

**Tab 30**

## **FSA board members as at 30 December 2011**

### **Chairman**

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#### **Adair, Lord Turner**

Adair Turner was appointed FSA Chairman in September 2008. He has combined careers in business, public policy and academia.

### **Chief Executive, FSA**

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#### **Hector Sants**

Hector was appointed FSA Chief Executive at the end of July 2007. He is also a member of the interim Financial Policy Committee of the Bank of England.

### **Other board members**

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#### **Amanda Davidson - Non-executive FSA Board Member**

Amanda Davidson joined the FSA Board in May 2010. She has been a Director of Baigrie Davies, an Independent Financial Adviser, since 2005. Her previous career includes Directorship of Holden Meehan where she was involved in the sale of the business to Bradford & Bingley in 2003.

#### **Andrew Scott - Non-executive FSA Board Member**

Andrew Scott joined the FSA Board in November 2009. He is Professor of Economics and Deputy Dean at London Business School, a Fellow of the Centre for Economic Policy Research and Scientific Chair of the Euro Area Business Cycle Network.

#### **Brian Flanagan - Non-executive FSA Board member**

Brian Flanagan joined the FSA Board in January 2007. He is a non-executive director of Wm Morrison Supermarkets plc and Bettys and Taylors of Harrogate. He is also advisor to Jet Environmental Ltd. He was formerly a Vice President of Mars Inc.

#### **Brian Pomeroy - Non-executive FSA Board Member**

Brian Pomeroy CBE joined the FSA Board in November 2009. He was the Senior Partner of Deloitte Consulting until 1999 when he took up a number of public, private and voluntary sector appointments.

#### **Dame Sandra Dawson - Non-executive FSA Board member**

Dame Sandra joined the FSA Board in May 2010. She has been a Deputy Vice Chancellor of Cambridge University since 2008. Since 1995 she has held various other roles at Cambridge University including Director of the Judge Business School and Master of Sidney Sussex College.

**James Strachan - Non-executive FSA Board Member**

James Strachan joined the FSA Board in November 2009. He is a non-executive director of Towergate Insurance Group, JPMorgan Asian Investment Trust plc, Welsh Water Limited, Sarasin and Partners LLP and Social Finance Limited.

**Karin Forseke - Deputy Chair and Senior Independent Director**

Karin Forseke joined the FSA Board in December 2004. She was Chief Executive Officer of Carnegie Investment Bank AB from 2003 until March 2006.

**Lesley Titcomb - Acting Chief Operating Officer**

Lesley became Acting Chief Operating Officer in July 2010 and has overall responsibility for the FSA's Operations Business Unit.

**Margaret Cole - Interim Managing Director, Conduct Business Unit**

Margaret Cole joined the FSA in July 2005 as Director of Enforcement. She is a graduate in Law from New Hall, Cambridge and is a solicitor with over 20 years' experience in private practice, specialising in commercial litigation with an emphasis on financial services. She is also qualified as a Mediator with CEDR and the ADR Group.

**Martin Wheatley - Managing Director, Conduct Business Unit**

Martin Wheatley joined the FSA on 1 September 2011 as the Managing Director of the Conduct Business Unit. In due course, Martin will become the CEO of the Financial Conduct Authority (FCA). Martin joins us from Hong Kong's Securities and Futures Commission where he served as CEO for five years. Before this, he held various roles including Deputy Chief Executive of the London Stock Exchange Group plc and sat on the FSA's Listing Authority Advisory Committee.

**Mick McAteer - Non-executive FSA Board Member**

Mick McAteer joined the FSA Board in November 2009. He is the founder and Director of The Financial Inclusion Centre. He has over 20 years experience in financial services.

**Paul Tucker - Non-executive FSA Board Member**

Paul Tucker joined the FSA Board in March 2009 after having become Deputy Governor, Financial Stability of the Bank of England. He is a member of the Bank's Monetary Policy Committee and in addition has specific responsibility for the Bank's work on financial stability.

**Peter Fisher - Non-executive FSA Board member**

Peter R. Fisher joined the FSA Board in January 2007. He is Senior Managing Director of BlackRock and is Head of BlackRock's Fixed Income Portfolio Management globally.

# Governance of the Authority

## Board resolution of 22 July 2010

### Introduction

1. This resolution makes provision for the regulatory and operational responsibilities of the Authority as required by the Financial Services and Markets Act 2000 (FSMA).
2. FSMA requires the Authority, in managing its affairs, to have regard to such generally applicable principles of good corporate governance as it is reasonable to regard as applicable to it. This resolution therefore includes material from the Combined Code on Corporate Governance, where relevant to the subject matter of the resolution.

### Contents

Introduction	1
Terms of reference of the Board	2
Terms of reference of the Non-executive Committee	4
Terms of reference of the Audit Committee	5
Terms of reference of the Risk Committee	12
Terms of reference of the Remuneration Committee	16
Terms of reference of the Listing Committees	19
Terms of reference of the Regulatory Decisions Committee (RDC)	20
Terms of reference of the Guidance Committee	21
Terms of reference for decisions by executive Board members	23
Delegation of decision-making	23

## Terms of reference of the Board

1. The role of the Board is to lead and control the affairs of the Authority.
2. In accordance with this, the Board's role will include:
  - a) exercise of the Authority's legislative functions, which the FSMA provides that only the Board can exercise;
  - b) making strategic decisions affecting the future operation of the Authority;
  - c) overseeing the discharge by the executive management of the day-to-day business of the Authority;
  - d) setting appropriate policies to manage risks to the Authority's operations and the achievement of its regulatory objectives and seeking regular assurance that the system of internal control is effective in managing risks in the manner it has approved;
  - e) maintaining a sound system of financial control;
  - f) taking specific decisions which the Board or executive management consider to be of such significance as to require to be taken by the Board;
  - g) maintaining high level relations with other organisations and authorities, including government, the Compensation Scheme, the Ombudsman Scheme, and the consumer and practitioner panels; and
  - h) providing an accountability mechanism for decisions of committees of the Board and executive management, through periodic reporting.
3. In accordance with the Turnbull Report, the Board's deliberations in the management of risks to the Authority's objectives will include consideration of:
  - a) the nature and extent of the risk facing the Authority;
  - b) the extent and categories of risk which it regards as reasonable for the Authority to accept;
  - c) the likelihood of the risks concerned materialising;
  - d) the Authority's ability to reduce the incidence and impact on its objectives of risks that do materialise; and
  - e) the costs of operating particular controls relative to the benefit thereby obtained in managing the related risks.
4. In accordance with the Combined Code:
  - a) all directors will bring an independent judgement to bear on issues of strategy, performance, resources (including key appointments) and standards of conduct;
  - b) the Board expects to be supplied in a timely manner with information in a form and of a quality appropriate to enable it to discharge its duties;
  - c) all directors have access to the advice and services of the Company Secretary, who is responsible to the Board for ensuring that Board procedures are followed and that applicable internal rules and regulations relating to the operation of the Board are met; and

- d) every director will receive appropriate training on the first occasion that he or she is appointed to the Board; and subsequently as necessary.
- 5. When the Board exercises its legislative powers, its decision allows subsequent technical or drafting amendments to be made to the text of the relevant instrument, if they are within the scope of the Board's decision, and agreed by the staff member responsible for the instrument and the General Counsel or his representative.
- 6. In accordance with past practice any Board member who requires professional advice on a matter relating exclusively to the duties of a Board member may, by a request to the Secretary, have direct access to the Authority's professional advisers, and, if the Board member considers it essential to receive independent professional advice on such a matter, this may be obtained at the Authority's expense within reasonable financial limits after reference to the Chairman or the Deputy Chairman.
- 7. The quorum necessary for the transaction of the business of the Board shall be five.

## Terms of reference of the Non-executive Committee

1. There shall be a Non-executive Committee of the Board. The members of the Non-executive Committee are to be all the non-executive members of the Board. It will have no other members. Its chairman will be the person appointed as chairman by the Treasury.
2. FSMA provides for the functions of the Non-executive Committee to be:
  - a) keeping under review the question whether the Authority is, in discharging its functions in accordance with decisions of its governing body, using its resources in the most efficient and economic way;
  - b) keeping under review the question whether the Authority's internal financial controls secure the proper conduct of its financial affairs; and
  - c) determining the remuneration of the chairman of the Board and the executive members of the Board.
3. The Act allows the Non-executive Committee to delegate the second and third of these functions to a sub committee of non-executive Board members with the same chairman. The Non-Executive Committee exercises the second function itself, in collaboration with the Audit Committee. It has delegated the third function to the Remuneration Committee.

# Terms of reference of the Audit Committee

## Membership and Committee Proceedings

1. Members of the Audit Committee (the Committee) shall be appointed by the Board, in consultation with the Chairman of the Audit Committee. The Committee shall be made up of at least three members.
2. All members of the Committee shall be independent non-executive directors at least one of whom shall have recent and relevant financial experience. The FSA Chairman shall not be a member of the Committee.
3. Appointments to the Committee shall be for a period of up to three years, which may be extended for two further three year periods, provided the Director remains independent.
4. Only members of the Committee have the right to attend Committee meetings. However, any other individuals may be invited to attend all or part of any meeting as and when appropriate.
5. The external auditors will normally be invited to attend all meetings of the Committee.
6. The Board shall appoint the Committee Chairman who shall be an independent non-executive director. In the absence of the Committee Chairman, the remaining members present shall elect one of themselves to chair the meeting.

## Secretary

7. The Company Secretary or their nominee shall act as the Secretary of the Committee (the Secretary).

## Quorum

8. The quorum necessary for the transaction of business shall be three members. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.

## Frequency of meetings

9. The Committee shall meet at least four times a year at appropriate times in the reporting and audit cycle and otherwise as required. These meetings will be scheduled as far as possible, to co-ordinate with the Risk Committee meetings.



## **Notice of meetings**

10. Meetings of the Committee shall be called by the Secretary at the request of any of its members or at the request of the external or internal auditors if they consider it necessary.
11. Meetings may also be held by telephone to deal with Committee business.
12. Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Committee, and any other person required to attend, no later than five working days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees as appropriate, at the same time.

## **Minutes of meetings**

13. The Secretary shall minute the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance.
14. The Secretary shall ascertain, at the beginning of each meeting, the existence of any conflicts of interest and minute them accordingly.
15. Minutes of Committee meetings shall be circulated promptly to all members of the Committee and to nominated recipients. The minutes will also be circulated to all members of the Board, unless a conflict of interest exists.

## **Annual Public Meeting**

16. The Chairman of the Committee shall attend the Annual Public Meeting prepared to respond to any stakeholder questions on the Committee's activities.

## **Duties**

17. The Committee should carry out the duties below.

## **Financial reporting**

18. The Committee shall monitor the integrity of the financial statements of the company, reviewing significant financial reporting issues and judgements which they contain.
19. The Committee shall review and challenge where necessary:
  - a) the consistency of, and any changes to, accounting policies both on a year-on-year basis and across the company;
  - b) the methods used to account for significant or unusual transactions where different approaches are possible;
  - c) whether the company has followed appropriate accounting standards and made appropriate estimates and judgements, taking into account the views of the external auditor;

- d) the clarity of disclosure in the company's financial reports and the context in which statements are made; and
  - e) all material information presented with the financial statements, such as the operating and financial review and the corporate governance statement (insofar as it relates to the audit and risk management).
20. The Committee shall review the annual financial statements of the pension plan.

### **FSA Chairman's expenses**

21. The Committee shall review the expenses incurred by the FSA Chairman, by an annual summary, showing separately travel, entertainment and any other significant item of expense.

### **Financial policies**

22. The Committee shall monitor and, if it sees fit, make recommendations to the Board on the FSA's financial policies.

### **Internal controls and risk management systems**

23. The Committee shall:
- a) keep under review the effectiveness of the company's internal controls and internal risk management systems; and
  - b) review and approve the statements to be included in the annual report concerning internal controls and internal risk management.
24. The risks included in the Risk Management framework should be defined so that either the Committee or Risk Committee (but not both) take oversight responsibility. Such responsibility will be agreed between the Chairmen of the two Committees.
25. Where a risk has an internal and an external risk profile, the Chairmen of the Audit and Risk Committees shall agree the allocation of responsibility for oversight of the internal and external components of such risks and seek assurance from the executive that such risks have been aligned appropriately on the Risk Management framework.

### **Whistleblowing**

26. The Committee shall review the company's arrangements for its employees to raise concerns, in confidence, about possible wrongdoing. The Committee shall ensure that these arrangements allow proportionate and independent investigation of such matters and appropriate follow up action.

## Potential implications of legal action

27. The Committee shall monitor and, if it sees fit, make recommendations to the Board on the potential implications of legal action taken against the Authority, based on litigation reports received from the General Counsel's Division and Human Resources Division.

## Conflicts of interest

28. The Committee will monitor and, if it sees fit, make recommendations to the Board on the adequacy of the operation and management of the Code of Conduct for staff dealing and handling potential conflicts of interest.

## Internal audit

29. The Committee shall:
  - a) review and approve the terms of reference for the internal audit function, taking into account the complementary roles of the internal and external auditor;
  - b) monitor and review the effectiveness of the company's internal audit function in the context of the company's overall risk management system;
  - c) make recommendations to the Board to assist in any decision to appoint or remove the Director of Internal Audit;
  - d) consider and approve the remit of the internal audit function and ensure it has adequate resources and appropriate access to information to enable it to perform its function effectively and in accordance with the relevant professional standards. The Committee shall also ensure the function has adequate standing and is free from management or other restrictions;
  - e) review and assess the internal audit plan;
  - f) review promptly reporting on the FSA from the internal auditors;
  - g) review and monitor management's responsiveness to the findings and recommendations of the internal auditor;
  - h) meet the Director of Internal Audit at least twice a year, without management being present, to discuss their remit and any issues arising from the internal audits carried out. In addition, the Director of Internal Audit shall be given the right of direct access to the, FSA Chairman and to the Chairman of the Committee, and is accountable to the Committee;
  - i) advise the Chairman and Chief Executive on the effectiveness of the Director of Internal Audit (as required); and
  - j) review the proposed annual budget for the Internal Audit Division and make recommendations to the Board (if appropriate).

## External audit

30. The Committee shall:

- a) consider and make recommendations to the Board, to be put to members for approval at a General Meeting, in relation to the appointment, re-appointment and removal of the company's external auditor. The Committee shall oversee the selection process for new auditors and if an auditor resigns, the Committee shall investigate the issues leading to this and decide whether any action is required;
- b) oversee the relationship with the external auditor including (but not limited to):
  - i) recommending to the Board, their remuneration, whether fees for audit or non-audit services and that the level of fees is appropriate to enable an adequate audit to be conducted;
  - ii) approval of their terms of engagement, including any engagement letter issued at the start of each audit and the scope of the audit;
  - iii) assessing annually their independence and objectivity taking into account relevant professional and regulatory requirements and the relationship with the auditor as a whole, including the provision of any non-audit services;
  - iv) satisfying itself that there are no relationships (such as family, employment, investment, financial or business) between the auditor and the company (other than in the ordinary course of business);
  - v) agreeing with the Board a policy on the employment of former employees of the company's auditor, then monitoring the implementation of this policy monitoring the auditor's compliance with relevant ethical and professional guidance on the rotation of audit partners, the level of fees paid by the company compared to the overall fee income of the firm, office and partner and other related requirements;
  - vi) assessing annually their qualifications, expertise and resources and the effectiveness of the audit process which shall include a report from the external auditor on their own internal quality procedures;
  - vii) meet regularly with the external auditor, including once at the planning stage before the audit and once after the audit at the reporting stage. The Committee shall meet the external auditor at least once a year, without management being present, to discuss their remit and any issues arising from the audit;
  - viii) review and approve the audit plan and ensure that it is consistent with the scope of the audit engagement; and
  - ix) review the findings of the audit with the external auditor. This shall include, but not be limited to, the following:
    - a discussion of any major issues which arose during the audit;
    - any accounting and audit judgements; and
    - levels of errors identified during the audit.

31. The Committee shall also review the effectiveness of the audit:
  - a) review any representation letters requested by the external auditor before they are signed by management;
  - b) review the management letter and management's response to the external auditor's findings and recommendations; and
  - c) develop and implement a policy on the supply of non-audit services by the external auditor, taking into account any relevant ethical guidance on the matter.

## Reporting responsibilities

32. The Committee Chairman shall report formally to the Board on its proceedings after each meeting on all matters within its duties and responsibilities.
33. The Committee shall make whatever recommendations to the Board it deems appropriate on any area within its remit where action or improvement is needed.
34. The Committee is responsible for advising the Board on the FSA's compliance with the Combined Code.
35. The Committee shall compile a report on its activities to be included in the FSA's annual report.

## Other matters

36. The Committee shall:
  - a) have access to sufficient resources in order to carry out its duties, including access to Corporate Services for assistance as required;
  - b) be provided with appropriate and timely training, both in the form of an induction programme<sup>1</sup> for new members and on an ongoing basis for all members;
  - c) give due consideration to laws and the provisions of the Combined Code as appropriate;
  - d) be responsible for co-ordination of the internal and external auditors;
  - e) oversee any investigation of activities which are within its terms of reference and act for internal purposes as a court of the last resort;
  - f) at least once a year, review its own performance and terms of reference to ensure it is operating at maximum effectiveness and recommend any changes it considers necessary to the Board for approval; and
  - g) have a private session to discuss Committee matters at every scheduled Committee meeting (unless agreed otherwise).

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<sup>1</sup> The induction programme will cover the role of the Committee; its terms of reference; the amount of time members are expected to commit to Committee business; access to resources and the co-ordination between Committee members, the Risk Committee, the Board, the executive, the external and internal auditors; and ongoing training on developments in financial reporting and relevant company law and governance requirements.

## Authority

37. The Committee is authorised:

- a) to seek any information it requires from any employee of the company in order to perform its duties;
- b) to obtain, at the company's expense, outside legal or other professional advice on any matter within its terms of reference; and
- c) to call any employee to be questioned at a meeting of the Committee as and when required.

# Terms of reference of the Risk Committee

## Membership

1. Members of the Risk Committee (the Committee) shall be appointed by the Board, in consultation with the Chairman of the Risk Committee. The Committee shall be made up of at least three members.
2. All members of the Committee shall be independent non-executive directors. The FSA Chairman shall not be a member of the Committee.
3. Only members of the Committee have the right to attend Committee meetings. However, other individuals such as other non-executive directors, the FSA Chairman, Chief Executive, Director of Risk Management, Director of Internal Audit and representatives from other functions may be invited to attend all or part of any meeting as and when appropriate.
4. The Managing Director, Risk will normally be invited to attend all meetings of the Committee.
5. The Board shall appoint the Committee Chairman who shall be an independent non-executive director. In the absence of the Committee Chairman, the remaining members present shall elect one of themselves to chair the meeting.

## Secretary

6. The Company Secretary or their nominee shall act as the Secretary of the Committee (the Secretary).

## Quorum

7. The quorum necessary for the transaction of business shall be three members. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.

## Frequency of meetings

8. The Committee shall meet at least four times a year at appropriate times in the reporting cycle and otherwise as required. These meetings will be scheduled as far as possible, to coincide with key dates in the risk review process and, as far as possible, to co-ordinate with Audit Committee meetings.

## Notice of meetings

9. Meetings of the Committee shall be called by the Secretary at the request of any of its members or at the request of external or internal auditors if they consider it necessary.

10. Meetings may also be held by telephone or by electronic means to deal with Committee business.
11. Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed, shall be forwarded to each member of the Committee, any other person required to attend, no later than five working days before the date of the meeting. Supporting papers shall be sent to Committee members and to other attendees as appropriate, at the same time.

## **Minutes of meetings**

12. The Secretary shall minute the proceedings and resolutions of all meetings of the Committee, including recording the names of those present and in attendance.
13. The Secretary shall ascertain, at the beginning of each meeting, the existence of any conflicts of interest and minute them accordingly.
14. Minutes of Committee meetings shall be circulated promptly to all members of the Committee and to nominated recipients. The minutes will also be circulated to all members of the Board, unless a conflict of interest exists.

## **Annual Public Meeting**

15. The Chairman of the Committee shall attend the Annual Public Meeting prepared to respond to any stakeholder questions on the Committee's activities.

## **Purpose**

16. The Risk Committee is responsible for the review and oversight of the following, on which it will report to the Board:
  - a) the risks to the FSA's statutory objectives;
  - b) the executive's appetite for such risks; and
  - c) the risk management and mitigation strategies and systems used to control such risks.

## **Duties**

17. The Committee should carry out the duties below in order to fulfil its responsibilities.
18. The Risk Committee will seek assurance that:
  - a) the major risks to the FSA's statutory objectives and its reputation, arising within the environment that the FSA regulates, have been identified and prioritised appropriately;
  - b) sufficient resources have been appropriately applied by the executive to the identification, management and mitigation of these risks; and



- c) adequate and effective processes and the necessary staff and operational resources have been applied within the business to enable discharge of the purpose described in paragraph 16 above.
19. The Committee will:
- a) keep under review the identification of risks (as reflected in the management information it receives on the risk management framework) and management's mitigation of these risks;
  - b) review the statements to be included in the Annual Report and Accounts concerning risks to the environment in which the FSA regulates; and
  - c) review any relevant reports from the internal and external auditor and specialist supervision unit.
20. The risks included in the risk management framework should be defined so that either the Audit Committee or Risk Committee (but not both) take oversight responsibility. Such responsibility will be agreed between the Chairmen of the two Committees.
21. Where a risk has both an internal and an external risk profile, the Chairmen of the Audit and Risk Committee shall agree the allocation of responsibility for oversight of the internal and external components of such risks and seek assurance from the executive that such risks have been aligned appropriately on the risk management framework.

## Reporting responsibilities

22. The Committee Chairman shall report to the Board on its proceedings after each meeting.
23. The Committee shall make whatever recommendations to the Board it deems appropriate on any area within its remit where action or improvement is needed.
24. The Committee shall provide a report on its activities to be included in the FSA's Annual Report.

## Other matters

25. The Committee shall:
- a) have access to sufficient resources in order to carry out its duties, including access to Corporate Services for assistance as required;
  - b) be provided with appropriate and timely training, both in the form of an induction programme<sup>2</sup> for new members and on an ongoing basis for all members; and
  - c) at least once a year, review its own performance and terms of reference and recommend any changes it considers necessary to the Board for approval.

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<sup>2</sup> The induction programme will cover the role of the Committee; its terms of reference; the amount of time members are expected to commit to Committee business; access to resources and the co-ordination between Committee members, the Audit Committee, the Board, the executive, the FSA's risk management framework, and any other matters thought appropriate.

## Authority

26. The Committee is authorised:

- a) to seek any information it requires from any employee of the company in order to perform its duties;
- b) to obtain, at the company's expense, outside legal or other professional advice on any matter within its terms of reference; and
- c) to call any employee to be questioned at a meeting of the Committee as and when required.

# Terms of reference of the Remuneration Committee

## Committee

1. The Remuneration Committee ('RemCo') shall operate as a sub-committee of the Non-executive Committee ('NedCo') under the same chairman.

## Membership

2. The membership of RemCo shall comprise only non-executive directors and shall consist of not less than four members. (The FSA Governance Memorandum sets the quorum for committees at three members.) NedCo shall be responsible for any new appointments to RemCo.

## Meetings

3. RemCo shall meet not less than twice each year.

## Attendance at meetings

4. The Chairman and Chief Executive Officer of the Authority may attend at the request of RemCo.
5. No person may be present when any matter affecting that person directly is under consideration.
6. The Company Secretary, or their nominee, shall be Secretary to RemCo.
7. RemCo is assisted by the Director, Human Resources.

## Duties

8. The responsibilities of RemCo shall be to:
  - a) Approve, and agree with NedCo, the Authority's broad policy relating to the total remuneration paid to:
    - i) the Chairman of the Authority;
    - ii) the executive directors;
    - iii) the Company Secretary;
    - iv) members of senior management; and
    - v) FSA employees.

In approving such policy, take into account all factors which it deems necessary. The objective of such policy shall be to ensure that the individuals for whom

RemCo is responsible are provided with appropriate incentives to encourage enhanced performance and are, in a fair and responsible manner, rewarded for their contributions to the success of the FSA.

- b) Periodically review the broad policy and make recommendations to NedCo, as appropriate.
- c) Review, and by reference to the broad policy applying from time-to-time, approve (but in the case of the Chairman determine) the terms of any contract of employment and remuneration arrangements, including any annual or longer-term incentive packages and pensions rights of:
  - i) the Chairman of the Authority;
  - ii) the executive directors; and
  - iii) the Company Secretary.
- d) Review the executive recommendations on, and approve the remuneration of, any employee who is a direct report to the Chief Executive Officer.
- e) Monitor against the agreed broad policy:
  - i) the level and structure of total remuneration for the senior management group; and
  - ii) the application of the policy across the whole organisation to ensure transparency, fairness and consistency.
- f) Approve both the policy and any compensation packages or arrangements following the severance of the service contract applicable to the Chairman, Company Secretary, any Executive Director or direct report to the Chief Executive Officer (plus any other member of staff where the terms proposed are unusual or exceptional) with a view to ensuring that the individual is treated fairly, but failure is not rewarded.
- g) Approve the policy covering the involvement of the Chairman and Executive Board members with, and the treatment of fees arising from, any outside appointment offered to them.
- h) Approve a policy for authorising claims for expenses for the CEO and Chairman.
- i) Select, appoint and determine the terms of reference of any independent remuneration consultants appointed to advise the Committee on remuneration policy, levels of remuneration of, and terms of any contract of employment applicable to, those individuals for whom RemCo has responsibility. The Committee may commission independent legal advice, as necessary.

## Reporting procedures

- 9. The Chairman of RemCo shall report to NedCo at regular intervals informing NedCo of the matters it has reviewed, the decisions it has made, and making recommendations on policy, as appropriate.
- 10. RemCo will report annually to NedCo on the discharge of its responsibilities in a form fit for publication in the Authority's Annual Report and Accounts.

11. The Chairman of NedCo shall attend the Annual Public Meeting of the Authority prepared to respond to any questions on RemCo's activities.

## **Other**

12. The Committee shall annually review its own performance, constitution and terms of reference to ensure it is operating effectively and recommend any changes to NedCo for approval.

## Terms of reference of the Listing Committees

1. There shall be a Listing Authority Advisory Committee composed of persons appointed by the Board, whose membership is to include persons chosen to represent the interests of practitioners and listed companies.
2. Its functions are to advise the Authority's listing function and the Board:
  - a) on major policy issues relevant to the Board which affect issuers of securities; and
  - b) on proposals for the regulation carried out by and the policies and operation of the Authority's listing function.
3. The Listing Authority Advisory Committee may delegate any of its functions to one or more sub-committees, which shall be composed of persons (whether or not members of the Listing Authority Advisory Committee) appointed by the committee.
4. The Chairman of the Committee will provide reports on LAAC meetings to the Board and attend on an annual basis.
5. There shall be a Listing Authority Review Committee composed of a chairman, who is a director, and of members who are senior Authority staff or practitioners appointed by the chairman.
6. Its functions are:
  - a) to determine applications referred to it by staff to dispense with or modify the Listing Rules for the time being in force; and
  - b) to resolve disputes on the application and interpretation of the listing rules.

## Terms of reference of the Regulatory Decisions Committee (RDC)

1. The RDC is composed of a chairman appointed by the Board, who is an employee of the Authority, and other members appointed by the Board who are not employees of the Authority, including one or more Deputy Chairmen.
2. Its functions are:
  - a) to decide whether to serve statutory and other notices in cases which are described as within its scope by the Handbook, any regulatory guide or legislation (whether primary or subordinate legislation) including in particular the Decision Procedure and Penalties manual and the Enforcement Guide made and published by the Board;
  - b) to take decisions associated with the statutory notice decisions which are within its scope; and
  - c) to receive representations, whether written or oral.
3. The Committee may delegate a particular statutory notice decision to a panel, one or more of which it may constitute from time-to-time. Any such panel will be composed of the chairman or a deputy chairman and at least two other members of the Committee.
4. Decisions will be taken on behalf of the Committee by the chairman, a deputy chairman or one or more Authority employees in the circumstances described in the Decision Procedure and Penalties manual.
5. The Committee or a panel may require any employee of the Authority to attend one or more of its meetings.
6. The Committee is to follow the procedures set out in the Decision Procedure and Penalties manual and may determine its own procedures where they are not specified.
7. The quorum at a meeting of the Committee or a panel is (subject to the provisions in the Decision Procedure and Penalties manual, where it contemplates otherwise) three.
8. The Committee is accountable to the Board in respect of its procedures, policies and general arrangements, but this does not affect its independence in relation to its individual decisions.

