4 Annex 10R* as appropriate for the relevant financial year that apply to the *firm* only after the *permission* is received or extended or *payment service activities* are authorised, registered or extended, but ignoring:

...

...

4.2.7A G Projected valuations for a *firm's* first year will be collected for the 12 month period beginning with the date a *firm* becomes authorised or registered, or the date its *permission and/or payment service activities* are is extended. That information will be used to calculate the periodic fee for the remainder of the financial year in which the *firm* was authorised or registered or its *permission and/or payment service activities* were ~~was~~ extended (adjusted in accordance with *FEES 4.2.7R*) and to calculate the periodic fee for the following financial year.

- 4.2.7B<sup>1</sup> R (1) This rule deals with the calculation of:
- (a) a firm's fees for its second financial year. This is the FSA financial year following the FSA financial year in which it was given permission or was authorised or registered under the PSR or had its permission and/or payment services activities extended ("the relevant permission"); and
  - (b) the tariff base for the fee block or fee blocks that relate to each of the relevant permissions.
- (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 the firm gets the relevant permission to which that tariff base relates, the firm must use that data.
- (4) Unless (3) applies, if a firm:
- (a) receives a relevant permission between 1 April and 31 December inclusive; and
  - (b) is, but for this rule, required to calculate its tariff base for that relevant permission 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 a relevant permission between 1 April and 31 December inclusive; and
  - (b) the firm's tariff base for that relevant permission is, but for this rule, 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

---

<sup>1</sup> This provision, in effect, amends draft rules text which has been consulted on under CP08/18: Regulatory fees and levies: policy proposals for 2009/10. However, as the draft rules attached to CP08/18 have not yet been made this section is new text in these draft rules.

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 was given the relevant permission relating to that tariff and ending on the 31 December before the start of the FSA financial year; and
  - (c) the figures must be 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 that relevant permission.
- (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) in relation to the submission of information. Any such choice is only revocable before that date.
- (8) Where a firm chooses to use actual data under this rule, FEES 4 Annex 1R Part 3 and FEES 4 Annex 10R Part 4 are 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.

...

4.2.11 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> )	...	...	<i>Firm</i> receives <u>permission, or becomes authorised or registered under the <i>PSR</i></u> ; or
...			<i>Firm</i> extends <u>permission or its payment services activities</u>
All <i>firms</i> reporting transactions in <i>securitised derivatives</i> to the <i>FSA</i> in accordance with <i>SUP 17</i> , and <i>market operators</i> who provide facilities for trading in <i>securitised derivatives</i>	...		
<u>small e-money issuer</u>	<u>FEES 4 Annex 10 R</u>	<u>1 July in the financial year to which the fee relates</u>	<u>small e-money issuer certificate issued by <i>FSA</i></u>

- 4.3.1 R The periodic fee payable by a *firm* (except an *ICVC* or a *UCITS qualifier*) is:
- (1) each periodic fee applicable to it calculated in accordance with *FEES* 4.3.3R, using information obtained in accordance with *FEES* 4.4; ~~less~~ plus
- (1A) any periodic fee applicable to it calculated in accordance with *FEES* 4.3.3AR using information relating to its *United Kingdom* business obtained in accordance with *FEES* 4.4; less

- (2) any deductions from the periodic fee specified in Part 2 of *FEES* Annex 2R or Parts 6 and/or 7 of *FEES* 4 Annex 10R. For the purposes of this deduction, any deduction available in Part 2 of *FEES* 4 Annex 2R shall not be applied to any fee calculated in accordance with *FEES* 4.3.3AR and any deduction available in Part 6 and/or 7 of *FEES* 4 Annex 10R shall not be applied to any fees calculated in accordance with *FEES* 4.3.3R.

4.3.2 G (1) The amount payable by each *firm* will depend upon the category (or categories) of *regulated activities or payment services* it is engaged in (fee-blocks), and on the amount of business it conducts in each category (tariff base). The fee-blocks and tariffs are identified in *FEES* 4 Annex 1R, while *FEES* 4 Annex 2R sets out the tariff rates for the relevant financial year. In the case of *firms* that carry on *payment services*, the relevant fee blocks, tariffs and rates are set out in *FEES* 4 Annex 10R.

- (2) ...

Calculation of periodic fee (excluding fee-paying payment service providers)

- 4.3.3 R The periodic fee referred to in FEES 4.3.1R is (except in relation to the *Society* and fee-paying payment service providers) calculated as follows:

...

Calculation of periodic fee for fee-paying payments service providers

- 4.3.3A R The periodic fee referred to in FEES 4.3.1R in relation to fee-paying payment service providers is calculated in accordance with FEES 4 Annex 10R.