# Terms of reference of the Guidance Committee

## Purpose

1. The Guidance Committee is authorised to issue general guidance in accordance with Schedule 1, paragraph 6(2) of FSMA.

## Membership

2. The Guidance Committee will elect one of the Chief Executive Officer, the Managing Directors or the Directors of Prudential Policy or Conduct Policy to act as Chairman at each meeting.
3. Membership will comprise the Chief Executive Officer, the Managing Directors and the Staff directors and any Heads of Department as the Chair shall at their discretion permit.

## Committee proceedings

4. The Committee will review its terms of reference annually and recommend any necessary changes to the Board.
5. The Guidance Committee will meet on an ad hoc basis and be summoned by the Secretary of the Guidance Committee at the request of any of its members. Meetings may also be held by telephone or by means of electronic communication to deal with Committee business provided that throughout the meeting all persons participating in the meeting are able to communicate interactively and simultaneously with all other parties participating in the meeting. Participation in a meeting by telephone or other electronic communication is deemed to constitute presence in person at the meeting.
6. The Guidance Committee may also take decisions in writing, including by fax, email or other electronic means. If the views of at least the number required for a quorum are obtained and they agree on a decision, that shall be the decision of the Committee on that matter.
7. The quorum at a meeting of the Guidance Committee is three all of which must be Staff director grade or above, and should include at least one individual who is entitled to act as Chair. The Guidance Committee may escalate the matter being considered to the FSA Board or to a re-convened meeting of the Guidance Committee comprising more senior membership. In deciding whether to do so, the level of seniority of the members of the Committee should be taken into account by the individual acting as Chair.



8. The Committee will be supported by the Executive Policy Committee secretariat, located in the Chief Executive's office, and the Senior Policy Board secretariat, any of whom may act as Secretary. The Secretary of the Guidance Committee will ensure Guidance Committee members receive information and papers in good time to enable them to give full and proper consideration to issues. The Secretary of the Guidance Committee will decide which members of the Committee to invite to participate in any meeting or decision in writing, having consulted one of the members who are able to act as Chair on the appropriate meeting composition or distribution.
9. Guidance Committee members who are subject to a conflict of interest in the determination of any matter must declare their interest to the Chairman of the meeting (or, if the person with the conflict is the Chairman, his or her alternate). The individual to whom the interest is declared will decide whether the conflict precludes the involvement of the member in making a decision.
10. Records of the meeting will be made available to the Board, Staff directors and meeting attendees.
11. The Guidance Committee will provide a six-monthly summary to the Board of any guidance it has approved.

## **Terms of reference for decisions by executive Board members**

1. The Chairman, Chief Executive, or any executive Board member may exercise any function of the Authority except where:
  - a) the function is a legislative function reserved by the FSMA to the Board;
  - b) the function is a non-executive function reserved by the FSMA to the Non-executive Committee;
  - c) the function involves a decision which the Authority's decision-taking manual reserves to the Regulatory Decisions Committee; or
  - d) they consider that the matter requires to be referred to the Board.
2. The Deputy Chairman may discharge any such function in any case of urgency where it is not practicable for the Board, Chairman, Chief Executive, or other executive Board member to discharge the function.
3. The Chairman, Chief Executive, and executive Board members may exercise functions individually vested in each or any of them through a senior staff committee, known as 'the Executive Committee', or 'ExCo', which may include other senior members of staff.

## **Delegation of decision-making**

1. The Chairman, Chief Executive, or any executive director with authority to make a decision may delegate that authority (and, if they choose, the authority to make further delegations) to one or more individuals or committees.
2. Where functions vested in the Chairman, Chief Executive, or any executive director are exercisable by them through ExCo, ExCo may similarly delegate that authority to one or more individuals or committees.
3. Any new delegation must provide for:
  - a) decisions to be made at an appropriate level;
  - b) a clear line of accountability to the Board;
  - c) any person with authority to take a decision to be entitled instead to refer it to a person or committee which is more senior in the line of command; and
  - d) decisions to be taken in accordance with the Authority's decision-taking procedures.
4. The nature and scope of delegations should be recorded.
5. Existing delegations of authority to take decisions within the executive management structure remain in force until replaced by new delegations.

## General

1. This resolution is made under Article 12 of the Authority's Articles of Association.
2. The Board authorises:
  - a) the use of the common seal, provided that the signatures required by Article 57 of the Articles of Association are obtained; and
  - b) the execution of any document pursuant to section 44 of the Companies Act 2006, provided that the signatures required by that section are obtained.
3. This resolution takes effect on 23 July 2009 and from that date the Board resolution of 28 May 2009 is revoked.

# Schedule of Matters Reserved to the Board as at 24 June 2010

## Background

The Board of the Financial Services Authority (FSA) is committed to high standards of corporate governance as required by section 7 of the Financial Services and Markets Act 2000 (FSMA) and therefore adopted a formal schedule of matters reserved on 24 June 2010.

Items marked \* should not be delegated to a board committee for decision (because of Companies Act or the UK Corporate Governance requirements). However a specific committee (noted in italics) may be given responsibility for that item although the final decision should be taken by the Board as a whole.

## Contents

Background	1
Legislative powers under FSMA	2
Strategy and management	2
Structure	3
Financial reporting and controls	3
Internal controls and risk management	3
Financial authorities	4
Board membership and other appointments	4
Delegation of authority	5
Corporate Governance matters	5
Other	5

## Legislative powers under FSMA

1. Discharge the FSA's legislative functions under FSMA:
  - a) making rules (s 138);
  - b) issuing codes on:
    - conduct of approved persons (s 64); and
    - market abuse (s 119);
  - c) issuing statements of policy on:
    - conduct of approved persons (s 64);
    - penalties for misconduct (s 69);
    - penalties for market abuse cases (s 124); and
    - financial penalties (s 210);
  - d) giving direction under the Authorities power in relation to the Society of Lloyd's:
    - underwriting (s 316);
    - Council (s 318); and
    - general prohibitions (s 328).

As part of the functions set out above, the Board will also determine the general policy and principles by reference to which the FSA performs a particular function.

## Strategy and management

2. Approve, amongst other things the FSA's:
  - a) Financial Risk Outlook;
  - b) overall strategy;
  - c) three-year plan; and
  - d) annual operating Business Plan and budget.
3. Approve:
  - a) the Financial Ombudsman Service's annual budget (para 9 Sch.17, FSMA); and
  - b) the Financial Services Compensation Scheme's management expenses levy limit (s 213, FSMA).
4. Review performance against the FSA's strategy, objectives, business plan and budget and ensure any necessary corrective action is taken.
5. Monitor arrangements for management development.
6. Determine the broad policy in relation to all aspects of remuneration in conjunction with the Non-executive Committee. (*Remuneration Committee*)\*
7. Oversee the discharge of FSA's operations by executive management ensuring:
  - a) competent and prudent management;
  - b) sound planning;
  - c) adequate accounting and other records; and
  - d) compliance with statutory obligations.

## Structure

8. Approve major changes to the FSA's corporate structure (e.g. the creation of a new Business Unit).

## Financial reporting and controls

9. Approve the Annual Report and Accounts including the:
  - a) Directors' Report;
  - b) Corporate Governance statement;
  - c) Remuneration Report (in conjunction with *Non-executive Committee*);
  - d) Financial Review; and
  - e) Report to HM Treasury on discharging the FSA's functions under FSMA (para 10(1) Sch. 1, FSMA).
10. Approve the Finance Policy. (*Audit Committee*)\*
11. Approve any significant changes in accounting policies or practices. (*Audit Committee*)\*
12. Undertake a regular review of the significant financial reporting issues and judgments made in connect with the preparation of the financial statements. (*Audit Committee*)\*

## Internal controls and risk management

13. Ensure maintenance of a sound system of internal controls and internal risk management including:
  - a) receiving reports on and reviewing the effectiveness of the FSA's internal risk and controls processes to support its strategy and objectives, (*Audit Committee*)\*;
  - b) undertaking an annual assessment of these processes, (*Audit Committee*)\*; and
  - c) approving an appropriate statement on internal controls and risk management. (*Audit Committee*)\*
14. Ensure the maintenance of an effective risk management system which both identifies and, where feasible seeks to mitigate risks to the FSA's statutory objectives. (*Risk Committee*)\*
15. Undertake an annual assessment of the effectiveness of internal control and risk management processes (including financial, operational and compliance controls and risk management systems) in conjunction with the Non-executive Committee. (*Audit Committee and Risk Committee*)\*
16. Regularly review the potential implications of legal action being taken against the FSA. (*Audit Committee*)\*

## Financial authorities

17. Approve transactions (or related programmes of transactions not in the ordinary course of business, the value of which (including VAT) is in excess of £1m.

18. Approve all transactions (within the Budget approved by the Board) that are in the ordinary course of business, and whose value (including VAT) exceeds and which exceed £5m, This applies to:
  - a) both capital and revenue items;
  - b) the total of closely related transactions; and
  - c) both as usual and project related transactions.
19. Approve all projects or programmes in the ordinary course of business if the external expenditure is in excess of £10m.
20. Approve the delegation of financial authorities (within the Finance Policy).

## **Board membership and other appointments**

21. Make representation to HM Treasury on the balance and composition of the Board to ensure there is adequate succession planning within the Board.
22. Consider succession planning for Executive Board members and senior staff (i.e. staff directors and above).
23. Appoint the Chairman and members of Board Committees including:
  - a) Audit Committee;
  - b) Risk Committee;
  - c) Listing Authority Advisory Committee; and
  - d) Listing Authority Review Committee.

In addition appoint and remove the Chairman, Deputy Chairman and members of the Regulatory Decisions Committee.

24. Appoint and remove the Company Secretary.
25. Appoint, re-appoint or remove the external auditors and determine their remuneration. (*Audit Committee*)\*
26. Appoint senior staff which includes:
  - a) chief executive;
  - b) managing directors;
  - c) chief operating officer; and
  - d) staff directors.

The chief executive will inform the Board when a senior staff member moves from one role to another at the same grade.

27. Appoint board members of any subsidiary companies and associated bodies.
28. Appoint employer-nominated directors of the Board of the FSA's Pension Trustee Company.
29. Appoint members of the Practitioner Panel (s 9, FSMA) and the Consumer Panel (s 10, FSMA) (with Treasury approval required for the chairmen).
30. Appoint and remove members of the Board of the Financial Ombudsman Service (para 3(2) Sch. 17, FSMA), and Financial Services Compensation Scheme (s 212(4), FSMA) (with Treasury approval required for the chairmen).

31. Appoint and remove members of the Board of the Consumer Financial Education Body (Sch. 1A, s 2(2) FSMA) (with Treasury approval required for the chairman and chief executive).
32. Appoint an Independent Complaints Commissioner to conduct investigations within the Complaints Scheme (with Treasury approval) (para 7 Sch. 1 FSMA).
33. Appoint a “Chief Prosecutor” and a “Deputy Prosecutor” to exercise the FSA’s powers under the Serious Organised Crime and Police Act 2005.

## **Delegation of authority**

34. Approve the terms of reference of all Board Committees.
35. Receive reports from Board Committees on their activities.

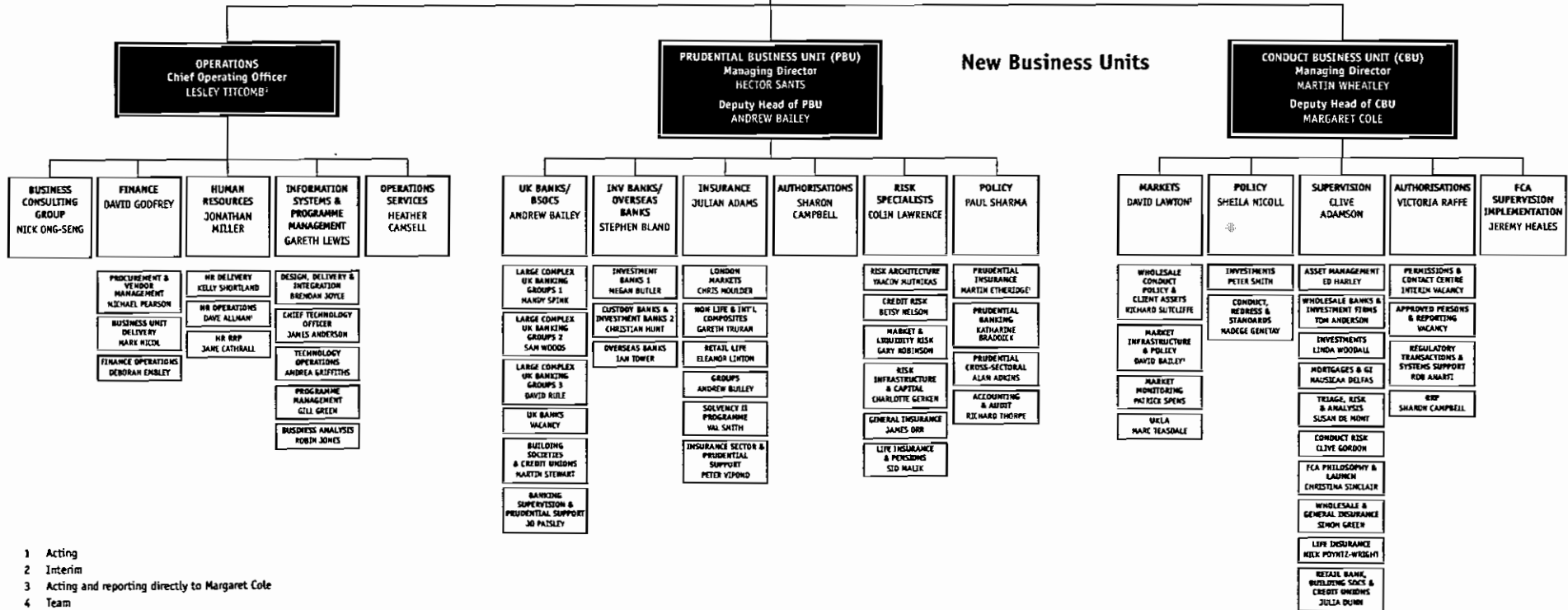
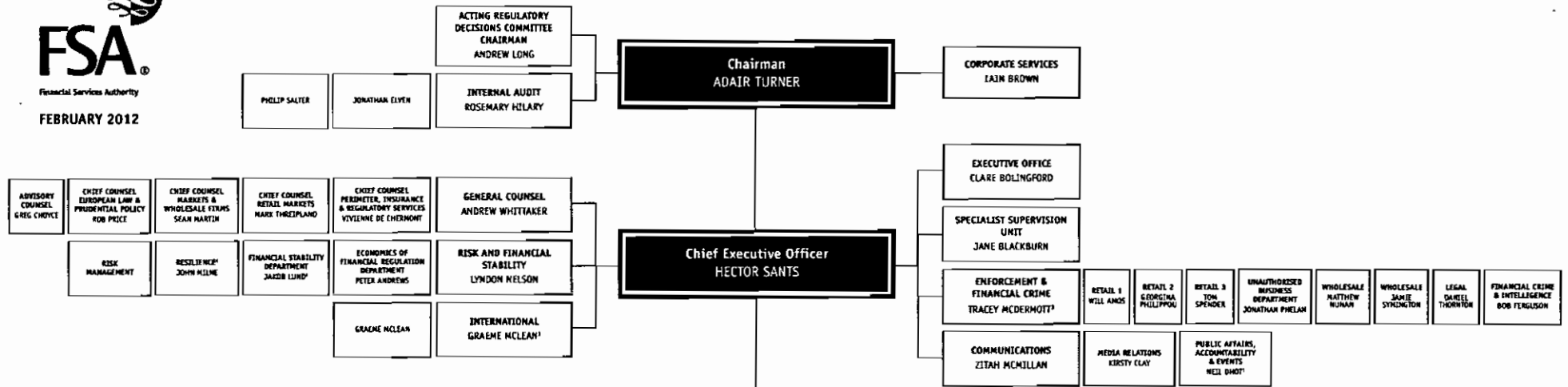
## **Corporate Governance matters**

36. Undertake annually a formal and rigorous review of its own performance, its committees and individual directors.
37. Determine the independence of directors.
38. Review the FSA’s overall Corporate Governance arrangements (s 7 FSMA) (Audit Committee). \*

## **Other**

39. Approve prosecution, defence and settlement of litigation (involving more than £2m or otherwise material to the interests of the FSA).
40. Approve major changes to the rules of the FSA Pension Plan.





1 Acting  
2 Interim  
3 Acting and reporting directly to Margaret Cole  
4 Team

Policy Statement

PS11/7

Financial Services Authority

# Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2011/12

Including feedback on CP11/2, part of  
CP10/24 and CP11/7 and 'made rules'

May 2011



LME-003503



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# Contents

Acronyms used in this paper	5
Key dates and information on periodic fees for authorised firms	9
1. Overview	11
 <b>PART A – Consolidated Policy Statement on our fee-raising arrangements</b>	
<b>Section 1 – FSA Periodic fees</b>	
2. Grouping firms into fee-blocks	24
3. Cost allocation to fee-blocks	26
4. Recovery of allocated costs within ‘A’ fee-blocks	32
5. Recovery of allocated costs within other fee-blocks	45
 <b>Section 2 – Application and special project fees</b>	
6. Application fees	48
7. Special project fees (SPFs) – overall policy	56
 <b>Section 3 – Other fees issues</b>	
8. UK Listing Authority (UKLA) fees	63
9. Regulatory reporting of fee tariff data	67
10. Levies for the Financial Ombudsman Service, the Financial Services Compensation Scheme and the Money Advice Service	72

**PART B – REGULATORY FEES AND LEVIES 2011/12 –****Section 4 – FSA periodic fees 2011/12**

11. Annual Funding Requirement (AFR) 2011/12	79
12. Allocation of 2011/12 AFR to fee-blocks	81
13. Periodic fees for authorised firms	83
14. Applying financial penalties in 2011/12	95
15. Periodic fees for other bodies	98

**Section 5 – Feedback on regulatory fees policy proposals 2011/12  
and proposed new fee-block for funding client money and  
assets regulation**

16. Special project fees for Solvency II – revised recovery method	111
17. New fee-block for funding client money and asset regulation	116

**Section 6 – Funding the Financial Ombudsman Service**

18. Financial Ombudsman Service general levy 2011/12	125
--	-----

**Section 7 – Funding the Money Advice Service**

19. Money Advice Service levy 2011/12	131
---------------------------------------	-----

- Annex 1:** Table of rules and guidance on fees
- Annex 2:** Fee-blocks and tariff bases
- Annex 3:** Administrative aspects of periodic fees
- Annex 4:** Financial penalty schemes under the Financial Services and Markets Act 2000
- Annex 5:** Special project fees case studies (Guidance SPFs)
- Annex 6:** Fees consultations
- Annex 7:** Financial Ombudsman Service general levy – 2011/12 overview
- Annex 8:** List of non-confidential respondents to CP11/2, CP11/7 (Chapter 4) and CP10/24 (Chapter 7)
- Appendix 1:** Periodic fees (2011/12) and other fees instrument 2011
- Appendix 2:** Periodic fees (unauthorised mutual societies registration) (2011/12) instrument 2011

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This Consolidated Policy Statement (PS) summarises our policy with regard to our fee-raising powers under the Financial Services and Markets Act 2000. This PS gives a broad overview of our fees rules and firms should always consult the Fees Manual in the current version of our Handbook of Rules and Guidance to see how the rules would apply in their particular circumstances.

This PS also reports on:

- the final 2011/12 FSA periodic fees, Financial Ombudsman service (ombudsman service) general levy and Money Advice Service levies consulted on in CP11/2 *Regulatory fees and levies – Rates proposals 2011/12* (February 2011);
- feedback consulted on in CP11/7: *Quarterly consultation paper (no. 28)* (April 2011) to clarify the arrangements for 'on account' payments for the Money Advice Service; and
- feedback on a proposal presented for discussion in CP10/24 *Regulatory fees and levies – policy proposals 2011/12* (October 2010) on establishing a new fee-block for funding client money and assets regulation.

The relevant rules and guidance are in the Fees Manual.

**Please address any comments or enquiries to:**

Peter Cardinali  
Fees Policy (Ref: CPS)  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

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For further information on fees, please visit our website at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees). Alternatively please contact the Firms Contact Centre on 0845 606 9966, or email the fees team: [fsafees@fsa.gov.uk](mailto:fsafees@fsa.gov.uk).

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

A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.

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Copies of this Policy Statement 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.

# Acronyms used in this paper

<b>ARD</b>	Accounting Reference Date
<b>AII</b>	Alternative Instrument Identifier
<b>AFR</b>	Annual funding requirement
<b>AOEM</b>	Average outstanding electronic money
<b>CM&amp;A</b>	Client money and assets
<b>CMAR</b>	Client money and assets return
<b>CIS</b>	Collective Investment Schemes
<b>CJ</b>	Compulsory jurisdiction
<b>COB</b>	Conduct of Business
<b>CP</b>	Consultation Paper
<b>CFEB</b>	Consumer Financial Education Body
<b>CCJ</b>	Consumer credit jurisdiction
<b>CBA</b>	Cost benefit analysis
<b>CCC</b>	Customer Contact Centre
<b>DPBs</b>	Designated professional bodies
<b>EMIs</b>	Electronic Money Issuers
<b>EMRs</b>	Electronic Money Regulations 2011
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>FEES</b>	Fees Manual



<b>FCA</b>	Financial Conduct Authority
<b>ombudsmen service</b>	Financial Ombudsmen Service
<b>FSCS</b>	Financial Services Compensation Scheme
<b>the Act</b>	Financial Services Act 2010
<b>FSMA</b>	Financial Services Markets Act 2000
<b>IS</b>	Information Services
<b>IMAP</b>	Internal Model Approval Process
<b>ISIN</b>	International Securities Identification Number
<b>MARD</b>	Making a real difference
<b>MELL</b>	Management Expenses Levy Limit
<b>MiFID</b>	Markets in Financial Instruments Directive
<b>MEL</b>	Modified Eligible Liabilities
<b>MLRs</b>	Money Laundering Regulations
<b>MLAR</b>	Mortgage Lending and Administration Return
<b>MMR</b>	Mortgage Market Review
<b>MTFs</b>	Multilateral Trading Facilities
<b>OFT</b>	Office of Fair Trading
<b>ORA</b>	Ongoing Regulatory Activities
<b>PIs</b>	Payment Institutions
<b>PSD</b>	Payment Services Directive
<b>PSPs</b>	Payment Services Providers
<b>PSRs</b>	Payment Services Regulations 2009
<b>PS</b>	Policy Statement
<b>PRIN</b>	Principles for business
<b>PRA</b>	Prudential Regulation Authority
<b>PRO</b>	Prudential Risk Outlook
<b>RAO</b>	Regulated Activities Order
<b>RCRO</b>	Retail Conduct Risk Outlook

<b>RDR</b>	Retail Distribution Review
<b>RMAR</b>	Retail Mediation Activities Return
<b>2EMD</b>	Second Electronic Money Directive
<b>SSV</b>	Scheme Specific Valuation
<b>SMEs</b>	Small electronic money institutions
<b>SII</b>	Solvency II EU Directive
<b>SPFs</b>	Special project fees
<b>SUP</b>	Supervision Manual
<b>SYSC</b>	Systems and controls
<b>COND</b>	Threshold conditions
<b>UKLA</b>	UK Listing Authority
<b>VoP</b>	Variation of Permission
<b>VJ</b>	Voluntary jurisdiction



# Key dates and information on periodic fees for authorised firms

Month	What will we do?	What do firms need to do?
Throughout the year		All firms required to complete the Retail Mediation Activities Return (RMAR) and Mortgage Lending and Administration Return (MLAR) must report fee tariff data in section J of the returns electronically once yearly.
January	Tariff data collection exercise begins.	Return tariff data sheets by <i>28 February</i> (except for firms completing the RMAR and MLAR – see Chapter 9 for more details).
February	Consultation Paper (CP) on fees for next financial year published.	Read and respond to proposals by CP deadlines.
31 March		Firms wishing to vary or cancel their permissions in time to affect next year's periodic fees must have made the appropriate written application to us by this date.  Firms exempt from the Financial Ombudsman Service/ Financial Services Compensation Scheme must notify us in writing by <i>31 March</i> to avoid paying the incorrect levy. Those already exempt will not need to notify us again.
March	'On account' fee payers invoiced for 50% (FSA and Money Advice Service) or 100% (ombudsman service) of previous year's fees.	Pay these invoices by <i>30 April</i> .
1 April	Start of our financial year.	
Late May	Final periodic fee rates made by the FSA Board.	
Late May/early June	Policy Statement published confirming final fee rates and any policy changes arising from consultation.	
June onwards	Invoicing of firms who do not make 'on account' payments begins.	Pay these invoices within <i>30 days of invoice date</i> .

August	'On account' fee payers invoiced for remainder of their fees.	Pay these invoices by 1 September.
October	Consultation Paper (CP) on regulatory fees and levies policy proposals.	Read and respond to proposals by CP deadline.

- All firms required to submit the Retail Mediation Activities Return (RMAR) and the Mortgage Lending and Administration Return (MLAR) must provide their fee tariff data in Section J of the returns electronically, once yearly. Chapter 9 covers this in more detail.
- Firms must respond promptly to our tariff data requests. If data is not supplied by the due date, we will charge a £250 administrative fee and will invoice the firm on an estimated basis of 110% of the previous year's data until we receive its tariff data.
- The administrative processes are aligned to ensure timely payment of fees and levies for the FSA, the Financial Services Compensation Scheme (FSCS), the Financial Ombudsman Service (ombudsman service) and the money Advice Service. So any missed or late payments will incur a £250 administrative charge, plus interest on any unpaid amount. This will be charged at 5% a year above the Bank of England's base rate for the period from the invoice due date until payment is received.
- Firms are billed periodic fees and levies on the basis of the regulated activities they have in their permission as at 1 April, or the date on which their permission was received or significantly modified, whichever is the most recent. The fee payable is pro-rated depending on the date in our financial year when their permission was either received or extended. Periodic fees are not refundable. This includes when a firm applies to change its permission on or after 1 April.
- Firms that paid FSA fees of £50,000 or more in the previous financial year are required by 30 April to make an 'on account' payment of 50% of the FSA periodic fee and Money Advice Service Levy paid in the previous financial year. The balance of the periodic fee and levy for the current financial year is due by 1 September.
- All other firms must pay the full amount of their periodic fees and levies by 1 July, or 30 days after they are invoiced, whichever is later. Firms may also wish to note that there is a basis for paying fees and levies by instalments through an external credit provider. For more details on this option, see paragraph 4.53 of this paper.
- Where fee and/or levy amounts remain outstanding we will, if necessary, take civil and/or regulatory action against firms to recover the debt.
- The relevant rules and guidance on regulatory fees and levies are in the Fees Manual of the FSA Handbook (FEES).

# 1

## Overview

### Who should read this Policy Statement (PS)?

- 1.1 This PS is relevant to all authorised firms and other bodies that pay fees to us and levies to the Financial Services Compensation Scheme (FSCS), the Financial Ombudsman Service (the ombudsman service) and the Money Advice Service<sup>1</sup>, as well as potential applicants for FSA authorisation or registration and listing by the UK Listing Authority.

### Introduction

- 1.2 We oversee the UK's financial services industry and have responsibility, to varying degrees, for regulating:
- financial services firms of differing sizes including banks, building societies, insurers, home finance firms, investment managers, securities firms and retail, mortgage and general insurance intermediaries;
  - the Lloyd's insurance market;
  - investment exchanges and clearing houses (e.g. the London Stock Exchange);
  - collective investment schemes (e.g. unit trusts and Open-Ended Investment Companies);
  - professional bodies who regulate the incidental investment business carried on by their members (e.g. the Law Society);
  - those companies (not just those involved in financial services) whose securities are admitted to the Official List; and
  - organisations we do not regulate but for which we have registration duties (e.g. industrial and provident societies).

<sup>1</sup> On 4 April 2011 the Consumer Financial Education Body (CFEB) changed its name to the Money Advice Service. However, in the FEES Manual we continue to refer to CFEB as the function that the Money Advice Service undertakes under the Financial Services and Markets Act 2000.

- 1.3 We do not receive any monies from government and are entirely funded by the organisations we regulate. We have developed the fees policy to provide coherent and fair treatment for all fee payers, while allowing it to be administered as efficiently as possible.
- 1.4 The fees policy is not intended to provide incentives to firms to be well-managed, or as a practical supervisory tool. Specifically, the periodic fee charged to a particular firm does not reflect the amount of work required to regulate it. Operating a system of 'individualised' fees on this basis across the whole regulated community would not be practical.
- 1.5 In October/November each year, we publish regulatory fees and levies policy proposals. This consultation is followed in January/February with a consultation on the level of regulatory fees and levies rates for the following financial year. At the same time, we include a summary of our Business Plan for that period. The FSCS<sup>2</sup>, ombudsman service and Money Advice Service levies we consult on are based on the plan and budget of each scheme.
- 1.6 Our powers to charge fees are contained in the Financial Services and Markets Act 2000 (FSMA) and associated legislation, and are reflected in the Fees Manual (FEES) in our Handbook. As the fees policy develops, we make changes to the Handbook following our usual consultation processes.
- 1.7 Firms can access our Fee Calculator online, to get an indication of their regulatory fees and levies: [www.fsa.gov.uk/pages/Doing/Regulated/Fees/calculator](http://www.fsa.gov.uk/pages/Doing/Regulated/Fees/calculator).
- 1.8 The latest version of the Handbook is on our website at: [www.fsa.gov.uk/Pages/handbook](http://www.fsa.gov.uk/Pages/handbook). All FSA publications referred to in this Policy Statement (PS) are at: [www.fsa.gov.uk/Pages/Library/Policy](http://www.fsa.gov.uk/Pages/Library/Policy). You can find more information about fees at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees).
- 1.9 We will invoice fee payers from June 2011 onwards for their 2011/12 periodic fees. As a reminder, where a regulatory fee and/or levy remain unpaid by the due date, we levy a £250 administrative charge, plus interest on any unpaid amounts from the due date, at 5% above the Bank of England's base rate. Where payment is not settled in full, we may take civil and/or regulatory action against the fee payer to recover the debt.
- 1.10 The remainder of this PS explains our fee-raising arrangements in greater detail. This will provide a broad overview, but you should always consult the Handbook for details of how our rules would apply in your particular circumstances. The Handbook also contains the latest regulatory fees and levies. Throughout this PS we use the terms 'firm', 'fee payer' and 'entity' interchangeably, unless otherwise indicated.

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2 The FSA only consults on the FSCS Management Expenses Levy Limit.

## Structure of this PS

### 1.11 This PS contains two parts:

- **Part A (Sections 1 – 3)** contains the Consolidated Policy Statement on our fee-raising arrangements. This is a useful reference guide to how we allocate our costs and recover them from firms through fees and levies. This covers our fees as well as FSCS, ombudsman service and Money Advice Service levies.
- **Part B (Sections 4 to 6)** provides feedback on:
  - those 2011/12 fees policy proposals, fee rates, ombudsman service levy and Money Advice Service levies consulted on in CP11/2 *Regulatory fees and levies – Rates proposals 2011/12* (February 2011);
  - a proposal consulted on in CP11/7 *Quarterly consultation paper No 28* (April 2011) to clarify the arrangement for ‘on account’ payments for the Money Advice Service; and
  - a proposal presented for discussion in CP10/24 *Regulatory fees and levies – policy proposals 2011/12* (October 2010) on establishing a new fee-block for funding client money and assets regulation.

## Part A – Summary of our fee-raising arrangements

### *FSA periodic fees*

**1.12** Our fees recover from the industry our Annual Funding Requirement (AFR). This is the total cost of the resources we have budgeted to meet our strategic priorities, as set out in our annual *Business Plan* and to mitigate the risks identified in our *Retail Conduct Risk Outlook* (RCRO) and the *Prudential Risk Outlook* (PRO), published in February and March. Our financial year (and fee period) runs from 1 April to the following 31 March.

**1.13** To calculate the fees levied on all authorised firms and other bodies we first allocate the total AFR across a series of fee-blocks which represent groupings of related regulated business activities that firms and other bodies are permitted to undertake. When allocating our costs in supervising firms (which can include contributions from other areas such as risk management or our internal general counsel division) the cost of this work inherently takes into account the risk profile (in terms of impact and probability of failure) of the firms or other bodies we supervise. For non-supervisory costs, for example our policy development work, the costs are allocated as far as possible to the fee-blocks whose permitted business the policy development relates to. This overall cost allocation to fee-blocks approach reduces the possibility of cross-subsidy between fee-blocks (sectors).



- 1.14 The way we recover allocated costs from the firms within the fee-blocks differs depending on the fee-block.
- 1.15 For the firms in the 'A' fee-block we levy a minimum periodic fee that all firms pay and a variable periodic fee above the minimum fee that depends on the size of permitted business they undertake. The 14 individual 'A' fee-block sub-sets are described in Table 4.1 in Chapter 4.
- 1.16 The minimum periodic fee is aimed at ensuring that all firms (including small firms) contribute to the costs of regulation and that the level of the minimum periodic fee strikes the right balance between being too high, which would unnecessarily impede competition, and being too low, which would prejudice existing fee-payers. The costs allocated to the A.0 minimum fee fee-block include those of our customer contact centre, regulatory reporting and policing the perimeter. The current minimum fee is £1,000. Exceptions are allowed if they can be justified; and the only current exceptions are smaller credit unions and smaller non-directive friendly societies whose minimum fees is lower to reflect that they support people with limited financial resources to improve their economic status.
- 1.17 The variable periodic fee aims to ensure that distributing the recovery of allocated costs within the permitted business-based 'A' fee-blocks is directly linked to the size of permitted business firms undertake in each fee-block that applies to them. We use business size as a proxy for its impact on our statutory objectives if that business should fail. The more permitted business a firm undertakes the more fees it will pay – this is our straight-line recovery policy.
- 1.18 A moderation framework allows our straight-line recovery policy to accommodate a targeted recovery of costs within a fee-block, on an exceptions basis, if it can be justified. This moderation can be either side of the straight-line recovery and is achieved by applying a premium or discount to the measures (tariff data) of the amount of permitted business firms undertake within the moderated fee-block. The A.1 fee-block (Deposit acceptors) is the only current exception from straight-line recovery. Within this fee-block the firms who fall within the medium-high and high bands of our moderation framework pay a premium fee-rate. This reflects the particular targeting of our overall intensive supervision of these high-impact, systemically important firms.
- 1.19 The 'A' fee-blocks accounted for 94% of our AFR for 2011/12 and cover 18,702 firms. Although the Society of Lloyd's is in the 'A' fee-block (A.6) it pays fees on an individual basis. For incoming European Economic Area (EEA) firms and incoming Treaty firms, which have established branches in the UK, we calculate their variable periodic fees in the same way as UK firms. We apply discounts to reflect the level of home state regulation. They also pay a minimum periodic fee, but no discount is applied.
- 1.20 In Chapters 2 to 4 we set out in more detail the grouping of firms into fee-blocks, cost allocation to fee-blocks and the recovery of costs within the 'A' fee-blocks.

- 1.21** For the other firms and bodies represented by fee-blocks B to G, we recover costs allocated to these fee-blocks as follows:
- **Fee-block B – Recognised bodies and others:** These include recognised exchanges, clearing houses, operators of prescribed markets, service companies and firms operating Multilateral Trading Facilities (MTFs). Fees are set individually for each fee-payer based on the resources required to regulate them. MTFs include some degree of standard level fees.
  - **Fee-block C – Collective investment schemes:** These include unit trusts and open-ended investment companies. The costs of regulating these schemes are recovered through a fee based on the number of funds or sub-funds operated.
  - **Fee-block D – Designated professional bodies (DPBs):** These include the Law Society of England and Wales, and the Institute of Chartered Accountants in England and Wales. The cost of regulating these DPBs and others is a fee based on the number of exempt professional firms registered with each DPB.
  - **Fee-block E – Issuers and sponsors of securities:** The costs of operating the UK Listing Authority (UKLA) are recovered through an annual fee based on size measured by the security's market capitalisation. We also levy non-annual fees. These include fees for individual document vetting, approving applications to sponsor a security or admit a security to the London Stock Exchange's Official List.
  - **Fee-block F – Unauthorised Mutuals:** These include industrial and provident societies and societies registered under the Friendly Societies Acts. Fees are levied based on the size of their total assets.
  - **Fee-block G.1 – Firms registered under the Money-Laundering Regulations 2007:** A flat rate annual fee is levied.
  - **Fee-block G.2 to G5 – Firms subject to the Payment Services Regulations 2009:** For firms also in the A.1 fee-block (Deposit acceptors) fees are based on size of business undertaken as for A.1 business. For large payment institutions, fees are based on size of relevant income and for small payment institutions a flat rate annual fee is levied.
  - **Fee-block G.10 to G11 – Firms subject to the Electronic Money Regulations 2011:** For large electronic money issuers fees are based on average outstanding electronic money and for small ones a flat rate annual fee is levied.
- 1.22** More information about how we recover costs for fee-blocks B, C, D, F and G can be found in Chapter 5. There is more information on the recovery of costs for fee-block E (UKLA) in Chapter 8.

### *Application fees*

- 1.23 Application fees are one-off charges that contribute towards our costs of processing certain applications, notifications or requests required under FSMA or our rules (for example, by a new firm that is applying to us for authorisation to start undertaking regulated financial services activities). An application fee is also charged where authorised firms seek significant variations in their permission. Application fees must be paid up front, whether or not the corresponding application is successful, and are not refundable.
- 1.24 More information about application fees can be found in Chapter 6.

### *Special project fees*

- 1.25 There are two broad categories of special project fees (SPFs) – transaction based and EU Directive based. The transaction-based SPFs are similar in character to application fees, but do not relate to ‘routine’ transactions. Instead, they recover part of the costs incurred in undertaking specific regulatory activities at the request of and on behalf of a (group of) fee payer (s), where the fee-payers primarily receive the benefit – this is known as Guidance SPFs. For certain transactions relating to restructuring we can initiate charging for them – these are General SPFs.
- 1.26 The second category of SPF aims at ensuring firms pay for the regulatory work arising from EU Directives that specifically concerns them, as a sub-class of a fee-block. This is instead of the costs being recovered from fee-payers in that fee-block who are not affected by the Directive.
- 1.27 You can find more information about SPFs in Chapter 7 and specific examples of Guidance SPFs in Annex 5.

### **FSCS levies**

- 1.28 The FSCS is funded by levies on firms the FSA regulates. The FSCS compensation and specific costs<sup>3</sup> funding arrangements are organised into five broad classes, based on five identifiable industry sectors – deposits, investment, life and pensions, general insurance and home finance. There are two sub-classes in each class, divided along provider and distributor lines – with the exception of the deposits class. Firms are allocated to a class/sub-class according to their regulated permissions – the type of business they are authorised to transact.

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<sup>3</sup> These are part of the management expenses and are costs directly attributable to claims-handling and firm failures, other than compensation.

- 1.29 All firms contribute to the general running costs of the FSCS (the base costs element of the management expenses), in proportion to their FSA fees. Firms are levied for compensation costs through tariffs set for the relevant class. We issue and collect levy invoices on the FSCS's behalf in a single invoice that covers fees for us, the FSCS, the ombudsman service and the Money Advice Service. You can find more information on how the FSCS is funded in Chapter 10.

### **Financial Ombudsman Service levies**

- 1.30 The ombudsman service is funded by the financial services industry in two ways:
- a general levy, payable by authorised firms within the ombudsman service's jurisdiction; and
  - case fees, payable by individual firms for complaints dealt with by the ombudsman service.
- 1.31 The ombudsman service has 18 'industry blocks', which are similar (but not identical) to our fee-blocks. Each industry block has a minimum levy, and in most cases this increases in proportion to the amount of 'relevant business' (i.e. business done with private individuals) each firm does. The amount of money to be recovered from each industry block is based on the ombudsman service's estimates of how many staff are required to deal with the complaints it expects to receive from firms in each block.
- 1.32 Firms pay a case fee for the fourth and subsequent chargeable complaints referred to the ombudsman service within a year, regardless of whether the complaint is upheld.
- 1.33 You can find more information on how the ombudsman service is funded in Chapter 10.

### **Money Advice Service levies**

- 1.34 All authorised firms make a minimum contribution of £10 towards the costs of the Money Advice Service. The remaining costs are recovered on a straight-line basis from each relevant fee-block (A.1–A.19), as described in paragraph 1.17. These mirror the FSA fee-blocks and Money Advice Service costs are distributed between them using FSA tariff bases. Most of the terms affecting FSA fees, such as discounts for inward-passporting EEA and treaty firms and a 30% discount for wholesale deposit-takers, are applied to Money Advice Service levies. You can find more information on how the Money Advice Service is funded in Chapter 10.

## Part B – Summary of our feedback on responses to 2011/12 fee rates

- 1.35 In part B, we provide feedback on responses to our fees policy proposals and proposed periodic fees for 2011/12, as well as the ombudsman service general levy and Money Advice Service levy, which we consulted on in CP11/2. In the case of the Money Advice Service we also feedback on the clarification of the arrangements for paying ‘on account’ invoices included in CP11/7. The finalised rules are in Appendices 1 and 2 at the back of this paper. We also give feedback on responses to a proposal to establish a new fee-block for funding client money and assets regulation, which we set out for discussion in CP10/24.
- 1.36 Our 2011/12 fees are based on our *Business Plan 2011/12* available on our website: [www.fsa.gov.uk/Pages/Library/corporate/Plan/bp2011.shtml](http://www.fsa.gov.uk/Pages/Library/corporate/Plan/bp2011.shtml).
- 1.37 The ombudsman service general levy derives from its *Corporate Plan and 2010/11 Budget*, available on its website: [www.financial-ombudsman.org.uk/news/updates/corporate\\_plan\\_and\\_10-11-approved.html](http://www.financial-ombudsman.org.uk/news/updates/corporate_plan_and_10-11-approved.html).
- 1.38 The FSCS Management Expenses Levy Limit was set in March 2011. For further information please see Handbook Notice 108 (March 2011) and the *FSCS Plan and Budget 2011/12*, published on its website: [www.fscs.org.uk/uploaded\\_files/Publications/Plan\\_and\\_Budget/fscs\\_planbudget\\_2011-12\\_feb\\_2011v2.pdf](http://www.fscs.org.uk/uploaded_files/Publications/Plan_and_Budget/fscs_planbudget_2011-12_feb_2011v2.pdf). We have already provided feedback and finalised rules for several of our proposals in CP11/2 and CP 10/24. Table 1.1 at the end of this chapter provides details.

## AFR, allocation to fee-blocks and periodic fees for authorised firms (Chapters 11 to 14)

- 1.39 Chapters 11 to 13 set out where changes have occurred to our 2011/12 AFR, allocations of AFR to fee-blocks and fee-rates since CP11/2 and provide feedback on key issues raised by respondents. Chapter 14 shows how we have used 2010/11 enforcement financial penalties to benefit fee-payers in 2011/12.
- 1.40 We confirm that our AFR for 2011/12 on which our final periodic fees are based is £500.5m (£454.7m in 2010/11), which is an increase of 10.1%. This is the same AFR level that our estimated periodic fees were based on in CP11/2. Taking into account the overall impact of the final financial penalties discounts for 2011/12, this equates to a decrease of 1.7% in chargeable fees (8.8% increase in 2010/11).
- 1.41 Our AFR is the total cost of the resources we have budgeted to meet our strategic priorities for 2011/12, as set out in our annual *Business Plan* (published in March), and to mitigate the risks identified in our *Retail Conduct Risk Outlook* (RCRO) and the *Prudential Risk Outlook* (PRO) – published during February and March. A summary of our *Business Plan* was included in CP11/2.

- 1.42 The allocation of our AFR to fee-blocks on which the final periodic fees for individual fee-blocks are based have also not changed from those set out in CP11/2.
- 1.43 Periodic fees payable by authorised firms (the 'A' fee-blocks) recover 94% of our AFR. Since CP11/2, firms have now reported their actual fee tariff data, and we also have more accurate data on the number of firms. We confirm that the final minimum fee for the 'A' fee-blocks will be £1,000, the same as consulted on in CP11/2 and the same as levied for 2010/11. Taking into account the final level of financial penalty discounts, the minimum fee that these firms will actually pay for 2011/12 is £832 (£925 in 2010/11), an actual year-on-year decrease of 10.1%. This compares with a year-on-year decrease reflected in CP11/2 of 9%. Around 43% of 'A' fee-block firms only pay the minimum fee.
- 1.44 In the case of variable periodic fees, which some firms pay in addition to the minimum fee, in all except two fee-blocks the final fee rates will be lower than or the same as the estimated fee rates in CP11/2. The two fee-blocks where final fee rates will be higher are A.13 (advisory arrangers, dealers or brokers – not holding client money) and A.18 (home finance providers, advisers and arrangers). Details of these post CP11/2 changes are given in Chapter 13 together with our feedback on responses received to the consultation on periodic fees for authorised firms.

*Periodic fees for other bodies (Chapter 15)*

- 1.45 Chapter 15 sets out the final 2011/12 fees for fee-payers in the:
- B. fee-block, Market Infrastructure Providers;
  - C. fee-block, Collective Investment Schemes;
  - D. fee-block, Designated Professional Bodies;
  - E. fee-block, Issuers and sponsors of securities (UK Listing Authority – UKLA);
  - F. fee-block, Unauthorised mutuals; and
  - G. Fee-block, firms registered under the Money Laundering Regulations 2007, firms covered by the Payment Services Regulations 2009 and firms covered by the Electronic Money Regulations 2011.
- 1.46 We received no non-confidential responses. Any changes in fees between those consulted on in CP11/2 and the final fees result from differences between estimated and final tariff data and are highlighted where applicable in Chapter 15.

*Special project fees for Solvency II – revised recovery method (Chapter 16)*

- 1.47 Chapter 16 sets out the final Solvency II (SII) special project fee (SPF) rates for 2011/12. There are two types of SII SPF:
- IMAP SPF – This is to recover the costs of developing and implementing the framework relating to our internal model approval process (IMAP); and
  - Non-IMAP SPF – This is to recover other SII implementation costs, which include the costs of staff recruitment, staff training, revised supervisory processes (other than IMAP) and developing and putting in place the technology required to support SII reporting and supervisors.
- 1.48 Both the IMAP and non-IMAP SPF rates in CP11/2 were dependent on the SPF budgets for 2011/2 and level of under spend for 2010/11. For both SPFs the final 2010/11 under spend is greater than estimated in CP11/2 and both final 2011/12 budgets are lower. This will reduce final rates compared to the rates in CP11/2 for all SII SPF fee-payers (including taking into account movements in firm populations and tariff data). Details of these post CP11/2 changes are given in Chapter 16 together with our feedback on responses received to the consultation on SII SPFs including the revised recovery method for the IMAP SPF.

*New fee-block for funding client money and asset regulation (Chapter 17)*

- 1.49 In Chapter 7 of CP10/24, we set out for discussion proposals for a possible new fee block for recovering regulatory costs related to client money and assets (the ‘CASS fee-block’). Chapter 17 of this paper sets out our feedback on the responses we received to the proposals noting the pros and cons associated with some of the issues raised by respondents. Bearing in mind all of these issues and any others that need to be considered, we intend to bring forward formal consultation proposals (with draft rules) on the CASS fee-block at a later date.

*Financial Ombudsman Service general levy 2011/12 (Chapter 18)*

- 1.50 We approved the ombudsman service annual budget of £127.9m for 2011/12 in March 2011. We have retained the general levy at £19.5m (£17.7m excluding consumer credit jurisdiction fees), representing 14% of the ombudsman service’s total budget for 2011/12, compared with 19% in 2010/11. This means that the firms generating complaints will pay a greater proportion of the ombudsman service’s costs than the firms that generate few or no complaints. The minimum levies and tariff rates for individual fee blocks indicated in CP11/2 were based on the most accurate estimate of firms allocated to individual fee blocks available at the time. Annex 7 shows the final minimum levies and tariff rates for each block.

*Money Advice Service levy 2011/12 (Chapter 19)*

- 1.51 The total budget for Money Advice Service in 2011/12 is £43.7m. Its funding will come entirely from levies raised from FSMA-authorized firms, payment institutions (PIs) and

firms subject to the Payment Services and E-Money Regulations. Table 19.2 sets out the allocation of the budget to fee-blocks.

- 1.52 In CP11/7, we consulted on a proposal to clarify the arrangements for paying the Money Advice Service levy 'on account' invoices. Firms paying more than £50,000 in FSA fees in a financial year pay a sum equal to 50% of that periodic fee 'on account' as a pre-payment for the following financial year. We stated in CP10/5 that this would also trigger a pre-payment of 50% of the Money Advice Service levy, but on reviewing the rules we considered that, as drafted, they did not make our intention clear. So we have amended FEES 7.2.1R to make it clearer. We received only one comment agreeing with our proposal so are proceeding as proposed.

### **Paying fees by instalments**

- 1.53 As in previous years, a market-based plan for paying fees and levies by instalment is available. In addition, firms can work out their indicative fees and levies for the year using our Fee Calculator, available on our website at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator).

### **Next steps**

- 1.54 We will invoice fee payers from June 2011 onwards for their 2011/12 periodic fees. You can find more information on the fees timetable and billing arrangements in Part A of this PS.
- 1.55 As a reminder, where a regulatory fee and/or levy remains unpaid by the due date, we levy a £250 administrative charge. If the fee and/or levy are still outstanding 15 days after the due date, we charge interest on any unpaid amounts from the due date, at 5% above the Bank of England's base rate. Where payment is not settled in full, we may take civil and/or regulatory action against the fee payer to recover the debt.

### **Compatibility statement**

The rules we have now made do not differ in substance from those proposed in CP10/24 and CP11/2 except with regard to certain periodic fee rates as explained in Chapters 13 to 16 and, 18 and 19. However, these changes do not alter the compatibility statements we published in those consultation papers.



**CONSUMERS**

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

**Table 1.1: CP10/24 and CP11/2 feedback provided prior to this PS**

Consultation		Feedback and final rules
CP10/24 Chapter 2	New regulatory regime for firms registered under the Second Electronic Money Directive (2EMD): application fees.	PS11/2 (January 2011), <i>Implementation of the Second Electronic Money Directive</i> , Chapter 2
CP10/24 Chapter 3	Transaction reporting fees: new payment condition.	Handbook Notice 105 (December 2010)
CP10/24, Chapter 3	FSA fees policy clarification: exclusion of firms' own funds from calculation of funds under management.	
CP10/24 Chapter 5	Minor rule changes: definition of International Securities Identification Number (ISIN); separating ombudsman service and FSA fees in FEES5 of the Fees Manual.	
CP11/2 Chapter 8	Periodic fees April 2011 instalments for: Recognised Investment Exchanges; Recognised Clearing Houses; and the Law Society for England and Wales.	Handbook Notice 108 (March 2011)
CP11/2 Chapter 11	FSCS – setting the management expenses levy limit (MELL) fro 2011/12.	
		<b>Feedback only – final rules provided in this PS</b>
CP10/24 Chapter 2	New regulatory regime for firms registered under the Second Electronic Money Directive (2EMD): periodic fees.	CP11/2 (February 2011), Chapter 14
CP10/24 Chapter 4	Extension of Money Advice Service levy to payment institutions.	CP11/2 (February 2011), Chapter 13

## Part A:

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# Consolidated Policy Statement on our fee-raising arrangements

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## Section 1: FSA periodic fees

2. Grouping firms into fee-block
  3. Cost allocation to fee-blocks
  4. Recovery of allocated costs within 'A' fee-blocks
  5. Recovery of allocated costs within other fee-blocks
-

# 2

## Grouping firms into fee-blocks

- 2.1 In this chapter we explain how we have developed fee-blocks, which relate to groupings of permitted regulatory activities and enable us to better target the allocation of our costs to firms.
- 2.2 Each year we apply our resources in the most effective way to meet our strategic objectives, as set out in our annual *Business Plan*, and to mitigate the risks identified in our *Retail Conduct Risk Outlook* and *Prudential Risk Outlook*. Which sectors, types of firm – and hence the amount of resources we apply to each – will vary depending on the nature of the risks being mitigated (including the impact they would have if they were to crystallise).
- 2.3 To match the costs of these risk mitigation activities' to firms we have developed a series of 'fee-blocks' which has the benefit of allowing us to:
- link together, at an appropriate level, related types of permitted regulatory business that firms undertake into clearly defined groupings – fee-blocks;
  - allocate the costs of our activities, in mitigating the risks to our statutory objectives arising from the types of permitted business covered by a fee-block and recover those costs from the firms that fall within that fee-block – this reduces the possibility of cross-subsidy between different sectors of the financial services industry;
  - administer cost allocation in an efficient and economic way – as we avoid the additional operational costs of putting in place systems and processes that would need to apportion costs to individual firms at a highly granular level or base them on the risk profile (impact and probability of failure) of individual firms, for the over 20,000 firms we regulate; and
  - be fair to fee payers as all fee payers within a given fee-block pay fees on the same basis.

## Fee-block allocation

- 2.4 We have defined our fee-blocks, as far as possible, by the legal relationship between fee payers and ourselves (for example, an authorised firm's permission determines its regulated activities). This methodology gives firms certainty about their fee-block allocation and removes the need for us to make subjective judgements, which would be both impractical and subject to challenge.
- 2.5 Fee payers can belong to more than one fee-block and are charged a periodic fee in each fee-block that they belong to.
- 2.6 From time to time, we add or delete fee-blocks as circumstances dictate (for example, because a particular grouping of firms is no longer viable, or because we are regulating a new scope of activities).
- 2.7 Table 2.1 sets out a summary of the active fee-blocks. Full details of the fee-block definitions are in Annex 2.

**Table 2.1: Summary of fee-block definitions**

Fee-block	Summary of fee payers	Commonly referred to as
A.1 to A.19 (not all these blocks are active)	Authorised persons (which account for most of entities we regulate – for example, providing deposit-taking, insurance and investment business).	Firms
A.20	Markets in Financial Instruments Directive (MiFID) transaction reporting – targeted recovery of additional Information Services (IS) development costs.	MiFID transaction reporting
B	Investment exchanges, clearing houses, multi-lateral trading facilities, service companies and firms that are designated as the operator of a prescribed market for the purposes of the market abuse regime.	Recognised bodies
C	Collective investment schemes.	CIS products
D	Designated professional bodies.	DPBs
E	Issuers of listed and non-listed securities or their sponsors.	Issuers of securities
F	Unauthorised persons subject to our registration function (registrant-only).	Mutuals/ registrant-only
G	Firms registered with us under the Money Laundering Regulations, under the Payment Services Regulations or the Electronic Money Regulations.	MLRs/PSIs/EMIs

# 3

## Cost allocation to fee-blocks

- 3.1 Grouping firms into fee-blocks is one element of our fee-raising framework. Before firms' fees can be calculated, we must determine what proportion of our costs are to be recovered from any particular fee-block. We do this by using our financial management and reporting framework to calculate our AFR.

### **Our financial management and reporting framework**

- 3.2 Under FSMA, we are required (when carrying out our general functions) to have regard to the need to use our resources in the most efficient and economic way. Each year we make a report to the Treasury that shows how we have taken this principle into consideration when dealing with fees and other issues.
- 3.3 The scope of activities falling within our remit is wide and varied. This includes some activities which are intended to be temporary in nature and/or which are subject to considerable variation from year to year. We cannot forecast these with the same reliability as regular recurring activities. However we will continue to:
- exert sound financial management and budgetary control over all areas of our expenditure and income; and
  - seek to manage any unavoidable volatility to minimise the impact on fee-payers from year-to-year.
- 3.4 Our Board believes it is helpful to have a framework within which to manage and report on our costs and funding. The 'streams' of activities, which have distinct cost and funding characteristics, have been identified and are listed in Table 3.1 below.

Table 3.1: Activity streams in our financial management and reporting framework

Activity stream	Description
Ongoing Regulatory Activities (ORA)	These are our core operating activities that are subject to year-on-year management as part of our budget process. The cost of ORA is the key figure, along with explanations of any material movements, which shows how we have met our obligation to be economic and efficient in using our resources.
Changes in scope (increase or decrease)	Under certain circumstances, including legislation introduced by Parliament, there may be changes to the scope of activities that we regulate. Any scope changes, as with our other core operating activities, are subject to financial management as part of our budget process. However, in the first financial year affected by the change in scope, and until the new supervisory process is fully established, we believe material activities resulting from a scope change are best controlled separately so they are individually identifiable. In the longer term, when the ongoing supervisory requirements of the scope change have stabilised, typically after the new scope has been in place for at least a full year, we include these activities as part of the cost of our ORA.
Exceptional items	We will include the costs of exceptional items within the cost of our ORA and we will report on material movements from year to year.
Enforcement costs	Total enforcement costs depend on the number of cases and their complexity. We will continue to manage these costs and seek to optimise the mix of internal and external enforcement resources when we do this. We have included these costs within the costs of our ORA and we will report on any material movements from year to year. While we will maintain strong financial management of these costs, the actual amounts may be materially higher or lower than the budgeted level set in advance of the financial year (for example because a very large or complex case arose during the year which was not foreseen at the time of the budget, and which could not be addressed with the resources assigned to priority cases). If this happens, we will review any excess or reduction in costs from the budgeted level and may seek to smooth the impact on fee payers over a three-year period, subject to us being able to maintain satisfactory reserves.
Panel costs	The Financial Services Consumer Panel and the Practitioner Panel have a status under FSMA that guarantees their independence from the FSA. These bodies and the Smaller Businesses Practitioner Panel control their own costs against budgets. They are, however, subject to our approval and are funded through our fees. These costs are included within the costs of our ORA.
Complaints Commissioner	FSMA requires that an arrangement be in place for the investigation of complaints against the FSA. The Complaints Scheme was introduced in September 2001. FSMA requires us to ensure that the Complaints Commissioner has at his disposal the resources to conduct a full investigation of any complaints. The Complaints Commissioner controls his own costs against a budget, which is subject to our approval and is funded through our fees. These costs are included within the costs of our ORA.