Modification for firms with new or extended permissions

- 4.3.4 R (1) A *firm* which becomes authorised or registered during the course of a financial year will be required to pay a proportion of the periodic fee which reflects the proportion of the year for which it will have a permission or the right to carry on particular payment services - see FEES 4.2.5G and FEES 4.2.6R.
- (2) Similarly a *firm* which extends its permission or its right to carry on particular payment services so that its business then falls within additional fee blocks will be required to pay a further periodic fee under this section for those additional fee blocks, but discounted to reflect the proportion of the year for which the *firm* has the extended permission or payment services activity- see FEES 4.2.6R and FEES 4.2.7R.

...

Time of payment

- 4.3.6 R (1) ...
- ...
- (3) If a *firm* has applied to cancel its *Part IV* permission in the way set out in SUP 6.4.5D (Cancellation of permission), or its status as an payment institution under regulations 10 of the PSR (Cancellation of authorisation) or as regulation 10 is applied by regulation 14 of the PSR (Supplementary provisions), then (1) and (2) do not apply but it must pay the total amount due when the application is made.
- (4) ...
- (4A) If the FSA has cancelled a firm's authorisation under regulation 10 of the PSR or its registration under regulation 10 as applied by regulation 14 of the PSR then (1) and (2) do not apply but the firm must pay the total amount due immediately before the cancellation

becomes effective.

...

...

Incoming EEA firms, ~~and~~ incoming Treaty firms and EEA authorised payment institutions

4.3.11 G The FSA recognises that its responsibilities in respect of an *incoming EEA firm*, ~~or of an incoming Treaty firm or an EEA authorised payment institution~~ are reduced compared with a *firm* which is incorporated in the *United Kingdom*. Accordingly the periodic fees which would otherwise be applicable to *incoming EEA firms*, ~~and incoming Treaty firms and EEA authorised payment institutions~~ are reduced.

4.3.12 ...

4.3.12A R For an EEA authorised payment institution, the calculation required by FEES 4.3.3AR is modified as follows:

- (1) the tariffs set out in Part 5 of FEES 4 Annex 10R are only applied to the payment services of the firm which are carried on from an establishment in the United Kingdom, including payment services provided through any of its agents established in the United Kingdom; and
- (2) those tariffs are modified in accordance with Part 7 of FEES 4 Annex 10R.

Firms Applying to Cancel or Vary Permission Before Start of Period

- 4.3.13 R (1) If:
- (a) a *firm* makes an application to vary its *permission* (by reducing its scope), or cancel it, in the way set out in *SUP* 6.3.15D(3) (Variation of permission) and *SUP* 6.4.5D (Cancellation of permission), or applies to vary (by reducing its scope) or cancel its authorisation or registration (regulation 8 and 10(1) of the PSR including as applied by regulation 14 of the PSR); an issuer makes an application for de-listing; or a sponsor notifies FSA of its intention to be removed from the list of approved sponsors; and
  - (b) the *firm*, *issuer* or *sponsor* makes the application or notification referred to in (a) before the start of the period to which the fee relates;

*FEES* 4.2.1R applies to the *firm* as if the relevant variation or cancellation of the *firm's permission or authorisation or registration under the PSR*, de-listing or removal from the list of approved *sponsors*, took effect

immediately before the start of the period to which the fee relates.

(2) ...

- 4.3.14 G Where a *firm* has applied to cancel its *Part IV permission*, or its authorisation or registration under the PSR or the FSA has exercised its *own-initiative powers* to cancel a *firm's Part IV permission* or the FSA has exercised its powers under regulation 10 (Cancellation of authorisation, including as applied by regulation 14 (Supplementary provisions) of the PSR to cancel a firm's authorisation or registration under the PSR, the due dates for payment of periodic fees are modified by *FEES* 4.3.6R(3), ~~and~~ *FEES* 4.3.6R(4) and *FEES* 4.3.6R(4A) respectively.

Firms acquiring businesses from other firms

- 4.3.15 R (1) This *rule* applies if:

...

- (b) A became authorised or registered as a result of B's simple change of legal status (as defined in *FEES* 3 Annex 1R Part 6).

...

- (3) If the acquisition occurs after the valuation date applicable to the business (as set out in *FEES* 4 Annex 1R and *FEES* 4 Annex 10R) which A acquired from B, for the period following that in which the acquisition occurred, *FEES* 4.2.1R applies to A, in relation to that following period, as if the acquisition had occurred immediately before the relevant valuation date.

...

#### 4.4 Information on which Fees are calculated

...

- 4.4.6 R The obligations of a firm to supply information as set out in *FEES* 4.4.1R and *FEES* 4.4.2R do not apply in respect of any of its *payment services* business.

- 4.4.7 G The reason for *FEES* 4.4.6R is that the FSA has no power to make *rules* for *firms* to provide information relating to its *payment services* business. Instead, regulation 82 of the *Payment Services Regulations* gives the FSA power to direct *firms* to give such information. The relevant directions are set out in *FEES* 4.4.8 D to 4.4.11D.