Pension scheme deficit reduction contributions	The amounts required to reduce this deficit over time are inherently variable and depend on a number of factors including current investment values and projected investment returns. We have plans in place to reduce this deficit to nil over the ten-year period to 31 March 2019. Every three years the Trustee carries out what is known as a scheme specific valuation (SSV), which is a detailed valuation using actual asset and liability details. We agree a recovery plan with the Trustees to close the current funding gap. The next SSV will be carried out using data as at 31 March 2013.
Reserves	In line with our Treasury Management Policy, we maintain the equivalent value of six weeks of our ORA as a contingency fund. We now anticipate that we will have sufficient financial capacity within the revolving credit facility to meet any expenditure required to address unforeseen events. We plan to keep our ORA reserves at +/-2% of ORA.

### AFR

- 3.5 Using the financial management and reporting framework, the total amount required to be raised from fee payers in a given year, can be derived. This is known as the AFR. The AFR for 2011/12 is explained in Chapter 11.

### *Other funding requirements*

- 3.6 In addition to the costs set out in our financial management and reporting framework, additional funds may also need to be raised from time to time.

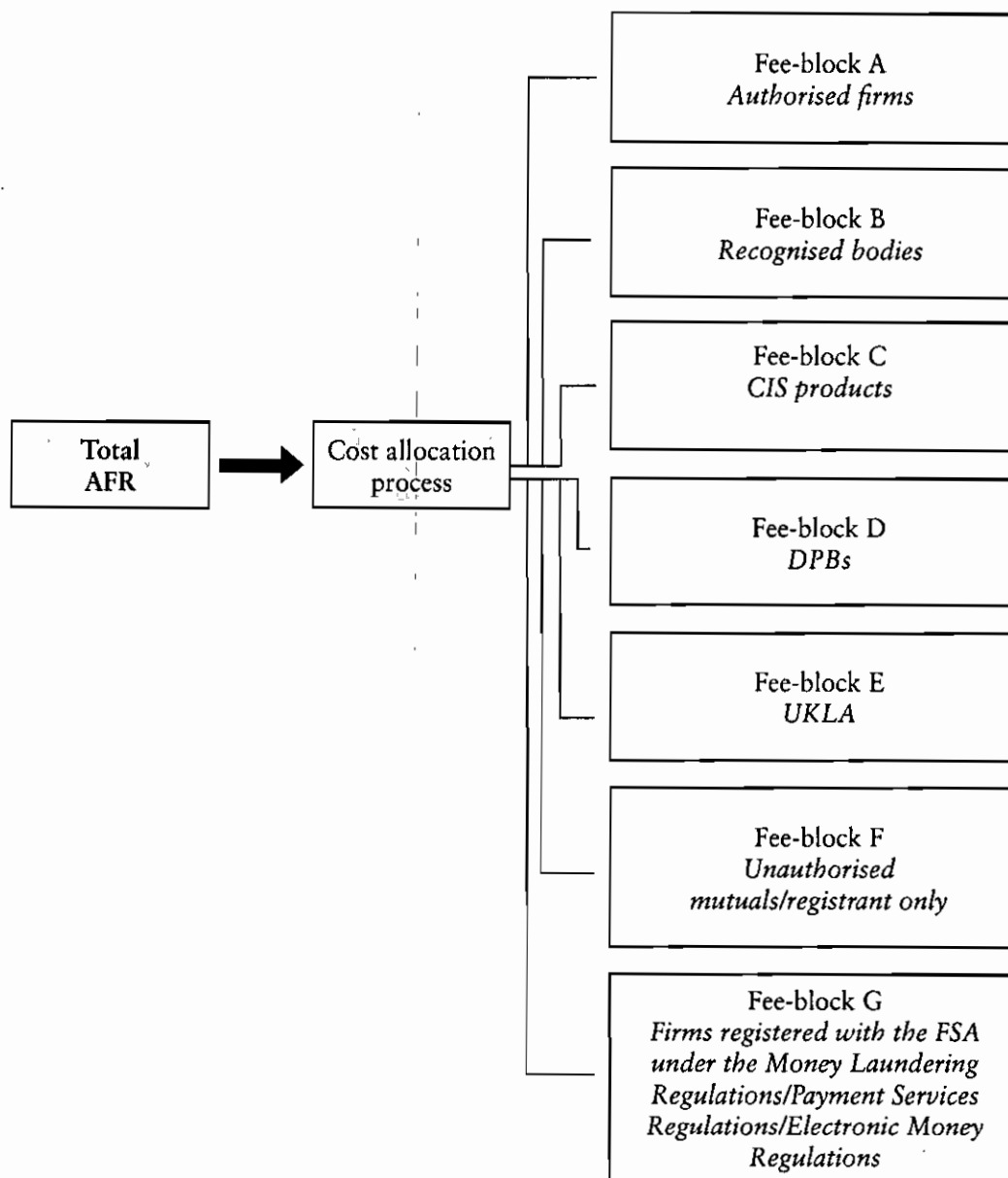
### *Legal assistance scheme*

- 3.7 Under FSMA, we are required to recover from authorised persons, amounts determined by the Lord Chancellor relating to the costs of giving certain people legal assistance in connection with cases of alleged market abuse, which are heard before the Financial Services and Markets Tribunal. Since 1 December 2001 – when we were given our statutory powers – no such costs have actually been incurred, but they could arise in future.

### **Allocation of the AFR to fee-blocks**

- 3.8 The total AFR calculated has to be divided between the fee-blocks. This allocation is assigned using our cost-allocation process, which is described in more detail in Figure 1.

Figure 1: Allocation of the AFR to fee-blocks



- 3.9 At the time it is produced, the cost allocation is a materially accurate reflection of how we plan to allocate our resources across the fee-blocks for the year in question. However, because it is forward-looking, the actual use of resources is likely to differ from that assumed in the allocation (for example, because we have to respond to an unforeseen regulatory priority). We aim to keep our total over/under recovery within +/-2% of ORA. Where this proves to be the case, the difference is taken into account in setting the subsequent year's AFR. We do not breakdown the over/under recovery across individual fee-blocks, so once fees have been set and levied in one year, they are final which gives



firms greater certainty. Where our fees are raised under a different legal power other than FSMA – for example, under the UK Listing Authority (fee-block E) – we keep these separate, to ensure that income and costs are separately attributed against fee-blocks.

### *Ongoing Regulatory Activities (ORA)*

3.10 We allocate costs based on activities:

- *For supervisory costs* (which include firm-specific costs from functions such as Risk Management, General Counsel or Policy) we take into account the risk profile of the firms supervised. The more higher-risk firms (in terms of impact and probability of failure) carrying out permitted business covered by a specific fee-block, the greater the activity and hence the more costs allocated to that fee-block.
- *For non-supervisory costs*, (e.g. our policy development work), the cost of these activities is allocated to fee-blocks whose permitted business the policy development concerns.

3.11 Overall, we believe that our cost-allocation framework effectively allocates the right level of total costs to fee-blocks. By doing so, it takes account of firms' risk profile (impact and probability), thereby reducing the possibility of cross-subsidy between sectors.

3.12 The above costs are treated as direct regulatory costs as they can be allocated to a particular fee-block because they are either firm-specific, or if not firm-specific, they are still specific to a particular fee-block as a whole.

3.13 There are also regulatory costs which can not be allocated to particular fee-blocks. These indirect regulatory costs and support costs relate to activities that cut across multiple fee-blocks and include costs relating to:

- regulatory activity that is not fee-block specific e.g. policy development or risk management;
- our operational business unit costs which support our regulatory functions e.g. human resources, finance, facilities management, information systems (what we call IT); and
- running the independent Consumer Panel, Practitioner Panel and Smaller Businesses Practitioner Panel.

3.14 Indirect costs are allocated to fee-blocks in proportion to direct costs. Both direct and indirect costs are allocated an appropriate share of overheads.

### *Panel costs*

3.15 Panel costs include the costs of the Practitioner and Consumer Panels. Most of these costs concern the Consumer Panel and are allocated primarily to the fee-blocks containing the largest proportion of firms conducting retail financial services activity.

*Complaints Commissioner costs*

- 3.16 We allocate the costs of the Complaints Commissioner to fee-blocks in proportion to their share of the costs of our ORA.

*Legal assistance costs*

- 3.17 The costs of the legal assistance scheme would be spread over fee-block A (authorised firms) using a method mirroring that to which we apply market abuse penalties for the benefit of authorised persons (see Annex 4, paragraph 12).

*Additional pension deficit reduction contributions*

- 3.18 Contributions to reduce the deficit on our final salary pension scheme are allocated to fee-blocks in proportion to their share of the costs of our ORA.

# 4

## Recovery of allocated costs within 'A' fee-blocks

- 4.1** Chapters 2 and 3 describe how firms are grouped together into fee-blocks, and how we allocate the costs to be recovered from those fee-blocks. In this chapter we describe how we recover the costs allocated to the 14 'A' fee-block sub-sets listed in Table 4.1 below. These fee-blocks account for 94% of our AFR for 2011/12. For ease of reference in this chapter we refer to these fee-blocks as the 'A' fee-blocks.
- 4.2** This chapter is also relevant to incoming EEA firms and incoming Treaty firms which have established branches in the UK. They can carry out permitted business in any of the 'A' fee-blocks and their fees are calculated in the same way as UK firms other than discounts are applied to their fees except for the minimum periodic fee under the A.0 fee-block.

**Table 4.1: 'A' sub-set fee-blocks covered in this chapter**

Fee-blocks	
<b>A.0</b>	Costs that all firms in the fee-blocks below contribute through the minimum fee
<b>A.1</b>	Deposit acceptors
<b>A.2</b>	Home finance providers and administrators
<b>A.3</b>	Insurers – general
<b>A.4</b>	Insurers – life
<b>A.5</b>	Managing agents at Lloyd's
<b>A.7</b>	Fund managers
<b>A.9</b>	Operators, Trustees and Depositories of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes
<b>A.10</b>	Firms dealing as principal
<b>A.12</b>	Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both)
<b>A.13</b>	Advisory arrangers, dealers or brokers (not holding or controlling client money or assets, or both)

<b>A.14</b>	Corporate finance advisers
<b>A.18</b>	Home finance providers, advisers and arrangers
<b>A.19</b>	General insurance mediation
Note: In addition to the above active 'A' fee-blocks are A.6 and A.20 – these are covered in Chapter 5. Reference to fee-blocks A.8, A.11, A.15, A.16, and A.17 are not included as they are no longer used	

### Minimum periodic fee

4.3 The aim of the minimum periodic fee policy is to ensure that:

- every firm makes an equal contribution to the minimum costs of regulation;
- those minimum costs of regulation are clearly defined, based on a stated rationale and applied consistently across all firms, but allowing for exceptions where they can be justified; and
- the level of minimum fee strikes a balance between being too high, which would unnecessarily impede competition, and being too low, which would prejudice existing fee-payers.

4.4 Although firms can undertake permitted business that falls under more than one fee-block they only pay one minimum periodic fee.

### Minimum level of regulatory costs

4.5 The minimum level of regulatory costs which we recover through the minimum periodic fee are:

- **Regulatory reporting:** Costs of collecting, validating and carrying out first-line checks on regulatory returns. All firms must submit regulatory returns and these functions represent the minimal level of baseline monitoring which we must undertake for all firms. We deduct from these costs the amounts we receive from firms who we charge for submitting their regulatory returns late.
- **Customer Contact Centre (CCC):** This provides advice and guidance to both regulated firms and consumers who contact us either by telephone or correspondence (letter and emails). All firms have access to these services. The consumer part of the CCC costs is included as this service is one of the ways we have regard to the 'principles of good regulation' relating to public awareness.<sup>4</sup> By including these costs in the minimum fee, we ensure all firms contribute to these costs and all firms should ultimately benefit from consumers' improved financial capability.

<sup>4</sup> In discharging our functions under FSMA, we are required to have regard to a number of additional matters, which we refer to as 'principles of good regulation'. The public awareness principle covers the desirability of enhancing the understanding and knowledge of the public in financial matters (including the UK financial system).

- *Unrecovered Authorisation costs:* Costs of authorising firms and vetting approved persons which are not recovered by application fees. We fix application fees for authorisation at a level that recovers the costs of processing them without posing an entry barrier. Under FSMA we cannot charge application fees for vetting Approved Persons. A key objective of the firm authorisation process is to prevent firms from entering the market who do not meet our threshold conditions. Similar aims apply to the case of vetting individuals as Approved Persons. Including these costs in the minimum fee ensures all firms contribute to these processes. This helps to maintain market confidence, which firms benefit from.
  - *Policing the perimeter:* Costs of investigating persons who are potentially carrying on regulated activities without authorisation. Including these costs in the minimum fee ensures all firms contribute, which benefits them by helping to maintain market confidence.
- 4.6 The net costs relating to these functions are allocated to the A.0 (zero) fee-block each year. They are apportioned equally across all 'A' fee-block authorised firms in line with the number of such firms on 1 April, the start of the financial year that the minimum fee will be levied. For 2011/12, we have retained the minimum periodic fee at £1,000.
- 4.7 We believe the minimum regulatory costs that make up the minimum periodic fee represent the right amount of our costs that can be recovered from individual firms. Such costs do not relate to either the permitted regulated business they undertake or the size of that business. They effectively relate to the minimum costs of being authorised, and it is clear as to what costs make up the minimum periodic fee.
- 4.8 The minimum periodic fee is levied on incoming EEA firms and incoming Treaty firms which have established branches in the UK in full. Discounts are not applied to their minimum fee, unlike their variable periodic fees.

### *Exceptions*

- 4.9 As indicated in paragraph 4.3, one of the policy aims for the minimum periodic fee is to allow for exceptions where they can be justified. There are currently two types of firms that represent an exception and are not subject to the full minimum fee:
- **Smaller credit unions** pay minimum fees based on the levels they paid in 2009/10 (£160 or £540 depending on size). These mutual organisations are an exception because they offer basic savings and loan facilities to their members, many of whom cannot obtain such services from mainstream banks and building societies. The unrecovered minimum regulatory costs that will arise from maintaining their minimum fees at 2009/10 levels will be recovered from the other firms in A.1 fee-block (Deposit acceptors).
  - **Smaller non-directive friendly societies** pay minimum fees based on the level they paid in 2009/10 (£430). These mutual organisations are an exception because, similar to credit unions, they support people with limited financial resources to improve their economic status. The unrecovered minimum regulatory costs that will arise from maintaining their fees at 2009/10 levels will be recovered from the other firms in the A.4 fee-block (Insurers – life).

- 4.10 These firms will continue to pay their fees at the above levels subject to increases proposed in future fee consultations.

### Variable periodic fees

- 4.11 To recover the costs allocated to the 'A' fee-blocks (other than A.0 as the minimum periodic fee recovers those costs) we use variable periodic fees that aim to ensure that:
- the distribution of recovery of allocated costs from firms within fee-blocks is directly linked to the size of the permitted business they undertake – straight-line recovery;
  - a framework is in place so that if we need to modify costs, they are transparent; and
  - any moderation from straight-line recovery is on an exceptions basis and is supported by the principles we have set out.
- 4.12 As we described in Chapter 3 (paragraphs 3.10 and 3.11) we believe that our cost-allocation framework is effective at allocating the right level of aggregate costs to fee-blocks and in doing so takes account of firms' risk profile (both impact and probability of failure), reducing the possibility of cross-subsidy between sectors (fee-blocks).

### Tariff bases

- 4.13 To determine the amount we recover from individual firms in each fee-block we use size of permitted business as a proxy for the impact risk – the impact on our statutory objectives should that business fail. The greater the amount of specific permitted business a firm undertakes (above that covered by the minimum periodic fee) the more it will contribute to the supervisory and non-supervisory costs allocated to that fee-block.
- 4.14 By using the size of permitted business to apportion fee-block allocated costs to firms within them, we acknowledge that our framework does not take into account the actual resources we apply to firms to mitigate the impact risk they represent. Also, it does not allow for the resources firms invest in their own internal controls and risk management to mitigate the risks they pose (probability of failure). To do either would present us with significant operational challenges and costs, which we will not be in a position to address for the foreseeable future. Either approach would also have the potential to result in many firms having year-on-year significant unpredictable fluctuations in the level of their fees.
- 4.15 Size of permitted business is an objective, transparent, fair and simple measure that can be efficiently applied across all firms in a fee-block in a consistent way. To measure the size of permitted business we use **tariff bases** which are selected on the basis that:
- the tariff base is a common and relevant unit of measure for all the fee payers within the fee-block; and
  - where possible, the tariff base should minimise any data collection costs for fee payers.

- 4.16 Annex 2 of this PS sets out the tariff bases that apply in each fee-block and states the unit of measure of size for assessing the amount of permitted business a firm undertakes in a fee-block. That unit of measure we refer to as tariff data. We collect tariff data from firms each year in preparation for calculating their fees in the following year.

#### *Applying tariff bases*

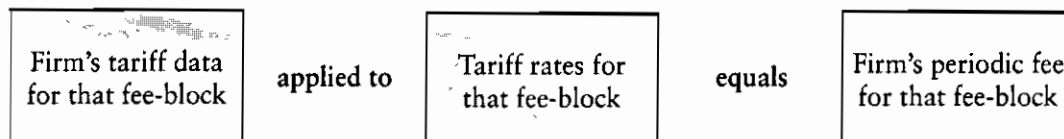
- 4.17 A firm calculates its tariff data for each fee-block by applying the relevant tariff base definition to the business it has permission to conduct. Each tariff base has a 'valuation date' that indicates the time period for, or date when, the amount of business must be measured. This is often – but not always – 31 December of the year before the fee period begins. For example, in fee-block A.7 (fund managers), the tariff base is funds under management and the valuation date for the 2011/12 fee period is 31 December 2010. However, for firms reporting on the Retail Mediation Activities Return (RMAR), the valuation date for fee-blocks A.18 (home finance providers, advisers and arrangers) and A.19 (general insurance mediation) is the firm's most recent accounting reference date.
- 4.18 Firms becoming authorised (or extending their permission) during the year must provide an annualised projection of their fee tariff data from the date of authorisation or variation of permission. This is aimed at enabling firms to calculate their likely regulatory fees and allows consistent reporting between new joiners (or firms extending their permission).
- 4.19 It is important that firms report their projection as accurately as possible, as they will be invoiced on this data, possibly for two financial years.
- 4.20 Newly-authorised firms completing the RMAR must complete Section J with actual tariff data, annualised up to their accounting reference date. This means their fees are calculated partly on actual tariff data rather than entirely on projections (see Chapter 9 for more details about regulatory reporting of fee tariff data).
- 4.21 In general, the tariff bases are defined so that only UK business is taken into account.

#### *Tariff rates*

- 4.22 We total the amount of tariff data for each fee-block and we recover the costs allocated to a fee-block in proportion to the firm's level of tariff data. At the beginning of each periodic fee year (1 April to 31 March) we total the amount of tariff data reported by firms in each fee-block and effectively divide the costs allocated to the fee-blocks by the total tariff data. The tariff rate is the amount of fee per unit of tariff data. The tariff rate is then applied to the amount of tariff data of the individual firms in the fee-block. See also Figure 2 below.

**Figure 2: Calculation of a firm's periodic fee**

*For each fee-block a firm belongs to:*



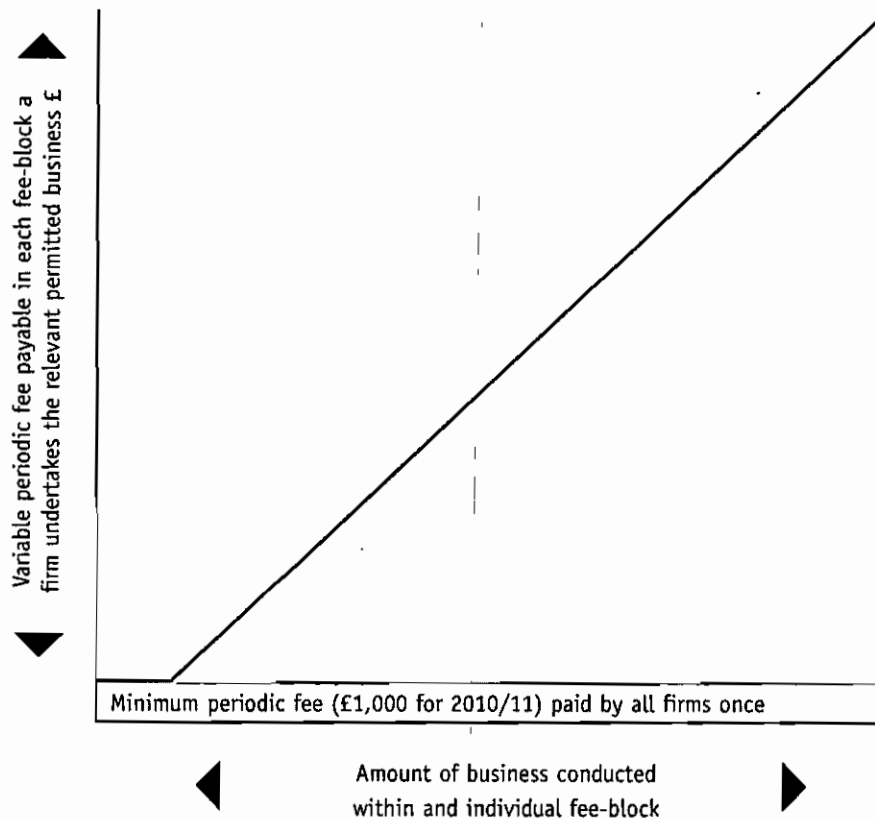
**4.23** The tariff rates are structured in line with two main principles.

- **Maximum fee:** No maximum fees are set. This is because firms often consolidate (as frequently happens in the financial services industry), and when this happens, small and medium-sized fee payers within fee-blocks have to pay more to make up for the lost fees from the new combined firm as their fee would be artificially constrained by the maximum fee amount.
- **Uniform tariff rate:** We apply a single uniform tariff rate, regardless of the amount of business the firm conducts. The more permitted business a firm undertakes in a fee-block the more tariff data it generates; consequently it will pay a greater proportion of the costs allocated to that fee-block through fees.

**4.24** The combined effect of these two principles is to produce a fee tariff structure where the fee payable by an individual firm within a fee-block looks like that set out in Figure 3 which illustrates that variable periodic fees increase directly in proportion to the amount of permitted business undertaken – this is straight-line recovery.



Figure 3: Structure of firm's periodic fee within 'A' fee-blocks



- 4.25 Variable periodic fees are only levied in addition to the minimum periodic fee where firms undertake permitted business above a specified amount as measured by the amount of tariff data. Table 4.2 (at the end of this chapter) shows how tariff data levels trigger the levying of a variable periodic fee. If the amount of a firm's tariff data is less than the first amount in Band 1 the firm will not pay a variable periodic fee for that fee-block. Depending on the extent a firm's tariff data exceeds the lowest threshold in a fee-block, a firm in several fee-blocks can be subject to variable periodic fees in one fee-block but not in others. In any event, all firms only pay one minimum periodic fee.
- 4.26 When we consult each February on the tariff rates for the forthcoming periodic fee year (1 April to 31 March) we have to use estimated tariff data as the collecting exercise of actual tariff data for the forthcoming period is not completed until March/April. We also have to estimate the number of firms in the forthcoming period. As our financial year ends 31 March we also do not know the final position regarding any over/under spend in the previous year which could affect the AFR for the forthcoming year. This means that the tariff rates we finalise in May could vary materially from those consulted on.

### *Moderation framework*

- 4.27 As indicated in paragraph 4.11, one of the variable periodic fees' aims is to have in place a framework so that if we need to modify costs, they are transparent. This enables our straight-line recovery policy to be flexible enough to accommodate a targeted recovery of costs within a fee-block, for justified exceptions only. This exceptional moderation can be either side of the straight-line recovery and is achieved through applying a premium or discount to the measures (tariff data) of the amount of specific permitted business firms undertake within the fee-block where recovery will be moderated from a straight line.
- 4.28 We have established a standardised tariff band structure, and each fee-block has five tariff bands. Each band's width is determined by aligning them to the cut-off points in the ARROW<sup>5</sup> risk impact categorisation (low, medium-low, medium-high and high). This has been done using ARROW metrics which determine the impact categories. However, these do not always correlate to the tariff data we use for fees purposes. The 'fifth' band comes from splitting the low impact band as it covers such a large number of firms.
- 4.29 Table 4.2 at the end of this chapter shows how we have applied current tariff data to define the impact risk based framework.

### *Exceptions*

- 4.30 As indicated in paragraph 4.11 above, one of the variable periodic fees' aims is that any moderation from straight line recovery is on an exceptions basis only supported by stated rationale. The current exception to straight line recovery is the A.1 fee-block (Deposit acceptors). A.1 firms that fall within the medium-high and high bands of our moderation framework have a premium applied to their tariff data of 25% and 65% respectively.
- 4.31 Since 2009/10 we have moved to a more intensive and intrusive supervisory approach to higher impact firms (in all sectors). With regard to A.1 fee-block firms this has been particularly targeted at the high-impact, systemically important firms. Our previous supervision enhancement programme costs have already been weighted to this fee-block. This level of supervision substantially increases our costs, so we have applied these premiums to these bands in this fee-block to ensure that recovering these costs is targeted at the top end of the fee-block.
- 4.32 The firms affected will continue to pay their fees in the A.1 fee-block with these premiums applied subject to changes proposed in future fee consultations.

<sup>5</sup> Advanced Risk Responsive Operating frameWork (ARROW): this is our risk-assessment model which guides the way we risk-assess and supervise firms, and target thematic work on consumers, sectors and multiple firms.

## Calculation of variable periodic fees

4.33 In this section we explain further aspects of how we calculate firms' variable periodic fees, including adjustments, payment methods and how firms can calculate their fees in advance to help with their budget planning.

### *Firms that are part of a group*

4.34 Many firms are members of groups of companies carrying out a variety of financial services activities. However, our fees are calculated at the level of individual authorised entities and not at group level. This is because:

- fee-block allocation is driven by the regulated activities in a firm's permission, and permissions are granted to individual entities, not to groups; and
- for groups carrying out a range of activities, it is not possible to determine the scale of business measures that can apply across the group's activity, but still be comparable with other fee payers who may have a similar – but not absolutely identical – range of business conducted within their particular group.

4.35 Although fees are calculated per individually authorised firm, we issue invoices and accept payment on a group basis where this will help with the fee-payer's administration. However, this does not change the legal position that the individually authorised entities concerned are liable for their own periodic fees in full.

## Adjustments to the calculation of variable periodic fees

### *Financial penalties*

4.36 We are empowered under FSMA to impose financial penalties in certain circumstances. FSMA sets out that we must not take account of any sums we have or may receive by way of penalties when fixing the level of our fees. Instead, we are required to publish and operate schemes for ensuring that any penalties imposed are applied for the benefit of issuers of securities admitted to the Official List, or authorised persons, as appropriate.

4.37 This means we do not take financial penalties into account when calculating the level of the AFR and the fee rates resulting from the AFR. Neither do we treat financial penalties as income – rather, they are a liability owed to fee payers.

4.38 The details of the FSMA penalty schemes are set out in Annex 4 of this PS.

4.39 Broadly speaking, where a financial penalty is received, we apply it firstly to meet the enforcement costs of the case. Any remaining penalty is then applied for the benefit of all authorised firms in proportion to their respective contributions to the AFR in the year the penalty is distributed.

- 4.40 There are separate requirements for penalties administered under the Money Laundering Regulations, and these are outlined in Chapter 14.

*Inward passporting EEA firms and Treaty firms*

- 4.41 We do not require firms that passport into the UK on a services basis (i.e. without branches in the UK) to pay periodic fees. EEA and Treaty firms that passport into the UK on a branch basis are given a percentage discount on the variable periodic fees compared to a UK authorised firm conducting the same business. The discount varies between fee-blocks and reflects the fact that the home state regulator is responsible for certain aspects of these types of firms' supervision. The full range of discounts that apply to incoming EEA and Treaty firms can be found in our Handbook at FEES 4 Annex 2R, Part 3.
- 4.42 EEA firms passporting into the UK are allocated to our fee-blocks by comparing the activities in their passport with the equivalent activities set out in the Regulated Activities Order<sup>6</sup> (which details the regulated activities used in UK authorised firms' permissions).

*Changes to permissions part-way through a financial year (including new authorisations and cancellations)*

- 4.43 Where a firm becomes newly authorised part-way through a fee period – or varies its existing permission so that it falls into a fee-block or fee-blocks it was not in before the variation was granted – a periodic fee becomes payable for each of the new fee-blocks that the firm falls into.
- 4.44 This fee is calculated in the same way as a full-year periodic fee on the basis of estimated tariff data. A discount is then applied to the fee to reflect how much of the financial year remains.

**Table 4.3: Proportion of full-year periodic fee payable for new or extended permissions**

Quarter in which permission is received or extended	Proportion of full-year fee payable
1 April to 30 June inclusive	100%
1 July to 30 September inclusive	75%
1 October to 31 December inclusive	50%
1 January to 31 March inclusive	25%

- 4.45 If a firm reduces the scope of its permission, or applies to cancel its authorisation altogether during a fee period, **no refund of periodic fees is made** (and fees remain due for the entire year, even if they have not yet been invoiced for and/or paid).
- 4.46 However, if a firm makes a formal application to cancel or vary its permission before the start of a fee period (i.e. on or before 31 March), then we will not charge a periodic fee in

<sup>6</sup> The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544).

the next fee period for the fee-block(s) that will not apply after the variation (or cancellation). This is provided that the variation or cancellation the firm applied for becomes effective within three months of the start of that next fee period (i.e. by 30 June).

*Appointed representatives leaving a network to become directly authorised*

- 4.47 Although we do not charge fees to appointed representatives, their principal commonly seeks to recover from them amounts towards 'FSA fees' or 'regulatory costs'. These charges are entirely a private contractual matter between the principal and the appointed representative. When an appointed representative becomes directly authorised we do not give any credit against our periodic fees for sums they may be required to pay by their former principal. The costs we incur in regulating a newly authorised entity are not substantially different, due to the new firm previously having been an appointed representative.

*Transfers of business (including mergers/acquisitions)*

- 4.48 Where a firm (X) acquires part or all of the business of another firm (Y) during the financial year, then X does not become liable for an additional periodic fee on the business transferred if Y has already paid the periodic fee for the transferred business.
- 4.49 This relief is also available to an authorised firm that chooses to change the legal vehicle through which it conducts its business – for example, a sole trader transferring its authorised business to a new corporate entity. Where a firm makes such a transfer, the new entity will not be liable for a periodic fee for that fee period in relation to the transferred business, provided the original entity has already paid its periodic fee.
- 4.50 The valuation date for our fees is usually 31 December, but our fee period does not start until 1 April. So we need to take account of acquisitions that happen between these two dates. This deals with the scenario where, for example, firm X transfers all its business to firm Y on 1 January and X then ceases trading before 1 April. Firm X would pay no fees in the next financial year, but firm Y's fee would be based on its pre-transfer amount of business as at 31 December. This would lead to an inappropriately low fee for firm Y. In addition, the fees payable by the remaining firms in the affected fee-block would be based on tariff data that did not take account of the transferred business, which could result in higher fees for that fee-block. In such cases we treat the transfer as though it happened immediately before the valuation date. So firm Y pays a fee in the next fee period based on the combined amount of business.

## **How to pay**

- 4.51 We accept periodic fee payments by various means – direct debit, credit transfer (BACS/CHAPS), cheque, Maestro or credit card (Visa/MasterCard only). Payments by credit card incur an additional 2% charge of the transaction.

- 4.52 Authorised firms can also choose to pay their fees and levies by instalments. The market solution (initially set up in 2005/06) for payment by instalments will continue, with Premium Credit Limited as the credit provider selected by the independent industry working group on instalment payments.
- 4.53 The current facility offered by Premium Credit Limited will be available for firms until its next renewal date, in March 2012, with an annual review of rates. We are independent of this arrangement and have no contract in place with Premium Credit Limited. Firms wishing to continue paying by instalments should ensure they renew their credit arrangements for 2011/12. We will send details of the instalment plan to firms with their invoices and further information is available on our fees website ([www.fsa.gov.uk/Pages/Doing/Regulated/Fees/index.shtml](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/index.shtml)). Firms can make their own arrangements directly through other credit providers, if they wish to do so.

### Online fee calculator

- 4.54 Firms can calculate their periodic FSA fees online at: [www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/index.shtml](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/index.shtml).
- 4.55 The fee calculator enables firms to work out their fees and levies for different financial periods and scenarios, based on previous, current and draft rates. So existing firms and potential applicants for authorisation can calculate the amounts they are likely to be invoiced for the financial year (including any applicable discounts) and compare these to previous years. However, firms will be liable for the fees and levies shown on their invoices rather than the amounts indicated by the fee calculator.
- 4.56 The fee calculator is intended to make the likely implications of draft and final fees and levies clearer to firms and help firms in their budget planning for the year ahead.
- 4.57 The fee calculator also enables firms to calculate FSCS, ombudsman service and Money Advice Service levies where applicable.

**Table 4.2: Moderation framework**

Fee-block	Tariff base		Moderation: Discount (-) & Premium (+) levels					
			Low impact		Medium low impact	Medium high impact	High impact	
			Band 1	Band 2	Band 3	Band 4	Band 5	
A.1	Deposit acceptors	MELS [essentially UK deposits held] £ms	Moderation	0%	0%	0%	plus 25%	plus 65%
			Band width	>10-140	>140-630	>630-1,580	>1,580-13,400	>13,400
A.2	Home finance providers and administrators	Number of new home finance contracts etc.	Moderation	0%	0%	0%	0%	0%
			Band width	>50-130	>130-320	>320-4,750	>4,750-37,500	>37,500

Fee-block		Tariff base	Moderation	Moderation: Discount (-) & Premium (+) levels				
				Low impact		Medium low impact	Medium high impact	High impact
				Band 1	Band 2	Band 3	Band 4	Band 5
A.3	Insurers – general	Gross premium income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>0.5-10.5	>10.5-30	>30-245	>245-1,900	>1,900
		Gross technical liabilities £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1-12.5	>12.5-70	>70-384	>384-3,750	>3,750
A.4	Insurers – life	Adjusted gross premium income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1-5	>5-40	>40-260	>260-4,000	>4,000
		Mathematical reserves £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1-20	>20-270	>270-7,000	>7,000-45,000	>45,000
A.5	Managing agents at Lloyd's	Active capacity £m	Moderation	0%	0%	0%	0%	0%
			Band width	>50-150	>150-250	>250-500	>500-1,000	>1,000
A.7	Fund managers	Funds under management £m	Moderation	0%	0%	0%	0%	0%
			Band width	>10-150	>150-2,800	>2,800-17,500	>17,500-100,000	>100,000
A.9	Operators, trustees and depositaries of CISs etc.	Gross income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1-4.5	>4.5-17	>17-145	>145-750	>750
A.10	Firms dealing as principal	Number of traders	Moderation	0%	0%	0%	0%	0%
			Band width	2-3	4-5	6-30	31-180	>180
A.12	Advisory arrangers, dealers or brokers (holding client money/assets)	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2-5	6-35	36-175	176-1,600	>1,600
A.13	Advisory arrangers, dealers or brokers (not holding client money/assets)	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2-3	4-30	31-300	301-2,000	>2,000
A.14	Corporate finance advisers	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2-4	5-25	26-80	81-199	>199
A.18	Home finance providers, advisers and arrangers	Annual income £000s	Moderation	0%	0%	0%	0%	0%
			Band width	>100-180	>180-1,000	>1,000-12,500	>12,500-50,000	>50,000
A.19	General insurance mediation	Annual income £000s	Moderation	0%	0%	0%	0%	0%
			Band width	>100-325	>325-10,000	>10,000-50,750	>50,750-250,000	>250,000

# 5

## Recovery of allocated costs within other fee-blocks

- 5.1 In this chapter we explain how we recover costs allocated to the other fee-blocks not covered in Chapter 4 and Chapter 8.

### **Fee-block A.6 – The Society of Lloyd’s**

- 5.2 Fees are set based on the level of resources required to regulate this individual firm.

### **Fee-block A.20 – Markets in Financial Instruments Directive (MiFID) transaction fee**

- 5.3 This fee-block applies to a firm or market operator in respect of certain securitised derivatives. It was set up to recover targeted additional IS costs related to transaction reporting arising from MiFID. Recovery of allocated costs is based on the relevant firms’ annual income in the calendar year ending 31 December.

### **Fee-block B – Recognised bodies and others**

- 5.4 These include recognised exchanges, clearing houses, service companies and firms operating Multilateral Trading Facilities (MTFs). Fees are individually set for each fee-payer based on the resources required to regulate them. MTFs include some degree of flat-level fees.

### **Fee-block C – Collective investment schemes**

- 5.5 These include unit trusts and open-ended investment companies. The costs of regulating these schemes are recovered through a fee based on the number of funds or sub-funds operated.



**Fee-block D – Designated Professional Bodies (DPBs)**

- 5.6 These include the Law Society of England and Wales, and the Institute of Chartered Accountants in England and Wales. The cost of regulating these DPBs and others is recovered through a fee based on the number of exempt professional firms registered with each DPB.

**Fee-block F – Unauthorised Mutuals**

- 5.7 These include industrial and provident societies and societies registered under the Friendly Societies Acts. Fees are levied based on the size of their total assets.

**Fee-block G.1 – Firms registered under the Money-Laundering Regulations 2007**

- 5.8 A flat rate annual fee is levied.

**Fee-block G.2 – G.5 – Firms subject to the Payment Services Regulations 2009**

- 5.9 For firms also in the A.1 fee-block (Deposit acceptors), fees are based on size of business undertaken as for A.1 business. For large payment institutions, fees are based on the size of relevant income and for small payment institutions a flat rate annual fee is levied.

**Fee-block G.10 and G.11 – Firms subject to the Electronic Money Regulations 2011**

- 5.10 The fees of large electronic money institutions are based on average outstanding e-money, while small electronic money institutions pay a flat rate annual fee.

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## Section 2: Application and special project fees

6. Application fees

7. Special project fees – overall policy

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# 6

## Application fees

- 6.1 Application fees are one-off payments towards our costs of processing certain applications made by fee payers under provisions of FSMA or our Handbook. Application fees rules and guidance are set out in FEES 3 of our Handbook.
- 6.2 In this chapter we will discuss the application fees that may apply to authorised firms, and firms subject to the Payment Services Regulations 2009 and Electronic Money Regulations 2011. Other transaction fees apply to non-authorised firms; for example, issuers of securities (see Chapter 8). Table 6.1 summarises the range of application or other one-off fees that we charge to different types of fee payer.

**Table 6.1: Summary of application fees and one-off fees**

Type of fee payer	Trigger for fee
Firms (authorisation fees)	a new entity wishes to become authorised to carry out regulated activities
Firms (change of legal status)	an existing authorised firm wishes to change its legal status, which needs authorisation as a new entity
Firms (variation of permission fees)	an existing authorised firm wishes to change the scope of the regulated activities it currently has permission to undertake
Periodicals (Article 54 RAO certificates)	a periodical wishes to obtain a certificate under Article 54 of the Regulated Activities Order
Collective investment schemes	a scheme seeks certain declarations or gives certain notices under FSMA
Designated professional bodies	an entity seeks to be designated as a designated professional body
Issuers of securities	an issuer applies to list one or more securities or submits documents for vetting or approval
Recognised bodies	an entity seeks to be recognised as an (overseas) investment exchange or clearing house
Unauthorised mutuals	an entity seeks to be registered as a new mutual society, or a sponsoring body seeks to register a new set of model rules

Leasing companies, trade finance houses, safe custody service providers	an entity that wishes to conduct or continue to conduct business in the areas listed must register under the Money Laundering Regulations 2007
Payment services providers	an entity seeks to register or become authorised as a payment institution
Electronic money institutions	an entity seeks to register or become authorised as an electronic money institution
Insurers (general and life)	an entity proposing to cede risks to an Insurance Special Purpose Vehicle seeks a waiver

- 6.3 Application fees are payable in advance of, or with, the application. An application without the appropriate fee will be considered incomplete and we will not process it. If an application is unsuccessful, the fee will not be refunded. This is because we must commit resources to processing applications, even if their outcome is unsuccessful.
- 6.4 In general, where an application is successfully made (for example, for a firm to become authorised or an investment exchange to be recognised), a periodic fee will then become payable for that activity for the remainder of the fee period concerned.

### Application fees payable by firms applying for authorisation

- 6.5 Most of the applications we handle are from firms seeking permission, under Part IV of FSMA, to become authorised firms (allowing them to carry out regulated activities if they are not otherwise exempt). The fee payable depends on the complexity of the application involved, which reflects the regulated activities the firm is seeking to carry out. We use the fee-block(s) a firm would fall into, should its application succeed, to determine the complexity of an application and the appropriate authorisation fee.
- 6.6 Applications are divided into three groupings (straightforward, moderately complex and complex) depending on the fee-block(s) that the entity would fall within if successful. The complexity groupings by fee-block are shown in FEES 3 Annex 1R and the application fee payable within each of these groupings is a flat amount.

**Table 6.2: Application fee groupings and fees payable**

Application type	Fee payable (£)
Straightforward	£1,500
Moderately complex	£5,000
Complex	£25,000

- 6.7 Certain exceptions are made to the three groupings where the fee payable for a particular type of firm would be disproportionate to the complexity of the application. For example, an application by a deposit-taker would normally be classed as complex, but we classify applications from e-money issuers (a particular type of deposit-taker) as moderately complex. Separate application fees apply to credit unions.
- 6.8 Where a firm applies for authorisation for activities that place it in more than one fee-block, only the highest application fee is payable.
- 6.9 Where a firm applies for only a simple change of legal status, it needs to pay 50% of the relevant authorisation fee. This reflects the lower regulatory effort needed to process those types of application.
- 6.10 For fees purposes, we define simple changes of legal status as those where the 'new' firm, in relation to the original authorised entity:
- operates to the same business plan;
  - has the same or narrower permission;
  - assumes all the original entity's rights and obligations in relation to the regulated activities carried on by the firm;
  - continues the same compliance arrangements;
  - does not have a materially different risk profile; and
  - retains any individuals responsible for insurance mediation activity in that role.

#### *How we set application fees*

- 6.11 Before an entity can be authorised, we need to be convinced it can meet - and continue to meet - FSMA's 'threshold conditions.' By ensuring that new applicants meet this, the authorisation process also helps currently authorised firms by protecting the reputation of the UK financial services industry as a whole.
- 6.12 We reflect this shared benefit in our application fees by setting them at lower levels than the full costs of dealing with an application. So the remainder of the costs we incur are met through the periodic fees of firms that are already authorised. This reduces barriers to entry for new applicants and so enhances competition.
- 6.13 Overall our policy aims to ensure that application fees - the total costs of processing applications for Part IV permission - are fairly apportioned between applicants and authorised firms.

*Inward passporting EEA firms and Treaty firms*

- 6.14 Under FSMA, we cannot charge an application fee for EEA firms seeking to passport their activities into the UK (on either a branch or services basis).
- 6.15 For Treaty firms, the application fee we charge depends on two factors:
- whether the firm can provide a certificate issued by the Treasury, which states that the laws of the firm's home state provide consumers with equivalent protection as that given by FSMA for the activity concerned; and
  - whether the Treaty firm is proposing to establish a branch in the UK, or deal on a services (cross-border) basis.
- 6.16 If a Treaty firm can provide the necessary certificate then, as for an EEA passporting firm, no application fee is payable. Otherwise the application fee is 50% (for a branch) or 25% (for services) of the equivalent amount that would be payable by a UK firm seeking authorisation to carry out the same activities.

**Application fees payable by firms applying to vary their existing permission**

- 6.17 Variation of permission (VoP) fees are payable by existing authorised firms when they wish to alter the regulated activities they have permission to undertake. The VoP fee recovers a proportion of the costs we incur in processing the application involved. The fee payable depends on whether the VoP application results in the firm being allocated to a fee-block or fee-blocks that did not apply before the VoP.
- 6.18 If the variation is granted and the firm is in an additional fee-block(s) to its previous one(s), the VoP fee is 50% of the application fee for authorisation for the same regulated activities. The 50% discount on the application fee for authorisation is because less resource is required to assess a VoP application from a currently authorised firm, compared to a full application for authorisation by a new firm.
- 6.19 For example, a bank in fee-block A.1 might wish to vary its permission to add the regulated activity of 'managing investments'. If the variation were successful, the firm would be allocated additionally to fee-block A.7 (fund managers). The VoP fee payable is £2,500 – 50% of a moderately complex application fee, which is payable for applications for authorisation to manage investments.
- 6.20 A £250 flat administration fee applies to all other VoP applications increasing a firm's permitted activities, but which do not result in the firm being allocated to additional fee-blocks. This fee contributes towards the costs of us processing the VoP application. Credit unions are exempt from this fee. No VoP fees are payable for variations that only reduce a firm's permission.

### Fees to register or seek authorisation as a payment services provider

- 6.21** From 1 November 2009, firms undertaking or wishing to undertake payment services activities in the UK were brought under the scope of our regulation by the European Union's Payment Services Directive (PSD). This is implemented in the UK by the Payment Services Regulations 2009 (PSRs).
- 6.22** Fees for applications and variations of permission came into effect from 1 May 2009.<sup>7</sup> Firms that started to provide payment services after 25 December 2007 had to register or become authorised by 1 November 2009 if they wished to continue to do so. Those that were operating before 25 December 2007 had until 25 December 2010 to register and until 1 May 2011 to become authorised.
- 6.23** Four sets of payment services providers (PSPs) do not have to pay application fees.
- *Firms in fee-block A.1* are exempt from registration and authorisation requirements under the PSRs.
  - *EEA firms passporting into the UK and UK firms passporting outwards* will be exempt from application fees in accordance with current fees rules.
  - *Certified small e-money issuers* appear on our register but are not subject to FSMA supervision. They are currently entitled to provide payment services without an application fee but must transition to the new e-money regime by 30 April 2012 (see paragraph 6.33 – 6.34 below).
  - *Other bodies* exempted under the PSRs are:
    - the Post Office Ltd;
    - the Bank of England 'other than when acting in its capacity as a monetary authority or carrying out other functions of a public nature'; and
    - government departments and local authorities 'other than when carrying out functions of a public nature'.
- 6.24** The fees for registration or authorisation of payment institutions (PIs) depend on the types of activity they intend to carry out and the number of agents they have.
- *Small PIs*: A flat fee of £500 for application to register – small PIs are defined by various criteria, such as the monthly average volume of payment services transactions in the 12 months preceding the application should not exceed €3m.
  - *Authorised PIs*: Schedule 1 Part 1, paragraphs (a) to (g) of the PSRs establish seven types of payment service activities for which permission is needed. The application fee for authorisation is affected by the activities firms propose to undertake.

<sup>7</sup> These proposals were implemented through *Handbook Notice 87* (April 2009), which also provided feedback.

- Firms applying for one or both of activities (f) (money remittance) and (g) (consent given by telecommunications, digital or IT device) are charged £1,500.
  - Firms undertaking any or all of the wider range of activities under (a) to (e) are charged £5,000 – eg operating payment accounts, execution of direct debits, or issuing payment instruments, such as payment cards, credit/debit cards, etc.
- 6.25** If firms operate through a large number of agents, we charge a higher fee to recover the costs we incur registering them, regardless of the size of the firm or the activities for which they are seeking authorisation:
- the fee for firms with more than 5,000 agents is £25,000; and
  - the fee for firms with 2,501 – 5,000 agents is £12,500.
- 6.26** Financial institutions who were undertaking payment services before 25 December 2007 can notify us and apply for deemed authorisation. We refer to these as ‘deemed authorised PIs’. The notification process is less complex than application for authorisation since less information is required. However, the complexity in each case will depend on the type of activities a firm wishes to undertake and the number of agents through whom it operates. Consequently, deemed authorised firms pay 50% of the authorisation fee they would otherwise have been required to pay.
- 6.27** Variations of permission for PIs are based on the activities identified above.
- A PI will be charged £250 to expand the scope of its permission if:
    - it has permission for one or more of activities (a) to (e) and wishes to add one or both activities (f) to (g); or
    - it has permission for (f) or (g) and proposes an expansion to the other of (f) or (g).
  - A PI will be charged 50% of the £5,000 authorisation fee if it has permission for (f) or (g) but wishes to include one or more of activities (a) to (e).
- 6.28** Some variations will be treated as new applications and charged the full application fee for authorisation because the assessment is more complex, these are:
- a small PI whose activities exceed the €3m threshold; and
  - a firm that is already authorised under FSMA to undertake regulated activities but is not in fee-block A.1 and that applies for authorisation or registration as a PI.
- 6.29** If a firm applies to reduce the scope of its permissions, there will be no fee.



### **Fees to register or seek authorisation as an electronic money institution**

- 6.30** From 30 April 2011, electronic money issuers (EMIs) or firms wishing to become electronic money issuers in the UK were brought under the scope of our regulation by the European Union's Second Electronic Money Directive (2EMD). This is implemented in the UK by the Electronic Money Regulations 2011 (EMRs). Fees for applications and variations of permission came into effect from 10 February 2011.<sup>8</sup>
- 6.31** The following types of electronic money issuers will not be charged a fee for applying under the EMRs:
- **Credit institutions:** they will not need to apply to become authorised or registered under the EMRs to issue e-money, so there will be no EMRs application fee. If they already have Part 4 Permission that covers the regulated activity of issuing e-money, they will not have to pay any additional fee. If they propose to start issuing e-money, however, they will need to apply to vary their Part 4 Permission under FSMA and to pay the relevant fee for this.
  - **Credit unions and municipal banks:** as above.
  - **Existing electronic money issuers which have already been authorised by us:** they will be 'grandfathered' into the new regulatory regime (ie brought in automatically).
  - **Inward passporting EEA electronic money issuers:** the appropriate checks will have been conducted by their home state regulators, and so they only have to notify us.
  - **Other bodies that do not need authorisation or registration under the EMRs:** the Post Office Limited, the Bank of England, government departments, local authorities and the National Savings Bank have a right to issue electronic money and only have to notify us of their intention to do so.

#### *Authorised EMIs*

- 6.32** There is an application fee of £5,000 for businesses applying to become authorised electronic money institutions. This reflects our assessment of the complexity – and the amount – of work we expect in processing their applications.

#### *Small electronic money institutions*

- 6.33** The EMRs allow electronic money issuers with average outstanding e-money that does not exceed €5m to be registered as small EMIs rather than be fully authorised. The applications will be less complex than for authorised electronic money institutions and so we are able to set a lower fee of £1,000.

<sup>8</sup> These proposals were implemented through Policy Statement 11/02 (*Implementation of the second Electronic Money Directive*) (February 2011), which also provided feedback.

- 6.34** Existing small e-money issuers must apply to become small EMIs (or authorised EMIs) under the new regime because 2EMD requires us to know significantly more about their business, and so they will have to pay the application fee of £1,000 (or £5,000 if they apply to become authorised EMIs). Under the EMRs, they have until 30 April 2012 to transition fully to the new regime.

# 7

## Special project fees (SPFs) – overall policy

7.1 We raise SPFs in two ways:

- under our powers, in section 157(4)(c) of FSMA, to charge for giving guidance at the request of any person (Guidance SPFs); and
- under our general fee raising powers in paragraph 17, Schedule 1 of FSMA (General SPFs).

7.2 SPFs recover some of the costs we incur in undertaking regulatory activities that result from:

- a request from a fee payer (or group of fee payers) for us to undertake specific regulatory activity on their behalf and where the benefit of that activity would primarily accrue to the fee payer(s) concerned, rather than to consumers generally, a particular fee-block as a whole, or the wider UK economy (Guidance SPF);
- firms carrying out certain transactions relating to restructuring (General SPF); and
- implementation of certain EU Directives (General SPF).

7.3 The rationale for SPFs is that, in the right circumstances, firms should pay for regulatory work that is performed exclusively for their benefit, rather than the work being paid for by other fee payers in the same fee-block.

7.4 The income from SPFs is accounted for as 'sundry income' within our expenditure total and used to off-set the relevant costs in our AFR cost allocation.

## Guidance SPF

### *Context and scale*

- 7.5 This type of SPF recovers part of the costs we incur in dealing with certain large-scale and one-off transactions undertaken at the request of fee payers. Diverting internal resources into projects of this type can place a considerable strain on our capacity to deliver other important regulatory activities. Charging this SPF allows us to bring in extra resource to deal with the increased workload. These SPFs achieve the following:
- They meet part of the costs of exercising our statutory functions and are payable whether the transaction is successful or not. As with our authorisation application fees, SPFs are non-refundable and payment of the fee has no influence on how or when we exercise the relevant functions.
  - They do not aim to recover all of the costs associated with each nominated transaction, but only the incremental staff and other direct costs incurred. We do not recover any contribution to general overheads or any 'profit' element through SPFs.
  - They do not have an adverse impact on the small and medium size firms we regulate. They apply to transactions that small or medium size firms would rarely require us to undertake. We also apply a minimum level of costs (currently £50,000) to such projects. If our costs of giving guidance regarding a transaction are less than this limit, we will not levy an SPF.
- 7.6 We are keeping these SPF arrangements under review. Over time, and in the light of experience, the range of activities to which this type of SPF will apply are expected to widen and we will consult with the industry before implementing any further SPFs of this type. However, we intend these fees to meet only a small amount (anticipated to be no more than 5%) of our total costs, in any given year.

### *Chargeable transactions*

- 7.7 These SPFs apply to three types of transaction where the incremental costs to us of undertaking the task exceed £50,000. These transactions are summarised in the following paragraphs and more detailed case studies are in Annex 5.
- 7.8 **Reorganising the structure of legal entities within an insurance group (whether or not associated with a merger or demutualisation).** This includes transactions such as changes to the structure of – or benefits accruing from – with-profits funds, or attributions and re-attributions of inherited estates. Our role in these transactions can involve analysis of the proposed legal entity structure, financial projections and the proposed structure of the with-profits fund to provide guidance on compliance with prudential requirements and with regulatory principles (primarily treating customers fairly). These transactions may also involve us exercising formal powers for approval of change of controller, or variations to Part IV permissions, or involve applications for transfers of business (under Part VII of FSMA).

- 7.9** A merger or takeover involving at least one large authorised person. Our role in these transactions can involve analysis of the proposed legal entity structure, financial projections and proposed systems and controls for the merged entity or group in order to provide guidance on the likely prudential or other supervisory treatment of the merged entity. These transactions may also involve other formal requests to us, for example, a 'change of controller' approval, or a request for a variation or cancellation of Part IV permissions.
- 7.10** A proposal from a large building society/insurer/friendly society to demutualise. A demutualisation could take place either through conversion to a plc or by merger with another non-mutually-owned firm. Our activities would be similar to those described in the merger transaction above. We carry out formal regulatory approval of demutualisations under the Building Societies Act or Friendly Societies Act. Given the threshold for charging these SPF's mentioned above, we anticipate that only transactions involving the largest mutual building societies/insurers/friendly societies would incur an SPF.
- 7.11** These summaries (and the more detailed case studies in Annex 5) are illustrative, rather than a complete list, of the three types of transactions to which a Guidance SPF will initially apply. The nature of large corporate transactions is that all have certain unique features and we will judge each case on its merits.

#### *Operational arrangements*

- 7.12** The varied nature and size of the transactions and other circumstances to which Guidance SPF's apply means that fee amounts are set on a case-by-case basis. Where we believe that a transaction should attract a Guidance SPF, we write to the parties involved to let them know of:
- our intention to charge a Guidance SPF;
  - the expected scale and duration of the transaction; and
  - the incremental costs we expect to incur to complete the transaction.
- 7.13** Depending on the scale and duration of the project, we may ask the Guidance SPF fee-payer 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 completed. We will discuss and agree these details on a case-by-case basis with the fee payer at the beginning of the project.

## General SPF - restructuring

### *Context and scale*

- 7.14 As with the Guidance SPF, this General SPF aims to recover our exceptional supervisory costs where a firm undertakes certain restructuring transactions. The main difference is that, while a Guidance SPF applies only where a firm initiates a request for guidance, this General SPF will be levied at our initiation where a firm undertakes one of the transactions set out in paragraph 7.15.