Information relating to payment services

- 4.4.8     D     An authorised payment institution or an EEA authorised payment institution must, in relation to its United Kingdom payment services business, notify to the FSA the value (as at the valuation date specified in Part 4 of FEES 4 Annex 10R) of each element of payment services business on which the periodic fee payable by the firm is to be calculated, including any payment services carried on by its agents from an establishment in the United Kingdom.
- 4.4.9     D     An authorised payment institution or an EEA authorised payment institution must send to the FSA in writing the information required under FEES 4.4.8D as soon as reasonably practicable, and in any event within two months, after the date specified as the valuation date in Part 4 of FEES 4 Annex 10R.
- 4.4.10    D     To the extent that an authorised payment institution or an EEA authorised payment institution has provided the information required by FEES 4.4.8D to the FSA as part of its compliance with another provision of the Handbook, it is deemed to have complied with the provisions of this section.
- 4.4.11    D     For an EEA authorised payment institution, the information required under FEES 4.4.8D is limited to payment services the firm or its agents carried out in the United Kingdom.

...

4 Annex 10R    Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations

Part 1 – Method for calculating the fee

- (1) The periodic fee for fee-paying payment service providers is calculated by adding the minimum fee to an additional fee calculated by multiplying the tariff base identified in Part 3 of FEES 4 Annex 10R by the appropriate rates applying to each tranche of the tariff base as indicted in the table at Part 5. For small payment institutions and small e-money issuers the tariff rates are not relevant and a flat fee is payable.
- (2) A fee-paying payment service provider may apply the relevant tariff bases and rates to non-UK business, as well as to its UK business, if:
- (a) it has reasonable grounds for believing that the costs of identifying the firm's UK business separately from its non-UK business in the way described in Part 3 of FEES 4 Annex 10R is disproportionate to the difference in fees payable; and
- (b) it notifies the FSA in writing at the same time as it provides the information concerned under FEES 4.4 (Information on which fees

are calculated), or, if earlier, at the time it pays the fees concerned.

(3) For a fee-paying payment service provider which is required to comply with FEES 4.4.9D (Information on which fees are calculated) and has not done so for this period:

- (a) the fee is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10;
- (b) an additional administrative fee of £250 is payable; and
- (c) the minimum total fee (including the administrative fee in (b)) is £650.

### Part 2 – Activity groups

This table shows how the payment services performed by fee-paying payment services providers are linked to activity groups ('fee-blocks'). A fee-paying payment service provider can use the table to identify which fee-blocks it falls into based on its authorisation or registration or current permission.

<u>Activity group</u>	<u>Fee payer falls into this activity group if:</u>
<u>G.2 Certain deposit acceptors</u>	<u>it is a fee-paying payment service provider not falling within any of the other fee-blocks in this table</u>
<u>G.3 Large payment institutions</u>	<u>it is an authorised payment institution or an EEA authorised payment institution</u>
<u>G.4 small payment institutions</u>	<u>it is a small payment institution or a small e-money issuer.</u>

### Part 3

This table indicates the tariff base for each fee-block. The tariff base is the means by which the FSA measures the 'amount of business' conducted by fee-paying payment service providers.

<u>Activity group</u>	<u>Tariff-base</u>
<u>G.2</u>	<b><u>MODIFIED ELIGIBLE LIABILITES</u></b>

	These are determined in the same manner as the tariff-base for relevant <i>firms</i> in the A.1 fee-block set out in Part 2 of <i>FEES 4 Annex 1R</i>
<u>G.3</u>	<p><b><u>RELEVANT INCOME</u></b></p> <p>This is the sum of the following elements of the <i>firm's UK business</i>:-</p> <p><u>Interest income</u></p> <p><u>Interest expenses</u></p> <p><u>Gross commissions and fees received</u></p> <p><u>Gross other operating income</u></p> <p>calculated in the same manner as the “relevant indicator” referred to in paragraph 18(3) of Schedule 3 to the <i>Payment Services Regulations</i>.</p>
<u>G.4</u>	<u>Not applicable.</u>

#### Part 4 – Valuation period

This table indicates the valuation date for each fee-block. A *fee-paying payment service provider* 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.