### *Chargeable transactions*

- 7.15 This type of General SPF will be charged where a firm needs to undertake a restructuring exercise which requires:
- restructuring of regulatory capital; and/or
  - raising of additional capital; and/or
  - a corporate reorganisation; and/or
  - a merger or takeover; and/or
  - a change to the structure of – or benefits accruing from – with-profits funds, or attributions and re-attributions of inherited estates.
- 7.16 This SPF can also be levied in circumstances relating to insolvency orders, voluntary winding up or the exercise of a stabilisation power.
- 7.17 As with the Guidance SPF, this type of General SPF will only be charged where our additional costs exceed £50,000.

### *Operational arrangements*

- 7.18 This SPF will be calculated based on the number of hours individuals work on the specific restructuring transactions plus external costs of professional advisers we need to engage. Our 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 7.1 sets out for these key functions the grades of individual and the hourly rates that will be used for SPF restructuring transactions. We will consult separately when we revise these rates in the future.

**Table 7.1: Hourly rate for areas and grades of individuals within them**

	Supervision, Policy, General Counsel
Administrator	£25
Associate	£50
Technical Specialist	£85
Manager	£90
Any other person employed by the FSA	£135
Notes:	
(i) Hourly rate is average across each function for each grade	
(ii) Any other person employed by the FSA relates to time spent by a Head of Department, Director, a Managing Director or the Chief Executive Officer.	

- 7.19** For restructuring transactions that involve raising additional capital, we will only apply an 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.
- 7.20** 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 incremental costs we expect to incur to complete the transaction.
- 7.21** As with the Guidance SPFs, depending on the scale and duration of the project, we may ask the General SPF fee-payer to make an initial on-account payment at the start of the transaction and monthly or other regular fee payments after that, until the work is completed.

## General SPF – EU Directive implementation costs

### *Context and scale*

- 7.22** This General SPF aims to target the recovery of EU Directive implementation costs (or modification to an existing Directive) on firms that are impacted by changes brought about by the Directive. This SPF enables us, where it is proportionate to do so, to ensure that firms pay for regulatory work arising out of the implementation of EU Directives that is specific to them as a sub-class of a fee-block rather than the costs also being recovered from fee-payers in the fee-block not affected by the Directive.

- 7.23 This type of SPF will be levied where the 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 who are not affected by the Directive.

### *Chargeable Directives*

- 7.24 We will consult on a proposed General SPF to recover implementation costs of a particular Directive (or modification of an existing Directive) the year before we propose using it. In summary, when we consult we will state:
- 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 that would result in a significant increase in periodic fees for firms in the fee-block 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.

### *Operational arrangements*

- 7.25 This will be decided case-by-case but will also form part of the consultation for each proposal to use this SPF for a specific Directive. Where possible we will seek to use a basis for recovery that uses existing mechanisms for recovering our costs through fees.



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## Section 3: Other fees issues

8. UK Listing Authority (UKLA) fees
  9. Regulatory reporting of fee tariff data
  10. Levies for the Financial Ombudsman Service, the Financial Services Compensation Scheme and the Money Advice Service
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# 8

## UK Listing Authority (UKLA) fees

- 8.1 The fees payable for our function as the UK Listing Authority (UKLA) are designed to recover the direct costs of carrying out our primary market regulation functions and a proportion of our overheads.
- 8.2 UKLA fee payers make up fee-block E. The fees rules and guidance for this fee-block are in FEES 3.2.7R, FEES 3 Annexes 4R and 5R, FEES 4.2.11R and FEES 4 Annexes 7R and 8R.

### *UKLA fee types*

- 8.3 We charge two types of UKLA-related fees – annual and non-annual. Annual fees are payable by issuers of securities and sponsors and aim to recover the UKLA's annual funding requirement plus an appropriate share of overheads. Non-annual fees include fees for document vetting and approval, and are intended to meet the costs of carrying out these activities. The revenue from non-annual fees is treated as sundry income, to allow us flexibility in matching resource to workload.

### *Non-annual fees*

- 8.4 Non-annual fees include:
- transaction vetting fees relating to specific events or transactions that an issuer might be involved in during the year;
  - application fees – for example, for an application for approval as a sponsor or applying to be admitted on the Official List;
  - administrative fees for amending the Official List or its records outside the application process; and
  - eligibility fees for potential new applicants to the Official List.

- 8.5 When issuers apply for listing, they must ensure their applications are accompanied by the relevant application fee as set out under FEES 3 Annex 4R.
- 8.6 Document vetting transactions will require payment of the appropriate vetting and approval fee, based on the relevant transaction category as set out under FEES 3 Annex 5R. We charge a range of fees depending on the nature of the event or transaction; for example, vetting prospectuses, circulars or supplementary listing particulars. These fees are non-refundable and are required when work starts on vetting the relevant document(s). This aims to ensure that those companies using our resources pay fees that are proportionate to the call they make on them.
- 8.7 We charge one-off flat fees in a small minority of complex transactions, which are deemed 'super transactions' or 'significant transactions.' The complexity of these transactions requires resource, often at a very senior level, that warrants a separate transaction fee. These categories have been introduced from 2009/10<sup>9</sup>, replacing the previous single category of significant transactions.
- 8.8 The fee for vetting super transactions is set at £50,000. It applies in the following circumstances:
- the issuer has a market capitalisation in excess of £1.5bn and it is a new applicant for a primary listing under the listing rules, or involved in a reverse or hostile takeover or a significant restructuring; or
  - the issuer has a market capitalisation in excess of £5bn and is involved in a Class 1 transaction, a transaction requiring vetting of an equity prospectus or equivalent document or a transaction requiring vetting of a prospectus in relation to a Depository Receipt.
- 8.9 The flat rate for vetting 'significant transactions' is £20,000. It will be charged in transactions where the issuer:
- has a market capitalisation in excess of £500m and is preparing an equity prospectus or a Class 1 transaction;
  - is involved in a reverse or hostile takeover or a restructuring; and
  - is proposing a Depository Receipt issue and has a market capitalisation in excess of £500m.
- 8.10 In cases where documents include a Mineral Experts Report, an additional charge of £5,000 will be made. This reflects the complex and specialist nature of these reports.

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<sup>9</sup> We consulted on these proposals in CP08/18 and implemented them through PS09/5.

### *Annual fees*

- 8.11** Annual fees for issuers of equity securities, Depository Receipts and Securitised Derivatives are tiered according to issuers' size, which is measured by market capitalisation as at 30 November. To avoid the need for new reporting requirements by issuers, we base annual fees on broadly the same market capitalisation data on which the London Stock Exchange bases its fees. We consult annually on the tiered rates and fee bands.
- 8.12** We base annual fees for issuers of more than one type of share on the highest market capitalisation of the shares in issue. In most cases, these are the voting equity shares.
- 8.13** Tiered annual fees are payable by all listed issuers, irrespective of whether they are incorporated in the UK. However, overseas issuers that have secondary listing in the UK receive a 20% discount to the annual fee. This reflects the fact that those issuers also pay regulatory costs in their home state jurisdiction.
- 8.14** Issuers of securitised derivatives and issuers of depository receipts and global depository receipts pay flat fees. Issuers that become listed during the financial year pay a proportion of the annual listing fee, pro-rated on a quarterly basis according to the quarter in which the issuer becomes listed. So an issuer listed from May will pay 100% of the annual fee (based on its market capitalisation data), while an issuer listed from August will pay 75% of the annual fee.
- 8.15** If an issuer applies to de-list and we receive its application by 31 March, it will not be liable for annual fees for the financial year starting 1 April. Any applications received after 1 April will be liable for the whole year's fees – this fee is non-refundable.
- 8.16** If an issuer applies to re-list as a result of a reverse takeover, a restructure or re-admission to list, no additional annual fee is payable providing the original listed issuer has already paid its annual fee for the fee period.

### *Disclosure Rules – issuers of non-listed securities*

- 8.17** All issuers of securities must comply with continuing obligations under the Disclosure Rules. The annual fees payable by issuers of listed securities cover the costs of carrying out our functions under both the Listing Rules and the Disclosure Rules.
- 8.18** Issuers of non-listed securities, to the extent they are monitored by us for compliance with their continuing obligations under the Disclosure and Transparency Rules, also pay an annual fee to cover the costs of us carrying out our functions. These fees are calculated in the same way as the annual fees payable by issuers of listed securities, but at 80% of those rates.

*Effective dates*

- 8.19** Fees for applications and transaction vetting are finalised in March each year and take effect on 1 April. However, annual fees are set in May to cover the fee period 1 April to 31 March. Annual fees are not set at the beginning of the fee period as they are only invoiced later in the financial year.

# 9

## Regulatory reporting of fee tariff data

- 9.1 All Phase 1 firms<sup>10</sup> required to submit the Retail Mediation Activities Return (RMAR) and the Mortgage Lending and Administration Return (MLAR) must report their fee tariff data in Section J (Fees) of the returns, through our Gabriel system.
- 9.2 Phase 2 firms<sup>11</sup> are not required to report their fee tariff data on the RMAR and MLAR. However, they are required to complete their fees data in a single submission on the paper tariff data return we send to them. For the remainder of this chapter, we refer to 'Phase 1 firms' as 'firms' only.
- 9.3 Firms who report tariff data for FSA fees and levies for the Financial Ombudsman Service (ombudsman service) and Financial Services Compensation Scheme (FSCS in section J of the RMAR or MLAR must do so annually, for the previous financial year. The time when section J must be completed depends on what returns are being submitted and on the firm's Accounting Reference Date (ARD). There are no separate reporting requirements for the Money Advice Service levy, which is calculated from the tariff data used for FSA fees.
- 9.4 So, the FSA fee tariff data firms report on the RMAR is in line with the valuation dates for the tariff data required for fee-blocks A.18 (home finance providers, advisers and arrangers) and A.19 (general insurance mediation), i.e. annual income for the firm's financial year which ended in the calendar year ending 31 December. Firms should also report the fee tariff data for the relevant FOS industry blocks and FSCS sub-classes, i.e. annual income and annual eligible income for the firm's financial year, which ended in the calendar year ending 31 December respectively. Further guidance for reporting in section J of the RMAR is located in the FSA Handbook, Supervision Manual (SUP) Chapter 16 Annex 18. Additional information on tariff base definitions is in the Fees Manual (FEES) Chapter 4 Annex 1 for FSA fees, Chapter 5 Annex 1 for ombudsman service levies and Chapter 6 Annex 3 for FSCS levies.

10 Phase 1 firms: personal investment firms and firms whose regulated activities are limited to one or more of: mortgage lending; mortgage administration; mortgage mediation; insurance mediation; or retail investment activity.

11 Phase 2 firms: any firm, except authorised professional firms, that carries out one or more of the above activities in addition to other regulated activities: mortgage lending; mortgage administration; mortgage mediation; insurance mediation; or retail investment activity.

### Completing section J - RMAR

- 9.5 Table 9.1 summarises the information needed on section J of the RMAR and the fee-blocks to which the data relate. The un-shaded boxes indicate the data firms will need to provide on Section J if they are within those fee-blocks.
- 9.6 Firms should report a tailored income figure for the FSCS and ombudsman service. However, they can choose not to tailor their income figure for home finance mediation or non-investment insurance mediation (general insurance) mediation. Where firms choose not to tailor their income figures we use the data they report for FSA fees to work out their FSCS and ombudsman service levies.

**Table 9.1: Summary of data needed to be reported in Section RMA-J of the Retail Mediation Activities Return**

	FSA	Ombudsman service	FSCS
<b>Home finance mediation</b>	<p><b>Annual income</b> This is the data needed for fees in the A.18 fee-block (home finance providers, advisers and arrangers). The FSA Handbook rules on tariff data for this fee are in <u>FEES Chapter 4 Annex 1R Part 2</u>. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under fee block A.18.</p>	<p><b>Annual income</b> This is the data needed for the levy in ombudsman service industry block 16. The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 5 Annex 1R Part 2</u>. You <b>do not</b> need to complete this field unless you wish to report tailored annual income (i.e. income from consumers). The guidance sheet for reporting <u>ombudsman service tailored income</u> will help you calculate the income figure to insert in this field. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under fee block A.18.</p>	<p><b>Annual eligible income</b> This is the data needed for the levy in FSCS sub-class E2. The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 6 Annex 3</u>. You <b>do not</b> need to complete this field unless you wish to report tailored annual income (i.e. income from eligible claimants). The guidance sheet for reporting <u>FSCS tailored income</u> will help you calculate the income figure to insert in this field. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under sub-class SE02.</p>

<p><b>Non-investment insurance mediation</b></p>	<p><b>Annual income</b> This is the data needed for fees in the A.19 fee-block (general insurance mediation). The FSA Handbook rules on tariff data for this fee are in <u>FEES Chapter 4 Annex 1R Part 2</u>. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under fee block A.19.</p>	<p><b>Annual income</b> This is the data needed for the levy in ombudsman service industry block 17. The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 5 Annex 1R Part 2 and FEES Chapter 4 Annex 1R Part 2</u>. You <b>do not</b> need to complete this field unless you wish to report tailored annual income (i.e. income from consumers). The guidance sheet for reporting <u>ombudsman service tailored income</u> will help you calculate the income figure to insert in this field. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under fee block A.19.</p>	<p><b>Annual eligible income</b> This is the data needed for the levy in FSCS sub-class B2. The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 6 Annex 3</u>. You <b>do not</b> need to complete this field unless you wish to report tailored annual income (i.e. income from eligible claimants excluding pure protection business). The guidance sheet for reporting <u>FSCS tailored income</u> will help you calculate the income figure to insert in this field. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under sub-class SB02.</p>
<p><b>Life &amp; pensions mediation</b></p>	<p>n/a</p>	<p>n/a</p>	<p><b>Annual eligible income</b> This is the data needed for the levy in FSCS sub-class C2. The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 6 Annex 3</u>. Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under sub-class SC02.</p>



Investment mediation	n/a	n/a	<p><b>Annual eligible income</b></p> <p>This is the data needed for the levy in FSCS sub-class D2.</p> <p>The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 6 Annex 3</u>.</p> <p>Further information to help calculate this data is in our <u>fee tariff data guidance pages</u> on our website under sub-class SD02.</p>
Investment mediation	<p><b>Number of approved persons</b></p> <p>This is the data needed for fees in the A.12 and A.13 fee-blocks (advisory arrangers, dealers and brokers holding/not holding client money). We base these fees on numbers of approved persons on the FSA Register as at 31 December. <b>You do not need to report this data to us.</b></p>	<p><b>Number of relevant approved persons</b></p> <p>This is the data needed for the levy in ombudsman service industry blocks 8 and 9.</p> <p>The data required is the total number of approved persons conducting relevant business as at 31 December.</p> <p>The FSA Handbook rules on tariff data for this levy are in <u>FEES Chapter 5 Annex 1R Part 2</u> and <u>FEES Chapter 4 Annex 1R Part 2</u>.</p> <p>Further guidance on how to calculate this data is in <u>industry block 8 tariff data</u> and <u>industry block 9 tariff data</u>.</p>	
<p><b>Note:</b></p> <p>You can access further details on our website at:  <a href="http://www.fsa.gov.uk/Pages/Doing/Regulated&gt;Returns/IRR/packs/help_rmar.shtml">www.fsa.gov.uk/Pages/Doing/Regulated&gt;Returns/IRR/packs/help_rmar.shtml</a></p>			

### Completing section J – MLAR

9.7 The MLAR captures fee tariff data on mortgage and other home finance business for the following fees and levies:

- FSA fees – fee-block A.2 (home finance providers and administrators); and
- ombudsman service general levy – industry block 1 (deposit acceptors, home finance providers, home finance administrators and dormant account fund operators).

- 9.8** Firms completing the MLAR must complete section J in each year-end return, with their FSA and ombudsman service fee tariff data. The data firms must report for our fees is the number of new mortgage contracts or other home finance transactions entered into and the number of mortgage contracts or other home finance transactions being administered, multiplied by 0.05 for mortgage or home finance outsourcing firms and by 0.5 for all other firms. The data firms must report for the ombudsman service is the number of relevant accounts as set out in the FSA Handbook, Dispute Resolutions: Complaints Sourcebook: DISP 2.6.1R.
- 9.9** The date when the firm must calculate the fee tariff data to report in section J depends on the firm's ARD. Firms with an ARD falling between 31 December and 31 March (inclusive) must calculate their fee tariff data as at the 31 December just passed. However, firms whose ARD is between 1 April and 30 December (inclusive) must calculate fee tariff data as at 31 December of the previous calendar year, as that is the most recent data available to them.
- 9.10** To help firms complete Section J of the RMAR and MLAR, we have produced detailed help texts, available on our website:
- RMAR – [www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/packs/help\\_rmar](http://www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/packs/help_rmar)
  - MLAR – [www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/packs/help\\_mlar](http://www.fsa.gov.uk/Pages/Doing/Regulated>Returns/IRR/packs/help_mlar)

# 10

## Levies for the ombudsman service, FSCS and Money Advice Service

- 10.1** The Financial Ombudsman Service (ombudsman service), the Financial Services Compensation Scheme (FSCS) and the Money Advice Service<sup>12</sup> are separate legal entities from the FSA, established under FSMA. All bodies are independent from us in their day-to-day operations, but remain accountable to us through various mechanisms.
- 10.2** The ombudsman service, FSCS and Money Advice Service are funded separately from the FSA, although we are responsible for collecting levies from the industry. Each body has its own funding model. This chapter gives a brief overview of their funding arrangements.

### *Ombudsman service*

- 10.3** The ombudsman service provides an independent service for resolving disputes from customers of financial firms. The ombudsman service operates according to rules made by us, or rules it makes subsequently approved by us. These rules are set out in the DISP module of our Handbook.
- 10.4** The ombudsman service is funded by the financial services industry in two ways:
- a general levy, payable by authorised firms that come within the ombudsman service's compulsory jurisdiction; and
  - case fees, payable by individual firms per complaint dealt with by the ombudsman service.

<sup>12</sup> The Money Advice Service was previously known as the Consumer Financial Education Body (CFEB).

### *General levy*

- 10.5** The ombudsman service has 18 'industry blocks', which are similar (but not identical) to our fee-blocks. 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) each firm does. This proportion is called the 'tariff rate'. The amount of money to be recovered from each industry block is based on the ombudsman service's estimates of the number of staff required to deal with the complaints it expects to receive from firms within each block.
- 10.6** Where a firm does not conduct business with 'eligible complainants' (private individuals and small businesses) it can claim exemption from certain requirements of the DISP rules, including the liability to pay the general levy. Further guidance and the exemption form is available on our website ([www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes)).
- 10.7** The ombudsman service's financial year starts on 1 April. We levy firms for a full financial year's ombudsman service levy unless we receive written notification of exemption by 31 March of the preceding financial year. Firms that are already exempt do not need to notify us again. When a firm ceases to be exempt it must notify us as soon as possible.

### *Case fees*

- 10.8** Firms currently pay a case fee for the fourth and subsequent chargeable complaints referred to the ombudsman service within a year, regardless of whether the complaint is upheld.<sup>13</sup>
- 10.9** We invoice and collect the ombudsman service charges general levy, which reduces administrative costs for levy payers. Separately, the ombudsman service charges case fees. If a firm fails to pay the general levy or case fees, we and the ombudsman service are able to take steps to recover the money owed, and we may also consider taking regulatory action against the firm.
- 10.10** Further information about the ombudsman service is available on its website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk).

### **FSCS**

- 10.11** The FSCS is the UK's statutory fund of last resort for customers of authorised financial services firms. This means that the FSCS can pay compensation for valid claims if a firm is unable, or likely to be unable, to pay claims against it. The FSCS operates according to rules made by us, which are set out in the COMP and FEES modules of our Handbook.
- 10.12** The FSCS is funded by two different types of levy on the financial services industry:
- compensation costs levy – this covers the actual compensation payments made to claimants; and

<sup>13</sup> There are a limited number of circumstances in which a complaint is not a 'chargeable case' and does not attract a case fee.

- management expenses levy – this covers all the FSCS’s expenses other than compensation costs and comprises a base and specific element (see paragraph 10.17).
- 10.13** The base cost element is applied to firms according to their FSA periodic fee block. The specific management expenses and compensation cost elements of the levy are recovered according to a class/sub-class model, which was amended with effect from 1 April 2008. There are five broad classes:
- deposit;
  - general insurance;
  - life and pension;
  - investment; and
  - home finance.
- 10.14** With the exception of deposit class, each broad class includes two sub-classes. These are generally split between the provider firms (Provision) and firms that carry on distribution or mediation activities (Intermediation). The sub-class definitions are detailed below. Each sub-class has its own tariff base.

**Table 10.1 FSCS sub-class definitions**

Sub-class	Definition
SA01	Deposits
SB01	General insurance – provision
SB02	General insurance – intermediation
SC01	Life and pension – provision
SC02	Life and pension – intermediation
SD01	Investment Fund management
SD02	Investment intermediation
SE01	Home finance – provision
SE02	Home finance – intermediation

### *Compensation costs levy*

- 10.15** The FSCS operates on a 'pay as you go' basis. This means it does not raise compensation levies to build up or 'pre-fund' in advance of firm failures. In practice, the FSCS forecasts each year how much compensation is likely to be paid in each class over the next 12 months, and raises a levy accordingly. If necessary (i.e. because of an unexpected large default during the year), supplementary levies can be raised. However, there are limits at sub-class level on the amount firms can be required to pay in compensation costs levies in any one year. Cross-subsidy arrangements exist to deal with situations where compensation costs exceed the limits.
- 10.16** A firm's individual share of a compensation costs levy is calculated by applying its share of the total tariff base in the relevant sub-class to the amount of the compensation costs levy. So, if there were three equal-size firms in a sub-class, and a total compensation costs levy of £600,000, each firm would pay £200,000.

### *Management expenses levy*

- 10.17** The management expenses levy includes specific costs (costs directly attributable to claims-handling and firm failures, other than compensation) and base costs (costs not referable to the failure of any specific firm). Firms' share of specific costs are calculated in the same way as for compensation costs levies, while base costs are allocated to individual firms as a percentage of their FSA periodic fees.
- 10.18** Where a firm does not conduct business with eligible claimants<sup>14</sup>, it can claim an exemption from compensation costs levies and the specific costs element of management expenses levies. However, exempt firms remain liable for the base costs of management expenses levies. Further guidance and the exemption form are available on our website ([www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes)). We will levy firms for the full financial year's FSCS levy unless we receive written notification of exemption by 31 March of the preceding financial year; firms that are already exempt will not need to notify us again.
- 10.19** We invoice and collect levies on behalf of the FSCS, which reduces administrative costs for fee payers. If a firm fails to pay any levy, the FSCS is able to take steps to recover the money owed and we may also consider taking regulatory action against the firm.
- 10.20** For further information about the FSCS, please see its website ([www.fscs.org.uk](http://www.fscs.org.uk)).

<sup>14</sup> The definition of 'eligible claimants' depends upon the financial product involved, but broadly includes individuals and small companies, subject to certain exclusions (see COMP 4.2).

## Money Advice Service

10.21 The Money Advice Service was established under the Financial Services Act 2010 (the Act) to enhance:

- a) the understanding and knowledge of members of the public of financial matters (including the UK financial system); and
- b) the ability of members of the public to manage their own financial affairs.

10.22 The Money Advice Service was set up on 26 April 2010 when our Financial Capability Division, along with its staff and costs, was transferred to it from the FSA. Until 4 April 2011, it was known as the Consumer Financial Education Body (CFEB).

### *Funding the Money Advice Service*

10.23 The Money Advice Service's annual budget requires our approval. As well as fees raised from firms through the CFEB levy, it may in the future receive funding from other sources.

10.24 The Act empowers us to make rules setting and collecting the fees and pay the amounts received to the Money Advice Service after deducting our own costs incurred in collection. The provisions for this the Money Advice Service levy are detailed in a separate chapter of the Fees Manual, FEES 7.

### *Firms affected*

10.25 The Act provides us with powers to levy sums from firms authorised under FSMA, payment services providers and, more recently, firms subject to the second Electronic Money Directive.

### *Money Advice Service levy – FEES 7*

10.26 For simplicity, the Money Advice Service levy has been incorporated into the existing FSA fees framework, as amended following the strategic review of fees. The main features of FEES 7 are set out below.

- It is limited to firms in fee-blocks A.0–A.19, G.3–G.5 and G.10–G.11.
- It applies only to periodic fees. It does not apply to application, notification or vetting fees.
- The additional Money Advice Service levy mirrors the FSA fees structure. It is calculated from the FSA tariff-bases and is applied to the current FSA tariff-bands. Any relevant changes to FSA fees following consultation are passed automatically to it.

- The straight-line recovery model has been applied to all fee-blocks, without any premium on the high impact and systematically important firms. This is because the moderation is intended to take account of the FSA's enhanced supervisory costs, which do not affect Money Advice Service.
- The provisions in FEES 4.3.4 apply, so that firms which are authorised or extend their permissions in the course of the year have their fees discounted proportionately.
- Firms which, as set out in FEES 4.3.6, make pre-payments of their FSA fees by 30 April because their previous year's FSA fees (excluding the Money Advice Service levy) were £50,000 or more, make pre-payments of the Money Advice Service levy on the same terms.
- The levy does not apply to fees for ombudsman service (FEES 5) or FSCS (FEES 6).

### *Discounts*

#### **10.27** FEES 7 carries through FSA's discounts on fees:

- Firms in fee-block A.1 which have limited their permissions to wholesale deposits (FEES4, Annex 2, Part 1) - 30%;
- Class 1(B) firms in fee-block A.7 - 15%;
- Class 1(A) firms in fee-block A.7 - 50%;
- Professional firms in fee-blocks A.12 and A.13 - 0%; and
- Passporting firms - as set out in FEES4, Annex 2, Part 3.

#### **10.28** The discounts for financial penalties in FEES 4, Annex 2, Part 2 do not apply to the Money Advice Service levy. That is because they arise out of regulatory failures and Money Advice Service is not a regulator.



## PART B

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# Regulatory fees and levies 2010/11 – feedback to CP09/26, CP10/5 and 'made' rules

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### Section 4: FSA periodic fees 2011/12

11. Annual Funding Requirement (AFR) 2011/12
  12. Allocation of 2011/12 AFR to fee-blocks
  13. Periodic fees for authorised firms
  14. Applying financial penalties in 2011/12
  15. Periodic fees for other bodies
-

# 11

## FSA Annual Funding Requirement (AFR) 2011/12

- 11.1 The fees we proposed in CP11/2 were based on an estimate of the 2011/12 AFR. The final 2011/12 AFR is the same as the estimated AFR in CP11/2.
- 11.2 Our AFR is the total cost of the resources we have budgeted to meet our strategic priorities for 2011/12, as set out in our annual Business Plan (published in March) and to mitigate the risks identified in our *Retail Conduct Risk Outlook (RCRO)* and the *Prudential Risk Outlook (PRO)* – published during February and March. A summary of our 2011/12 *Business Plan* was included in CP11/2.

### AFR for 2011/12

- 11.3 In CP11/2, we consulted on fee rates that would recover our AFR of £500.5m. Table 11.1 shows the calculation of our final AFR based on the final budget for our Ongoing Regulatory Activities for 2011/12 of £492m. The key variances compared to 2010/11 are:
- an increase of £34m in the budget for our regulatory activities in 2011/12 (7.4%); and
  - an additional £10.9m to prepare for the restructuring of financial services regulation set out by the Treasury in July 2010.
- 11.4 We completed the ‘funding the transition to more outcomes-focused regulation’ under the making a real difference (MARD) change programme, which we announced in 2007/8, as planned at the end of March 2010 and to the budgeted £50m. We have allocated £9.7m of reserves to this expenditure and with the £5m to be collected in 2011/12 this deficit will have been fully recovered.
- 11.5 Our final AFR for 2011/12 is £500.5m – an increase of 10.1% over 2010/11 (£454.7m).

## ORA Reserves

- 11.6 Our final ORA reserves at 31 March 2011 were £10.3m (2009/10: £14.9m) after using £9.7m to reduce the outstanding balance on the MARD transition expenditure. This £10.3m reserve will be used to fund our commitment to reducing the fees we need to collect in 2011/12 by £9.0m. The remaining £1.3m is being carried forward as an ORA reserve.
- 11.7 We believe that our total revolving credit facilities (£150m) provide sufficient financial capacity to allow us to meet any likely unforeseen expenditure. Consequently, we target a level of ORA reserve (that is the cumulative excess of our fees over our costs) of +/- 2% of ORA.