<u>Activity group</u>	<u>Valuation date</u>
<p><u>In this table, reference to specific dates or months are references to the latest one occurring before the start of the period to which the fee applies e.g. for 2010/11 fees (1 April 2010 to 31 March 2011), a reference to December means December 2009.</u></p>	
<p><u>Where a <i>fee-paying payment service provider's</i> tariff data is in a currency other than sterling, it must be converted into sterling at the exchange rate prevailing on the relevant valuation date.</u></p>	
<u>G.2</u>	<u>For banks, e-money issuers and building societies as in FEES 4 Annex 1 R Part 3.</u>
<u>G.3</u>	<u>Relevant income for the financial year ended in the</u>

	<u>calendar year ending 31 December.</u>
<u>G.4</u>	<u>Not relevant</u>

Part 5 – Tariff rates

<u>Activity group</u>	<u>Fee payable</u>	
<u>G.2</u>	<u>Minimum fee (£)</u>	<u>400</u>
	<u>£ million of Modified Eligible Liabilities (MELs)</u>	<u>Fee (£/£m or part £m of MELS)</u>
	<u>(tariff band)<sup>2</sup></u>	<u>(tariff rate)</u>
<u>G.3</u>	<u>Minimum fee (£)</u>	<u>400</u>
	<u>£ thousands or part £ thousand of Relevant Income</u>	<u>Fee (£/£thousand or part £ thousand of Relevant Income)</u>
	<u>(tariff band)</u>	<u>(tariff rate)</u>
<u>G.4</u>	<u>£400</u>	

Part 6 – Permitted deductions for financial penalties<sup>3</sup>

Fee-paying payment service providers may make deductions as provided in this Part.

<u>Activity group</u>	<u>Nature of deduction</u>	<u>Amount of deduction</u>
-----------------------	----------------------------	----------------------------

<sup>2</sup> Tariff bands and tariff rates for periodic fees for fee-paying payment services providers do not fall within the scope of this consultation.

<sup>3</sup> Permitted deductions for financial penalties for fee-paying payment services providers do not fall within the scope of this consultation.

<u>G.2</u>	<u>Financial penalties received</u>	<u>XXX</u>
<u>G.3</u>	<u>Financial penalties received</u>	<u>XXX</u>
<u>G.4</u>	<u>Financial penalties received</u>	<u>XXX</u>

Part 7 – Permitted deductions for EEA authorised payment institutions<sup>4</sup>

Fee-paying payment service providers may make deductions as provided in this Part.

<u>Activity group</u>	<u>Percentage deducted from the tariff payable under Part 5 applicable to the firm</u>	<u>Minimum amount payable</u>
<u>G.2</u>	<u>XXX</u>	<u>XXX</u>
<u>G.3</u>	<u>XXX</u>	<u>XXX</u>
<u>G.4</u>	<u>XXX</u>	<u>XXX</u>

...

## **5 Financial Ombudsman Service**

...

- 5.1.3 G References in this chapter to "*firms*" are to be construed, where relevant, as including:

...

- (3) *fee-paying payment service providers* as a result of modifications to section 226 of the Act in accordance with paragraph 1(1)(a) of Part 1 of Schedule 6 to the *Payment Services Regulations*.

...

- 5.2.2 G Section 234 of the Act (Industry Funding) enables the FSA to require the payment to it or to *FOS Ltd*, by *firms* or any class of *firm* (including *fee-*

<sup>4</sup> Permitted deductions for EEA authorised payment institutions do not fall within the scope of this consultation.

paying payment service providers that are not in any other industry block), of specified amounts (or amounts calculated in a specified way) to cover the costs of:

...

...

- 5.8.2      R      (1)    This rule deals with the calculation of:
- (a)    a firm's general levy in the 12 months ending on the 31 March in which it was given permission or was authorised or registered under the PSR or had its permission and/or payment services activities extended ("relevant permissions"); and
  - (b)    the tariff base for the industry blocks that relate to each of the relevant permissions.
- (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 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 gets the relevant permission to which that tariff base relates, the firm must use that data.
- (4)    Unless (3) applies, if a firm:
- (a)    receives a relevant permission between 1 April and 31 December inclusive; and
  - (b)    is, but for this rule, required to calculate its tariff base for that relevant permission 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 a relevant permission between 1 April and 31 December inclusive; and
  - (b)    the firm's tariff base for that relevant permission is, but for this rule, 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 was given the relevant permission relating to that tariff 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 that relevant permission.
- (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* 5.4 (Information requirement). Any such choice is only revocable before that date.
- (8) Where a *firm* chooses to use actual data under this rule *FEES* 4 Annex 1R Part 3 and *FEES* 4 Annex 10R Part 4 are modified in relation to the calculation of that *firm*'s valuation date in its second financial year.

...

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

Introduction: annual budget

...

Industry block	Tariff Base	General levy payable by firm
...		
11 – <u>fee-paying payment service providers</u> (but <u>excluding firms in any</u>	N/A for 2008/09 <u>For authorised payment institutions relevant income as described in <i>FEES</i> 4 Annex 10 R Part 3</u>	XX

<u>other Industry block)</u>		
	<u>For small payment institutions and small e-money issuers a flat fee</u>	<u>Levy of £75</u>

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