## Impact of financial penalties

- 11.8 The amounts that firms in certain fee-blocks will actually pay, based on the 2011/12 AFR, will be reduced by the distribution of the financial penalties we received during 2010/11. The amount of financial penalties we received in 2010/11, up to January 2011, meant we anticipated the above 10.1% year-on-year increase in our AFR would effectively reduce to no change in chargeable fees (8.8% increase in 2010/11).
- 11.9 Taking into account the final level of 2010/11 financial penalties available to apply as financial penalties discounts, the year-on-year movement in our AFR equates to a decrease of 1.7%. The impact of financial penalties on the fees payable by relevant fee-blocks is shown in Chapter 14 of this paper and details of our financial penalty schemes are set out in Annex 4.

**Table 11.1 – A comparison of the AFR 2011/12 with the AFR 2010/11**

AFR Calculation	2011/12 (£m)	2010/11 (£m)	Variance
Budget: Ongoing Regulatory Activity – ORA	492	458	34
Regulatory reform programme	10.9	0	10.9
Recovery of scope change costs	1.6	2.7	-1.1
Making a Real Difference (MARD)	5	5	0
Under spend in previous years	-9	-11	2
<b>AFR Total</b>	<b>500.5</b>	<b>454.7</b>	<b>45.8</b>
% year on year change in AFR	10.1%	9.9%	
% year on year change in chargeable fees taking account of final financial penalties discount	-1.7%	8.8%	

# 12

## Allocation of 2011/12 AFR to fee-blocks

12.1 Table 12.1 shows how the final £500.5m 2011/12 AFR has been allocated to all fee-blocks and compares this to the allocation of the 2010/11 AFR. These final allocations to fee-blocks have not changed from those set out in CP11/2.

Table 12.1 – Allocation of the AFR to fee-blocks for 1 April 2011 to 31 March 2012

Fee-block	Final AFR 2011/12 £'m	Actual AFR 2010/11 £'m	% year on year change
A.0 Minimum fee*	18.4	19.7	-7%
A.1 Deposit acceptors	141.3	130.7	8%
A.2 Home finance providers and administrators	13.0	9.6	36%
A.3 Insurers – General	29.4	30.7	-4%
A.4 Insurers – Life	44.5	48.6	-8%
A.5 Managing agents at Lloyd's	1.1	1.1	7%
A.6 The Society at Lloyd's	1.4	1.5	-5%
A.7 Fund managers	28.2	31.0	-9%
A.9 Operators, trustees and depositaries of collective investment schemes	10.4	5.9	75%
A.10 Firms dealing as principal in investments	34.6	29.0	19%
A.12 Advisory arrangers, dealers or brokers (holding client money)	49.7	26.4	88%
A.13 Advisory arrangers, dealers or brokers (not holding client money)	39.7	40.6	-2%
A.14 Corporate finance advisers	18.8	7.9	136%

A.18 Home finance providers advisers and arrangers	15.1	14.4	5%
A.19 General insurance mediation	24.9	30.8	-19%
A.20 Markets in Financial Instruments Directive (MiFID) transaction reporting – targeted recovery of additional IS costs	2.2	2.2	0%
B Recognised Exchanges, Clearing Houses and Operators of prescribed markets and service providers	7.4	7.6	-3%
C Collective Investment Schemes	1.9	1.7	14%
D Designated Professional Bodies	0.2	0.2	-7%
E Issuers and sponsors of securities	14.1	12.1	17%
F Unauthorised mutuals	1.4	1.4	1%
G Firms registered under the Money laundering Regulations 2007, Firms covered by the Payment Services Regulations 2009 and Firms subject to the Electronic Money Regulations 2011	2.7	1.5	78%
<b>Total</b>	<b>500.5</b>	<b>454.7</b>	<b>10%</b>

\*Costs that all firms in the 'A' fee-blocks (except A.6 and A.20) contribute to the recovery of through the minimum fee – see Chapter 13.

# 13

## Periodic fees for authorised firms

*(FEES 4 Annex 2R – final rules in Appendix 1)*

- 13.1** In Chapter 6 of CP11/2, we proposed draft 2011/12 periodic fees payable by authorised firms (the A fee-blocks) who form the majority of our fee payers. This chapter explains the final 2011/12 fee-rates for these firms, our feedback on the responses we received to the consultation and any significant changes between the rates consulted on and final rates. The final 2011/12 periodic fee rates for other fee payers are explained in Chapter 15.
- 13.2** The following sets out the basis for our consultation and we indicate any changes that have occurred since CP11/2 was published that have resulted in key differences between the fee rates consulted on and the final fee rates.
- **Annual Funding Requirement (AFR)** – an estimated 2011/12 Annual Funding Requirement (AFR) of £500.5m.
  - Since CP11/2 we have finalised the under-spend level against our 2010/11 Ongoing Regulatory Activities (ORA) and how this has been distributed. The estimated AFR of £500.5m included the benefit of using £9m of this under spend to off-set against our 2011/12 ORA. As stated in Chapter 11 our AFR for 2011/12 will remain at £500.5m.
  - **Allocations to fee-blocks** – allocating the 2011/12 AFR to all fee-blocks. As stated in Chapter 12 (Table 12.1) the allocations to fee-blocks has not changed since those set out in CP11/2.
  - **Provisional tariff data and firm populations** – The best estimates of the fee tariff data we expected to receive and the number of firms that will be authorised during 2011/12.

Since CP11/2, firms have now reported their actual fee tariff data, and we also have more accurate data on the number of firms. The key changes in fee rates resulting from these are detailed in paragraphs 13.12 and 13.13 below.

## Key differences between consultation fee-rates and final fee rates

### Changes arising from final tariff data and firm populations

- 13.3 When we issued CP11/2 we had to estimate the total number of firms that would be authorised in 2011/12 and the total tariff data they would submit. This is because the actual data is not received until after CP11/2 is published. The final fee rates are based on the actual tariff data reported by firms that we have received since then, and the number of authorised firms as of 1 April. This approach is taken every year, as explained in Chapter 4. Table 13.1 at the end of this chapter compares the tariff data on which we have finalised the 2011/12 fee-rates with our estimates used in CP11/2.

#### *Minimum periodic fee*

- 13.4 Any firm that is authorised to carry out any of the regulated activities covered by the 'A' fee-blocks is subject to the A.0 minimum fee. The minimum fee is aimed at ensuring that all authorised firms (including small firms) contribute to the cost of regulation. It also aims to ensure that the minimum fee level is not too high (which would unnecessarily impede competition) and not too low (which would prejudice existing fee-payers). Exceptions are allowed if they can be justified.
- 13.5 The costs allocated to the A.0 minimum fee fee-block include those of the firm contact centre, regulatory reporting and policing the perimeter. The net costs allocated to the A.0 fee-block are apportioned equally across all firms in that fee-block according to the number of firms on 1 April, the start of the financial year that the minimum fee will be levied.
- 13.6 As set out in Table 12.1 in Chapter 12, the final allocation to the A.0 fee-block remains at the level included in CP11/2 – £18.4m for 2011/12 compared to £19.7m for 2010/11 – a year-on-year decrease of 7%. This decrease in costs was due to a fall in the number of firms over the year up to that time, which we estimated to be 19,181. In Table 13.1 at the end of this Chapter we give our current estimate for 2011/12, which is 18,702. Overall, on this basis, we are able to continue to maintain the final minimum fee for 2011/12 at £1,000, as consulted on in CP11/2.
- 13.7 Taking into account the final level of financial penalties, the minimum fee that firms will actually pay for 2011/12 is £832 (£925 in 2010/11), an actual year-on-year decrease of 10.1%. This compares with a year-on-year decrease reflected in CP11/2 of 9%. Around 43% of 'A' fee-block firms only pay the minimum fee.

#### *Exceptions to the 'standard' minimum fee*

- 13.8 The only current exceptions to the 'standard' (£1,000) minimum fee are smaller credit unions (reduced minimum fee of £160 or £540, depending on size) and smaller non-directive friendly societies (reduced minimum fee of £430), to reflect that they support people with limited financial resources to improve their economic status. These also have not changed from those set out in CP11/2.

13.9 Chapter 4 provides further information on our overall policy on the minimum fee.

#### *Variable periodic fee rates*

13.10 Costs allocated to the 'A' fee-blocks are recovered on a 'straight line' basis (i.e. in direct proportion to the size of permitted business firms undertake in these fee-blocks). Therefore, the fees firms pay should change broadly in line with the year-on-year percentage movement in the final allocations set out in Table 12.1 in Chapter 12.

13.11 However, when calculating the estimated proposed 2011/12 periodic fee rates in CP11/2, we used the latest data on firm populations and tariff data (measures of size of permitted business undertaken by firms in the fee-blocks), which are necessarily different from that used to calculate the final 2010/11 fee rates. The final 2011/12 fee rates are based on the actual tariff data reported by firms that we have received since then, and the number of authorised firms as of 1 April. Again the latest data is detailed in Table 13.1 at the end of this chapter.

13.12 In CP11/2 we included a table (Table 6.2, Chapter 6) that set out the year-on-year percentage change in allocations and compared them with the year-on-year percentage change in provisional fee rates based on our estimates of 2011/12 firm populations and tariff data. We have reproduced this table as Table 13.2 at the end of this chapter and added the year-on-year percentage change based on the final data we have used to calculate the final 2011/12 fee rates. The figures in Table 13.2 are based on the impact of overall tariff data movements on the actual fee rate calculation per unit of tariff data measure. The year-on-year movements in individual firm's invoiced fees will depend on the year-on-year movements in their specific tariff data.

13.13 This shows that in all except two fee-blocks, the final fee rates will be lower than or the same as the estimated fee rates in CP11/2. The two fee-blocks where final fee rates will be higher are:

- A.13 (advisory arrangers, dealers or brokers – not holding client money). The estimated year-on-year movement for A.13 was a decrease of 4.9%; this compares with the year-on-year movement of final rates of 0% i.e. the same level as 2010/11. This change is due to the fall in tariff data of 3.9% from that we had assumed when the provisional rates were calculated for CP11/2. Taking into account financial penalty discounts, this means that a firm with the same tariff data year-on-year will see a 11% decrease in their fees compared to a decrease of 12.8% in CP11/2.
- A.18 fee-block (home finance providers, advisers and arrangers). The estimated year-on-year movement for A.18 was a 17% increase; this compares with the year-on-year movement of final rates of an increase of 25%. This increase in the A.18 fee rates is due to the fall in tariff data of 13.6% from that we had assumed when the provisional rates were calculated for CP11/2. Of the 5,729 firms that carry out permitted business in A.18, 51% will not be affected by this change as they only pay the minimum fee, i.e. do not pay the variable periodic fee. Taking into account



financial penalty discounts, this means that a firm with the same tariff data year-on-year will see a 10.1% increase in their fees compared to an increase of 4.5% in CP11/2.

### *Moderation framework*

- 13.14** Under our moderation framework, we can moderate our straight-line recovery policy to accommodate applying a premium or discount to the tariff data that measures the amount of permitted business firms undertake within a moderated fee-block. Such moderation increases or decreases the fees paid of targeted firms and is only applied on an exceptions basis and we consult beforehand.
- 13.15** The A.1 fee-block (Deposit acceptors) is the only current exception from straight-line recovery. In this fee-block, for the firms who fall within the medium-high and high bands of our moderation framework, we will continue to apply a premium of 25% and 65% respectively to their fee rates within these bands. This reflects the particular targeting of our overall supervision to the high-impact, systemically important firms in this sector.
- 13.16** Chapter 4 provides further information on our overall policy on the calculation of variable periodic fees.

### **Consultation responses and our feedback**

- 13.17** The question we consulted on in CP11/2 Chapter 6 was:

*Q1: Do you have any comments on the proposed FSA 2011/12 minimum fees and periodic fee rates for authorised firms?*

- 13.18** We received ten responses to this question, including from six trade associations, and we summarise below the responses received under the key areas that respondents focused on and provide our feedback:
- impact on fees of the overall increase in AFR and increasing indirect costs of regulation;
  - A.12 (Advisory arrangers, dealers or brokers (holding client money)) – 88% year-on-year increase in AFR allocated to this fee-block; and
  - A.20 Markets in Financial Instruments Directive (MiFID) transaction reporting, targeted recovery of additional IS costs.
- 13.19** Some respondents raised concerns regarding certain areas of our fees regime that we have previously consulted on. We also summarise these responses below and reiterate the feedback given with earlier consultations.

## Impact on fees of overall increase in AFR and increasing indirect costs of regulation

### Consultation response

Three respondents raised concerns about the overall increase in the AFR and two also related the increase in fees to the continued spiralling of the indirect costs of regulation firms incur, such as implementing the Mortgage Market Review and the Retail Distribution Review proposals.

### OUR FEEDBACK

The 2011/12 AFR will recover the costs of meeting our strategic priorities as set out in our Business Plan. In CP11/2 we included a summary of the main elements of our planned work programme for 2011/12. We highlighted that this was mainly driven by our statutory objectives and the risks being faced by the firms and markets we regulate and the consumers who use them. We are also beginning to prepare for the restructuring of financial services regulation set out by the Treasury in July 2010.

The work programme continues much of the work we started in 2010/11 and, importantly, it did not contain any significant discretionary initiatives and we will accomplish it without increasing our headcount. The key areas for the coming year as set out in the summary business plan are:

- delivering effective, on-the-ground supervision of firms;
- completing the organisational and technological change that underpins our move to an intensive supervisory regime;
- continuing to deliver a tough and determined enforcement approach that achieves results;
- developing our policy agenda, which is driven largely, domestically and internationally by the agenda set out in the Turner Review, and other key reform initiatives that we began in response to the financial crisis;
- ensuring we continue to deliver our wider policy agenda, which is primarily mandated by the European Union (EU);
- preparing for the implementation of the Retail Distribution Review (RDR) and continuing to consult on the Mortgage Market Review (MMR) – two major elements of our new Consumer Protection Strategy, announced in 2010; and
- restructuring ourselves into a ‘twin peaks’ model in preparation for anticipated legislation that will create two new bodies: the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA).

This work programme was set out in more detail in our Business Plan published in March. The risks to our objectives, which our strategic priorities and the associated work programme seek to mitigate, were set out in detail in the Retail Conduct Risk Outlook (RCRO) and the Prudential Risk Outlook (PRO) published in February and March. As stated in Chapter 11, our AFR for 2011/12 will remain at £500.5m. We continue to believe that this level of AFR, albeit a 10% increase over 2010/11, is needed to resource our Business Plan.

We accept that there are indirect costs of regulation apart from our costs that are recovered from firms through the fees we raise. These indirect costs will inevitably arise from our interventions in financial markets, such as through the MMR and RDR. These costs are considered relative to the benefits of such interventions through the cost benefit analysis (CBA) published in conjunction with the consultations on these and other policy proposals at the time.

## A.12 Advisory arrangers, dealers or brokers (holding client money)

### Consultation response

The allocation of the 2011/12 AFR to fee-block A.12 set out in CP11/2 increased by £23.3m (88%) compared to 2010/11. Four respondents raised concerns about the overall level of increase and challenged whether the recovery of this additional allocation fairly differentiated between the risks that the various types of firms covered by A.12 represent.

### OUR FEEDBACK

The overall AFR for 2011/12 is driven by the work programme we plan to undertake detailed in our Business Plan. This work has an impact on the allocations of the AFR to fee-blocks. As highlighted in CP11/2, the increase in the allocation to A.12 mainly reflects our enforcement work on market abuse and work on pressure selling and mis-selling of structured products. The allocation to this fee-block also further reflects our regulatory focus on client money and assets. As stated in Chapter 12 (Table 12.1) the allocations to fee-blocks has not changed since those set out in CP11/2.

We acknowledge that the A.12 fee-block is defined by regulated activities that can be carried out by a wide range of firms, e.g. securities firms (retail and wholesale), non-discretionary investment managers, retail intermediaries and wholesale intermediaries, and that they do pose different levels of risk to our statutory objectives.

While this diverse coverage does increase the likelihood of cross-subsidy, we seek to minimise it where it is proportionate to do so. In CP10/24, *Regulatory fees and levies: policy proposals for 2011/12*, published in October 2010, we asked for in principle views from the industry on provisional proposals to introduce a separate fee-block to recover our costs of regulating client money and assets (CM&A). These proposals will help to reduce cross-subsidy as they will enable us to recover these CM&A costs, not just from the firms in A.12, but firms in other fee-blocks. In Chapter 17 of this Policy Statement we provide feedback on the responses we received.

## **A.20 Markets in Financial Instruments Directive (MiFID) transaction reporting, targeted recovery of additional IS costs**

### **Consultation response**

The allocation of the 2011/12 AFR to fee-block A.20 set out in CP11/2 was £2.2m, the same amount as 2010/12. This fee-block was set up in 2008/09 to target the recovery of the additional IS development costs for our market surveillance system (SABRE II), which implements transaction reporting under the Markets for Financial Instruments Directive (MiFID) for securities derivatives using an Alternative Instrument Identifier (AII). One respondent questioned that, given AII reporting has been delayed, how does the A.20 fee-block recovery fit within the new reporting system (Zen) that the FSA is currently developing?

### **OUR FEEDBACK**

The AII regime is due to be launched in August 2011 and 'go live' three months later. We are therefore seeking to minimise the delay. The allocation of cost to A.20 continues to only relate to the AII element of the development costs of our overall market surveillance system and the wider market continues to fund the remainder. This is on the same basis as we consulted when the A.20 fee-block was set-up in

2008/09.<sup>15</sup> We continue to maintain the effectiveness of our market surveillance capability, which includes costs incurred from further IS development. Zen is an extension on the SABRE II programme that allows firms to report transactions identified using AII to us.

## Concerns raised on certain areas of our fees regime

### Consultation response

Two respondents continued to call for greater differentiation within our fees regime for firms that have robust management, systems and controls, and for investing in staff and support services – a ‘regulatory dividend’.

One respondent continued to call for a fee cap for larger firms as they do not believe costs rise in direct proportion to the size of a firm (a reference to the straight line recovery within fee-blocks that we use).

One respondent raised concerns about the level of fees they now pay under the Payment Services Regulations since they moved to undertaking this activity through the G fee-block as opposed to the A.1 (Deposit acceptors) fee-block.

### OUR FEEDBACK

In the case of the first two issues, these were raised by respondents to the consultation we carried out during 2009/10 on the strategic review of our fees regime. With regard to a ‘regulatory dividend’, this was raised by respondents in the form that our fees regime should differentiate between firms, including those in the same sector, on the basis of probability risk (probability of failure) as well as impact risk (impact on our statutory objectives should a firm fail) and/or time spent by us on individual firms.

We provided detailed feedback on these issues in CP10/5.<sup>16</sup> Our strategic review showed that we consider the risk profile of supervised firms when allocating supervisory costs to fee-blocks (sectors). The greater the number of high-risk firms there are in a specific fee block conducting business, the larger the activity and associated costs. For non-direct firm supervisory costs – for example, policy development – the cost of these activities is allocated to the fee-blocks whose permitted business the policy development relates to.

<sup>15</sup> CP07/19: *Regulatory fees and levies: Policy proposals for 2008/09* (November 2007) and CP08/2 - *Regulatory fees and levies - Rates proposals 2008/09 and feedback on CP07/19* (February 2008)

<sup>16</sup> CP10/5: *Regulatory fees and levies: Rates proposals 2010/11 and feedback on Part 1 of CP09/26* (February 2010)

We therefore believe our cost allocation framework is effective at allocating the right level of total costs to fee-blocks, thereby reducing the possibility of cross-subsidy between sectors.

Taking account of actual supervisory resources applied to individual firms, or taking account of their individual risk profile when recovering costs allocated within fee-blocks, would present us with significant operational challenges and costs. We do not rule out that such approaches could be used; however, we would have to first overcome these operational challenges, which we do not anticipate being in a position to do for the foreseeable future. We also highlight that either approach has the potential to result in many firms having year-on-year significant unpredictable fluctuations in the level of their fees. The amount of time/materials 'spent' on a firm can be substantially different from one year to another. Similarly, a firm's risk score could change significantly in the course of a year.

With regard to the call for a fee cap on the fees of larger firms, this was raised by respondents in connection with our move from tapering-off of recovery from larger firms of the costs allocated to fee-blocks to one of straight-line recovery, where firms pay fees in the fee-block in direct proportion to the size of permitted business they undertake. Again we provided detailed feedback on this issue in CP10/5, which we summarise here.

We focus our supervisory resources in line with our risk assessment framework (ARROW). When we decide how many resources to apply to a firm or group of firms we use their ARROW impact score. This is largely based on 'size', and the higher the score (medium-low, medium-high and high) the more resources we allocate to the firm or group. We believe that business size, as a proxy measure of impact on our objectives should a firm fail, is an objective, transparent, fair and simple measure that can be applied across all firms in a fee-block. The move to straight line recovery for all fee-blocks also reflected our move to intensive, integrated, high-quality supervision across all sectors.

With regard to the level of fees paid under the Payment Services Regulations (PSRs) in the G fee-block compared to those fees paid under the A.1 (Deposit acceptors) fee-block, we consulted on our approach to fees under the PSRs in CP09/7<sup>17</sup> and provided feedback in PS09/8.<sup>18</sup> This consultation put in place a differentiated tariff base as follows:

- for firms authorised under FSMA and that have permitted activities that place it in fee-block A.1 (Deposit acceptors) and are subject to the PSRs the tariff base is Modified Eligible Liabilities (MEL); and
- for authorised Payment Institutions (PIs) who are subject to the PSRs but are not in A.1 the tariff base is the level of income from the PSR activities.

<sup>17</sup> CP09/7: *Regulatory fees and levies - Rates proposals 2009/10* (February 2009)

<sup>18</sup> PS09/8: *Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2009/10 - Including feedback on CP08/18, CP09/7 and 'made rules'* (June 2009)

This distinction reduces the administrative costs to A.1 firms, as they did not have to develop a data collection system that isolates the level of income they derive from activities under the PSRs. We also saved additional administrative costs of collecting separate tariff data from these firms in addition to the MEL data. However, we acknowledged in the feedback that using MELs as a tariff base for PSR purposes is not perfect. This is because deposit acceptors with high levels of MELs (i.e. UK deposits) but low levels of payment services activity will pay higher PSR fees, relative to the PSR activity they undertake, as measured by income derived from those PSR activities. The opposite will apply to firms with low MELs and high PSR activity.

We nevertheless believed that MELs provided a reasonable proxy for the level of PSR activities undertaken by A.1 fee-block firms. Consequently, a firm in the A.1 fee-block with a small amount of MELs (i.e. UK deposits) and a large amount of PSR activity and income from those activities, will see their fees increase if they cease A.1 activities and fall under the G fee-block for PSR fees purposes.

13.20 Table 13.1: Comparison of estimated and actual tariff data used to set 2011/12 periodic fee rates

Fee-block	Tariff base	2011/12 Final (Made fee rates May 2011, using actual 2011/12 population and tariff data)			2010/11 Final (Made fee rates May 2010, using actual 2010/11 population and tariff data)		
		AFR (£m)	No. of fee-payers	Tariff base	AFR (£m)	No. of fee-payers	Tariff base
A.0	Minimum fee	£18.4	18,702	NA	£19.7	19,503	NA
A.1	Modified eligible liabilities	£141.3	792	£3,049.7bn	£130.7	849	£3,196.7bn
A.2	Number of mortgages or other home finance transactions	£13.0	367	7.2m	£9.6	365	7.6m
A.3	Gross premium income Gross technical liabilities	£29.4	445	£58.3bn £125.3bn	£30.7	452	£54.5bn £120.4bn
A.4	Adjusted gross premium income Mathematical reserves	£44.5	254	£54.1bn £840.5bn	£48.6	267	£52.0bn £799.2bn
A.5	Active capacity	£1.1	63	£23.2bn	£1.1	67	£22.9bn

## Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2011/12

A.7	Funds under management	£28.2	2,506	£4,364.0bn	£31.0	2,479	£3,912.0bn
A.9	Gross income	£10.4	760	£7.7bn	£5.9	752	£6.1bn
A.10	Traders	£34.6	498	10,126	£29.0	489	9,566
A.12	Relevant approved persons	£49.7	1,807	67,691	£26.4	1,881	65,487
A.13	Relevant approved persons	£39.7	7,022	36,990	£40.6	7,052	38,955
A.14	Relevant approved persons	£18.8	843	7,321	£7.9	863	7,139
A.18	Annual income	£15.1	5,729	£1.2bn	£14.4	6,086	£1.3bn
A.19	Annual income	£24.9	13,354	£13.8bn	£30.8	13,979	£13.4bn
A.20*	Volume of Contracts	£2.2	75	£2,275.0m	£2.2	80	£1,894.4m

\*Applicable firms are included in FEES 4 Annex 9

Table 13.2: Impact of firm-driven variations on estimated and final 2011/12 periodic fees

Fee-blocks	2011/12 final year on year change in allocations	2011/12 estimated CP11/2 year on year change in periodic fees*	2011/12 final year on year change in periodic fees	Final periodic fee rates higher or lower compared to estimated rates in CP11/2
A.1 Deposit acceptors	8%	12%	12%	Same
A.2 Home finance providers and administrators	36%	42%	42%	Same
A.3 Insurers – General	-4%	-2%	-5%	Less
A.4 Insurers – Life	-8%	-3%	-11%	Less
A.5 Managing Agents at Lloyds	7%	3%	3%	Same
A.7 Fund managers	-9%	-19%	-20%	Less
A.9 Operators, Trustees and Depositories of collective investment schemes	75%	53%	31%	Less
A.10 Firms dealing as principal in investments	19%	19%	12%	Less



A.12 Advisory arrangers, dealers or brokers (holding client money)	88%	84%	78%	Less
A.13 Advisory only firms and advisory, arrangers, dealers, or brokers (not holding client money)	-2%	-4%	0%	Higher
A.14 Corporate finance advisors	136%	119%	110%	Less
A.18 Home finance providers, advisers and arrangers	5%	17%	25%	Higher
A.19 General insurance mediation	-19%	-17%	-20%	Less

Under straight line recovery of costs allocated to fee-blocks, if there were no year-on-year movements in firm populations or tariff data submitted by firms, the year-on-year percentage movements in fee rates would be the same as the year-on-year percentage movements in the amount of AFR allocated to fee-blocks. However, in practice this is not the case and where there has been a material year-on-year fall in the number of firms in a fee-block and/or the amounts of tariff data (unit measure of size) submitted by firms then the AFR allocated to the fee-blocks will be recovered from a smaller amount of tariff data which results in the fee rates increasing by a higher amount than the year-on-year increase in the AFR allocation. The opposite applies where there is a material increase in the number of firms and/or tariff data submitted.

The final calculation of fee rates for 2011/12 is based on the number of firms as at 1 April 2011 (and an estimate of the number 'joiners and leavers' we expect during 2011/12) and the tariff data submitted by firms after the February CP11/2 was published. Therefore we calculate the draft fee rates in CP11/2 based on our estimates of this final data.

The year-on-year movement figures for the above fee rates are based on the impact of overall tariff data movements on the actual fee rate calculation per unit of tariff data measure. The year-on-year percentage movements in the amount of individual firm's fees invoiced will depend on the year-on-year movements in their specific tariff data.

\*The equivalent column here for Table 6.2 in CP11/2 contained errors at the time of publication. We have subsequently corrected them in CP11/2 and an erratum notice has been posted on the web page. The fee rates in the draft instrument in CP11/2 were correctly stated. Also, firms who used the Fees Calculator to calculate their expected fees for 2011/12 will have been given the correct level of year-on-year movements.

# 14

## Applying financial penalties in 2011/12

14.1 In this chapter we explain how we have applied financial penalties to our 2011/12 fees:

- Annex 4 sets out our financial penalties scheme under FSMA;
- Table 14.1 shows the final reductions we have applied to our 2011/12 fees; and
- paragraphs 14.3 to 14.6 present the arrangements we have made to deal with a penalty received under the Money Laundering Regulations (MLRs) in 2010/11.

### Legal framework

14.2 We apply financial penalties under two distinct legal frameworks:

- Under FSMA, we are required to operate and publish schemes to ensure that the financial penalties we impose are applied for the benefit of authorised persons or, in the case of breaches of listing rules, issuers of securities admitted to the Official List and issuers who have requested or approved the admission of financial instruments to trading on a regulated market. Our scheme for applying these penalties is in Annex 4.
- Under the other framework, applied in legislation including the Money Laundering Regulations (MLRs), the Payment Services Regulations (PSRs) and the Electronic Money Regulations (EMRs), we must apply penalties towards the costs of carrying out our functions under those regulations. Paragraphs 14.3 to 14.6 set out our arrangements for applying the penalty we received in 2010/11.

## Applying a 2010/11 penalty under the MLRs

- 14.3 2010/11 was the first year we have received payment of a penalty under the MLRs; this was for £5.6m. In CP11/2, we proposed to apply penalties paid to us under the MLRs, PSRs and EMRs in two stages:
- firstly, as under FSMA, the penalty is applied to the fee-block paying the enforcement costs of the case;
  - the balance is then applied against our estimated costs of supervision under the regulations.
- 14.4 We explained that applying this approach to the MLR penalty (we have not imposed any penalties under the PSRs, and the EMRs had not come into force during 2010/11), amounted to a reduction of 1.1% across all fee blocks in 2011/12.
- 14.5 The 1.1% reduction was based on an estimate of the cost of carrying out our functions under the MLRs for 2010/11. Since publishing CP11/2 in February, to ensure we were fully in compliance with the requirements of the MLRs, we have applied a methodology for allocating the costs of carrying out our functions under the MLRs that is more consistent with our approach to resource estimates associated with our annual business planning round. This produced a lower estimate of 0.1% of AFR, or £0.6m. We believe this represents the minimum cost rather than the actual cost; but higher costs were not supported by the data gathered. It reduces the amount of penalty income available to discount against fees but, as Table 14.1 indicates, the total penalty figure of £86.2m we are applying remains higher than the £79.1m on which we consulted in February. This is because of FSMA penalties received since preparing the CP.
- 14.6 As our revised estimate of the cost of carrying out our functions under the MLRs in 2010/11 is £0.6m, the remaining £5m of the MLR penalty will be applied towards future costs of carrying out our functions under the MLRs.

Table 14.1: Comparison of penalties applied in 2011/12 and 2010/11

Fee-block	2011/12			2010/11	
	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.0	18.4	3,099	16.8	1,494	7.5
A.1	141.3	24,161	17.0	9,910	7.5
A.2	13.0	2,727	20.8	726	7.5
A.3	29.4	4,991	16.9	2,328	7.5
A.4	44.5	7,553	16.9	3,682	7.5
A.5	1.1	193	16.8	81	7.5
A.6	1.4	240	16.8	114	7.5
A.7	28.2	5,116	18.1	2,352	7.5
A.9	10.4	1,751	16.8	449	7.5
A.10	34.6	6,444	18.6	2,199	7.5
A.12	49.7	10,813	21.7	2,479	9.3
A.13	39.7	7,059	17.7	3,171	7.8
A.14	18.8	3,844	20.4	602	7.5
A.18	15.1	2,755	18.2	1,094	7.5
A.19	24.9	4,331	17.3	2,338	7.5
A.20*	2.2	3,665	16.7	165	7.5
B (MTFs Only)	0.6	101	16.7	41	7.5
E	14.1	672	4.7	0	0.0
G	2.7	3	0.1	0	0.0
<b>Total</b>	<b>490.1***</b>	<b>86,218</b>		<b>33,227</b>	
* Applicable firms are included in FEES 4 Annex 9					
** The percentage reduction in fee amounts payable have been rounded down					
***The difference between £500.5 and the stated figure is the absence of fee blocks C, D, F and partially B and G.					
<b>Note:</b> The MLR penalty has been included in the 2011/12 figures					

# 15

## Periodic fees for other bodies

**15.1** This chapter gives an update on the final 2011/12 fees for fee-payers other than authorised firms, which we consulted on in Chapter 8 of CP11/2. These fee-payers are in the:

- B. fee-block, Market Infrastructure Providers;
- C. fee-block, Collective Investment Schemes;
- D. fee-block, Designated Professional Bodies;
- E. fee-block, Issuers and sponsors of securities (UK Listing Authority – UKLA);
- F. fee-block, Unauthorised mutuals; and
- G. fee-block, firms registered under the Money Laundering Regulations 2007, firms covered by the Payment Services Regulations 2009 and firms covered by the Electronic Money Regulations 2011.

**15.2** The question we consulted on was:

**Q2:** Do you have any comments on the proposed FSA 2011/12 minimum fees and periodic fee rates for fee-payers other than authorised firms?

**15.3** We received no non-confidential responses.

**15.4** As stated in Chapter 11 and 12, there is no change to the overall annual funding requirement (AFR) for 2011/12 and the allocations to fee-blocks between the amounts included in CP11/12 and the final amounts.

**15.5** Any changes in the level of fees between those consulted on in CP11/2 and the final fees in this chapter result from differences between estimated and final tariff data and are highlighted where applicable below.

## B. fee-block: Market Infrastructure Providers

### Recognised Investment Exchanges and Recognised Clearing Houses

*(FEES 4 Annex 6R Part 1 – final rules in Appendix1)*

- 15.6 The periodic fees for the Recognised Investment Exchanges and Recognised Clearing Houses (collectively 'UK recognised bodies') are set on an individual basis for each body and are based on the amount of regulatory resources required. They are payable in two instalments during the year – on 30 April and 1 September.

**Table 15.1: Final 2011/12 fees for UK recognised bodies and comparison with 2010/11**

Name of UK recognised body	2011/12 fee	2010/11 fee	Variance (%)
Euroclear UK & Ireland Limited	£600,000	£650,000	-7.7
ICE Futures Europe	£500,000	£510,000	-2.0
LIFFE Administration and Management	£750,000	£800,000	-6.3
LCH.Clearnet Limited	£700,000	£750,000	-6.7
The London Metal Exchange Limited	£450,000	£475,000	-5.3
London Stock Exchange plc	£615,000	£670,000	-8.2
EDX London Ltd	£90,000	£120,000	-25.0
Plus Markets plc	£190,000	£220,000	-13.6
European Central Counterparty Ltd	£355,000	£375,000	-5.3
ICE Clear Europe Ltd	£540,000	£550,000	-1.8
Chicago Mercantile Exchange Clearing Europe	£400,000	£250,000	60

- 15.7 There is no change from the fees included in CP11/2.

## Overseas Recognised Investment Exchanges or Overseas Recognised Clearing Houses

*(FEES 4 Annex 6R Part 2 – final rules in Appendix 1)*

- 15.8 There is no change from fees included in CP11/2. Minimum periodic fees for Overseas Recognised Investment Exchanges and Overseas Recognised Clearing Houses for 2011/12 will remain at £40,000 for the Investment Exchanges, and £70,000 for the Clearing Houses, the same as 2010/11.

## Multilateral trading facilities

*(FEES 4 Annex 10R – final rules in Appendix 1)*

- 15.9 The periodic fees for multilateral trading facilities (MTFs) are set on an individual basis and are based on the amount of regulatory resources required.

**Table 15.2: Final 2011/12 fees for multilateral trading facilities and comparison with 2010/11**

Organisation	2011/12 fee (£)	2010/11 fee (£)	Variance
Turquoise Global Holdings Ltd	140,000	0	N/A
Chi-X Europe Limited	130,000	125,000	4.0%
BATS Trading Limited	80,000	80,000	0.0%
Liquidnet Europe Limited	70,000	70,000	0.0%
EuroMTS Limited	30,000	30,000	0.0%
Baltic Derivatives Trading Ltd	20,000	0	N/A
SmartPool Trading Limited	22,500	20,000	12.5%
Tradeweb Europe Limited	13,000	12,500	4.0%
Cantor Index Limited	8,000	7,750	3.2%
ICAP Electronic Broking Limited	6,250	6,000	4.2%
UBS Limited	4,000	0	NA
Barclays Bank Plc	4,000	3,600	11.1%
BGC Brokers LP	4,000	3,600	11.1%
GFI Brokers Limited	4,000	3,600	11.1%
GFI Securities Limited	4,000	3,600	11.1%
Icap Energy Limited	4,000	3,600	11.1%
ICAP Europe Limited	4,000	3,600	11.1%
ICAP Securities Limited	4,000	3,600	11.1%

ICAP Shipping Tanker Derivatives	4,000	3,600	11.1%
ICAP-WCLK Limited	4,000	3,600	11.1%
My Treasury Limited	4,000	3,600	11.1%
TFS-ICAP Limited	4,000	3,600	11.1%
Tradition (UK) Limited	4,000	3,600	11.1%
Tradition Financial Services Limited	4,000	3,600	11.1%
Tullet Prebon (Europe) Limited	4,000	3,600	11.1%
Tullet Prebon (Securities) Limited	4,000	3,600	11.1%
MF Global Limited	4,000	3,300	21.2%
J.P. Morgan Cazenove Limited	4,000	3,000	33.3%
Nomura	4,000	3,000	33.3%
Sigma X MTF	4,000	0	N/A

- 15.10 There is no change from the fees included in CP11/2.
- 15.11 For MTFs other than those included in Table 15.2 above, there is no change from the fees included in CP11/2 – £3,500 for 2011/12 (£3,000 in 2010/11).

## Services companies

*(FEES 4 Annex 2R Part 1 – final rules in Appendix 1)*

- 15.12 There is no change from the 2011/12 fees included in CP11/2 as set out in Table 15.3 below which also, represent no change from the fees levied in 2010/11.

**Table 15.3: Final 2011/12 fees for service companies and comparison with 2010/11**

Organisation	2011/12 fee (£)	2010/11 fee (£)	Variance (%)
- Bloomberg LP	45,000	45,000	0.0
- LIFFE Services Ltd	35,000	35,000	0.0
- OMGEO Ltd	35,000	35,000	0.0
- Reuters Ltd	45,000	45,000	0.0
- Swapswire Ltd	35,000	35,000	0.0



## C. fee-block: Collective Investment Schemes

(FEES 4 Annex 4R – final rules in Appendix 1)

15.13 Final 2011/12 periodic fees are set out in Table 15.4.

Table 15.4: Final 2011/12 fees for collective investment schemes and comparison with 2010/11

Scheme type	Total aggregate number of funds/sub-funds	2011/12 Fee (£)	2010/11 Fee (£)	Variance (%)
ICVC, AUT, Section 264 of FSMA or Section 270 of FSMA	0-2	585	560	4.5
	3-6	1,463	1,400	4.5
	7-15	2,925	2,800	4.5
	16-50	6,435	6,160	4.5
	>50	12,870	12,320	4.5
Section 272 of FSMA	0-2	2,380	2,280	4.4
	3-6	5,950	5,700	4.4
	7-15	11,900	11,400	4.4
	16-50	26,180	25,080	4.4
	>50	52,360	50,160	4.4

15.14 Final 2011/12 fees have reduced from the fees included in CP11/2, which reflects the difference from our estimated and final tariff data submitted by firms.

## D. fee-block: Designated Professional Bodies (DPBs)

(FEES 4 Annex 5R – final rules in Appendix 1)

15.15 We set individual periodic fees for each DPB, based on the number of exempt professional firms in each body. Every DPB pays £10,000 for its first exempt professional firm. The balance allocation is then distributed proportionately across the remaining exempt professional firms reported by each DPB.

15.16 Final 2011/12 fee rates are set out in Table 15.5.

**Table 15.5: Final 2011/12 fees for designated professional bodies and comparison with 2010/11**

Name of DPB	2011/12 fee	2010/11 fee	Variance (%)
The Law Society of England and Wales	£73,190	£83,060	(9.4)
The Law Society of Scotland	£13,990	£14,610	(5.3)
The Law Society of Northern Ireland	£12,920	£13,380	(4.9)
The Institute of Actuaries	£10,110	£10,130	(0.2)
The Institute of Chartered Accountants in England and Wales	£24,660	£27,310	(14.1)
The Institute of Chartered Accountants of Scotland	£11,200	£11,390	(3.4)
The Institute of Chartered Accountants in Ireland	£10,650	£10,740	(0.9)
The Association of Chartered Certified Accountants	£16,980	£18,040	(8.1)
Council for Licensed Conveyancers	£11,230	£11,420	(0.7)
Royal Institute of Chartered Surveyors	£13,800	£14,390	(4.0)

- 15.17** Final 2011/12 fee rates have changed from those included in CP11/2, which reflects differences from our estimated number of exempt professional firms in each DPB and the final tariff data submitted.

## **E. Issuers and sponsors of securities (UKLA)**

*(FEES 4 4.2.11R Table of periodic fees and FEES 4 Annex 7R and 8R – final rules in Appendix 1)*

### **Issuers**

- 15.18** Tables 15.6 (listed) and 15.7 (non-listed) are the final 2011/12 periodic fees for issuers of securities. There is no change from those in CP11/2 and they continue to be set at the same level as 2010/11.

Table 15.6: Final UKLA periodic fees for issuers for 2011/12 and comparison with 2010/11 (listed)

Fee payable*	2011/12		2010/11		Variance (%)
	Rate	Fee at maximum	Rate	Fee at maximum	
£ million of Market capitalisation					
Minimum fee	n.a.	3,700	n.a.	3,700	0
>100 – 250	23.593356	7,239	23.593356	7,239	0
>250 – 1,000	9.436716	14,317	9.436716	14,317	0
>1,000 – 5,000	5.808686	37,551	5.808686	37,551	0
>5,000 – 25,000	0.141692	40,385	0.141692	40,385	0
>25,000	0.045777	-	0.045777	-	-

\*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

Table 15.7: Final UKLA periodic fees for issuers for 2011/12 and comparison with 2010/11 (non-listed)

Fee payable	2011/12		2010/11		Variance (%)
	Rate	Fee at maximum	Rate	Fee at maximum	
£ million of Market capitalisation					
Minimum fee	n.a.	2,960	n.a.	2,960	0
>100 – 250	18.8747	5,791	18.8747	5,791	0
>250 – 1,000	7.5494	11,453	7.5494	11,453	0
>1,000 – 5,000	4.6469	30,041	4.6469	30,041	0
>5,000 – 25,000	0.1134	32,308	0.1134	32,308	0
>25,000	0.0366	-	0.0366	-	-

## Sponsors

- 15.19 There is no change from the periodic fee for Sponsors included in CP11/2 – £20,000 for 2011/12 (£12,500 2010/11).

## F. fee-block: Unauthorised mutuals

*(Final rules in Appendix 2)*

- 15.20 Table 15.8 are the final 2011/12 periodic fees for unauthorised mutuals. There is no change from those in CP11/2 and they continue to be set at the same level as 2010/11.

Table 15.8: Final 2011/12 fees for unauthorised mutuals and comparison with 2010/11

Total assets (£000)	2011/12 fee	2010/11 fee	Variance (%)
0 - 50	£55	£55	0.0
> 50 - 100	£110	£110	0.0
> 100 - 250	£180	£180	0.0
> 250 - 1,000	£235	£235	0.0
> 1,000	£425	£425	0.0

### G. Firms registered under the Money Laundering Regulations 2007

- 15.21 There is no change from the annual fee for firms registered with the FSA under the money laundering regulations included in CP11/2 – £400 for 2011/12, which is at the same level as 2010/11. [G.1 fee-block]

### G. Firms covered by the Payment Services Regulations (PSRs) 2009

(FEES 4 Annex 11R – final rules in Appendix 1)

- 15.22 Final periodic fees for 2011/12 are set out in Tables 15.9 and 15.10 below.

Table 15.9: Final 2011/12 fees for certain deposit acceptors (includes banks and building societies) and comparison with 2010/11 [G.2 fee-block]

Minimum fee (£)	400		
£ million or part £m of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)		
	2011/12	2010/11	Variance (%)
> 100,000	0.45265	0.42292	7.0
> 250,000	0.45265	0.42292	7.0
> 1,000,000	0.45265	0.42292	7.0
> 10,000,000	0.45265	0.42292	7.0
> 50,000,000	0.45265	0.42292	7.0
> 500,000,000	0.45265	0.42292	7.0

- 15.23 There is no change in the final 2011/12 minimum fee to that included in CP11/2 – at the same level as 2010/11. Final 2011/12 variable periodic fees have reduced from the fees included in CP11/2, which reflects the difference from our estimated and final tariff data submitted by firms.

**Table 15.10: Final 2011/12 fees for large payment institutions and other institutions and comparison with 2010/11 [G3. and G.5 fee-block]**

Minimum fee (£)	400		
£ thousands or part £ thousand of Relevant Income	Fee (£/£ thousands or part £ thousand of Relevant Income)		
	2011/12	2010/11	Variance (%)
> 100,000	0.29950	0.48508	(38.3)
> 250,000	0.29950	0.48508	(38.3)
> 1,000,000	0.29950	0.48508	(38.3)
> 10,000,000	0.29950	0.48508	(38.3)
> 50,000,000	0.29950	0.48508	(38.3)
> 500,000,000	0.29950	0.48508	(38.3)

- 15.24 There is no change in the final 2011/12 minimum fee to that included in CP11/2 – at the same level as 2010/11. Final 2011/12 variable periodic fees have reduced from the fees included in CP11/2, which reflects the difference from our estimated and final tariff data submitted by firms. In particular the inclusion of tariff data from a substantial new joiner.
- 15.25 The annual fee for small payment institutions has not changed from that included in CP11/2 – £400 for 2011/12 same level as 2010/11. [G.4 fee-block]

## G. Firms covered by the Electronic Money Regulations (EMR) 2011

### *FEES 4 Annex 11R – final rules in Appendix 1)*

**Table 15.11: Final 2011/12 fees for large electronic money institutions [G.10 fee-block]**

	2011/12
Minimum fee (£)	1,500.00
£m or part £m of average outstanding electronic money (AOEM)	Fee (£/£m or part £m of AOEM)
>5,000,000	150.00

- 15.26 The final annual fee for small electronic money institutions (SMIs) for 2011/12 is £1,000. [G.11 fee-block]

## Further background

- 15.27 Electronic money issuers (EMIs) and firms wishing to become EMIs were brought under the scope of our regulation by the European Union's Second Electronic Money Directive (2EMD)

from 30 April 2011. This was implemented in the UK by the Electronic Money Regulations 2011 (EMRs). We consulted on our fees proposals in our October 2010 Consultation Paper (CP10/24). Chapter 6 summarises the fees for applications and variations of permission. This chapter presents the framework for annual periodic fees, on which we provided feedback in February 2011 (in CP11/2).

- 15.28** Periodic fees apply to all of the EMIs listed in Chapter 6. They have been placed in the new fee-blocks G.10 or G.11.

#### *Bodies which do not need authorisation or registration*

- 15.29** Bodies which do not need authorisation or registration are required to provide us with their average outstanding e-money on a half-yearly basis if they begin to issue e-money. We use this information to allocate them to the appropriate fee block and calculate their fees.

#### *Small EMIs*

- 15.30** We allocate small EMIs to fee-block G.11, charging a flat fee of £1,000.
- 15.31** Existing small EMIs that were certified to issue e-money before 30 April 2011, have been moved from fee-block G.4, where they pay the £400 minimum fee charged to payment institutions (PIs), to fee-block G.11. If successfully registered or authorised, they will either remain in G.11 or move on to G.10 as appropriate. Since the EMRs give them a year (until 30 April 2012) to transition to the new regime, they will remain on the current rate of £400 for the whole of 2011/12 and will not be charged the full rate until 2012/13. This avoids a possible disincentive to early application.

#### *Authorised EMIs and credit institutions that issue e-money*

- 15.32** We have allocated these bodies to fee-block G.10, where they will be charged a variable rate fee. This group may include businesses that could have chosen to be registered as small EMIs because they fall below the €5m threshold, but have decided to become authorised so that they can passport out of the UK into other EEA states.

#### *Tariff base*

- 15.33** We have based the tariff on average outstanding e-money, as defined in Article 2(4) of 2EMD:

‘Average total amount of financial liabilities related to electronic money in issue at the end of each calendar day over the preceding six calendar months, calculated on the first calendar day of each calendar month and applied for that calendar month.’

- 15.34 There are different opinions on the suitability of this metric as a long-term measure of impact risk and through consultation we received some helpful and practical suggestions for alternatives. We will investigate the options further in discussion with the industry and set out our conclusions for consultation in our October 2011 fees CP.

#### *Tariff bands*

- 15.35 Some authorised EMIs in fee-block G.10 may fall below the threshold for small EMIs because they applied for full authorisation so that they could passport out of the UK. Since our regulatory engagement with them is likely to be greater than with similar-sized firms in fee-block G.11, we are charging a flat fee of £1,500 per year for the first £5m of e-money liabilities. For e-money liabilities beyond £5m, we charge a variable rate per £m or part-£m.

#### *Discount for inward-passporting EEA authorised EMIs and credit institutions that issue electronic money*

- 15.36 As in other fee-blocks, we use the same tariff base for inward-passporting EEA-authorised e-money institutions and credit institutions that issue electronic money as for the UK equivalent, with a percentage discount on periodic fees. We believe that our conduct of business (COB) responsibilities are comparable to those we undertake for payment services institutions, and so are applying the same discount of 40%.

#### *Applications part-way through a financial year*

- 15.37 We apply to EMIs the standard discounts set out in Table 4.3 for firms newly authorised during a fee-period. This means there will be no discount on the 2011/2012 fees for EMIs brought into the new regime when it came into force in May 2011.

#### *Financial penalties*

- 15.38 We are empowered under the EMRs to impose financial penalties in certain circumstances and to apply the money received towards the costs of carrying out our functions under those regulations. Since this is the first year of the new regime, no penalties have been imposed.

#### *Providing payment services*

- 15.39 EMIs automatically receive permission for all payment services related to the issuing of e-money, but only pay fees in fee-block G.10 or G.11 as EMIs. They are not charged additionally as PIs or small PIs.
- 15.40 If they wish to offer additional payment services that are not directly related to their electronic money business model (unrelated payment services), they need to notify us. They will then be subject to periodic fees as a PI or small PI and be put into fee-block G.3 or G.4 as appropriate. This will be in addition to their fees in fee-block G.10 or G.11. If a

firm that is already a PI or small PI applies to become an EMI, it will pay the appropriate application fee and give up its authorisation as a PI or registration as a small PI. If all of its payment services are directly related to its e-money business model, then it would move out of its PI fee-block and only pay e-money periodic fees in G.10 or G.11 as appropriate.



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## Section 5: Feedback on regulatory fees policy proposals 2011/12 and proposed new fee-block for funding client money and assets regulation

16. Special project fees for Solvency II – revised recovery method
  17. New fee-block for funding client money and asset regulation
-

# 16

## Special project fees for Solvency II – revised recovery method

*(FEES 4, Annex 2R – final rules in Appendix 1)*

- 16.1** In Chapter 9 of CP11/2, we proposed draft 2011/12 rates for special project fees (SPFs), which have been established to recover the project development and implementation costs of the Solvency II EU Directive (SII). This chapter explains the final 2011/12 SII SPF rates, our feedback on responses we received to the consultation and any significant changes between the rates consulted on and final rates. Firms affected by this chapter will be in fee-blocks:
- A.3 (Insurers – general);
  - A.4 (Insurers – life); and
  - A.6 (The Society of Lloyd’s).
- 16.2** There are two types of SII SPF:
- **IMAP SPF** – This is to recover the costs of developing and implementing the framework relating to our internal model approval process (IMAP); and
  - **Non-IMAP SPF** – This is to recover other SII implementation costs, which include the costs of staff recruitment, staff training, revised supervisory processes (other than IMAP) and developing and putting in place the technology required to support SII reporting and supervisors.
- 16.3** The SII SPF is outside our annual funding requirement (AFR), the recovery of which is discussed in Chapters 11 to 15.

### **Proposed revised IMAP SPF recovery method**

- 16.4** The main rationale behind the IMAP SPF is to further target SII cost recovery by only recovering the IMAP implementation costs from a sub-set of SII firms that intend to apply for internal model approval. These are generally larger insurers, but not exclusively so. The non-IMAP SPF applies to all firms within the scope of the SII Directive.
- 16.5** The 2010/11 IMAP SPF was levied on the largest 200 insurers – 125 general insurers, 75 life insurers and The Society of Lloyd's (Lloyd's) based on the information we had at the time of firms' likely intentions to apply for internal model approval. We received strong push back on this approach from the industry, which generally argued that this method was unfair because some firms large enough to be charged do not intend to apply for model approval, while medium and small firms that do intend to apply are not charged.
- 16.6** As a consequence, we proposed a revised methodology for recovering the 2011/12 IMAP SPF. The revised methodology means that the only firms to be levied the IMAP SPF in 2011/12 are those that have declared their intention to apply to use the internal model approach and we have told them they have been accepted into what we generically referred to in CP11/2 as 'pre-IMAP status. Also, in CP11/2, where we discussed pre-IMAP status in relation to firms we were referring to firms within groups.
- 16.7** Pre-IMAP status was proposed as voluntary on both sides and we established which firms this status applied to by 31 March 2011. This enabled firms to consider whether they wanted to be in pre-IMAP status in the full knowledge of the amount of estimated IMAP SPF they would be levied in 2011/12.
- 16.8** There will be no refund of the IMAP SPF if we are notified of a firm's withdrawal from pre-IMAP status from 1 April 2011. This policy is the same as that which applies to periodic fees when a firm applies to cancel its permissions during the year in which the periodic fee is paid.
- 16.9** IMAP SPF costs for 2011/12 that have been allocated to the A.3 (Insurers – general) and A.4 (Insurers – life) fee-blocks will be recovered from pre-IMAP status firms in proportion to their size (straight-line recovery) using the same measures of size we use to calculate their periodic fees (premium income and liabilities). This was the same basis used for 2010/11. This will ensure that small and medium size firms in pre-IMAP status will pay proportionately less than larger firms. As with periodic fees, the amount of IMAP SPF will not directly relate to the actual resources applied to individual firms. The IMAP SPF for A.6 fee-block (Lloyd's) is calculated on an individual basis.
- 16.10** The final instrument in Appendix 1 of this paper defines in detail the application of the revised IMAP SPF approach and how it applies to both solo internal and group internal models.
- 16.11** In exceptional circumstances, if a firm that had not previously declared it intended to use the internal model approval approach – and has therefore not been accepted by us into

pre-IMAP status by 31 March 2011 – does so during 2011/12, we proposed that we would treat such a request to be in pre-IMAP status as a request for individual guidance. Under these circumstances we will levy a Guidance IMAP SPF<sup>19</sup>, which will be calculated on the same basis as the IMAP SPF.

## SII SPF budgets for 2011/12

- 16.12** Both the IMAP and non-IMAP SPF rates for 2011/12 included in CP11/2 were dependent on the SPF budgets for 2011/12 and level of under spend for 2010/11. Table 16.1 below sets out the estimated figures as they were stated in the CP11/2 and the final figures taking into account actual under spend for 2010/11 and revised budgets for 2011/12.

**Table 16.1: SII SPF estimated and final budgets for 2011/12**

	CP11/2		Final	
	IMAP	Non-IMAP	IMAP	Non-IMAP
<b>2010/11 Budget</b>	<u>£13m</u>	<u>£16m</u>	<u>£13m</u>	<u>£16m</u>
<b>2010/11 Under spend</b>	(£6.5m)	(£5.6m)	(£6.6m)	(£6.0m)
<b>2011/12 Budget</b>	£20.2m	£26.2m	£15.8m	£23.6m
<b>2011/12 Recovery from firms</b>	<u>£20.2m</u>	<u>£20.6m</u>	<u>£15.8m</u>	<u>£17.6m</u>

Note: The under spend for the IMAP SPF will be reimbursed to the firms that paid it in 2010/11 via a credit off-set against their periodic fees for 2011/12. The under spend for the non-IMAP SPF will be accounted for by off-setting it against the 2011/12 budget.

- 16.13** For the IMAP SPF and the non-IMAP SPF the final 2010/11 under spend is greater than estimated in CP11/2 and for both the final 2011/12 budgets are lower. This will reduce the SPF final rates compared to the rates in CP11/2 for all SII SPF fee-payers.
- 16.14** Because the population of firms that paid the 2010/11 IMAP SPF will be different from those that will pay it in 2011/12 we proposed that we will refund the firms that paid it in 2010/11 an equivalent amount to the under spend for 2010/11 via a credit offset against their 2011/12 periodic fees.
- 16.15** For the non-IMAP SPF no change to methodology was proposed and because the population of firms would largely remain constant we proposed refunding the 2010/11 under spend by offsetting it against the 2011/12 budget.

<sup>19</sup> Under our powers, in section 157(4) (c) of the Financial Services and Markets Act 2000 (FSMA), to charge for giving guidance at the request of any person

## Impact of changes from estimated to final tariff data and firm populations

- 16.16** In CP11/2 we highlighted that, as is the case with periodic fees, the SII SPF estimated rates were also based on projections of number of firms and estimates of tariff data (measures of size). These are not finalised until April and when the final rates are calculated. This means that rates may differ from those consulted on. Taking account of these data movements since consultation on their own the impact of these movements is overall to increase the final SII SPF rates compared to those in CP11/2. However, when taken into account together with the reduced budgets since CP11/2 the final SII SPF rates are still lower than in CP11/2.

## Consultation responses and our feedback

- 16.17** The questions we consulted on in CP11/2 Chapter 9 were:

*Q3: Do you have any comments on the proposed IMAP SPF for 2011/12 or on the changes we are proposing to the method of recovery?*

*Q4: Do you have any comments on the proposed non-IMAP SPF for 2011/12?*

- 16.18** We received six responses including from two trade associations that cover the insurance sector. We summarise below our feedback on these responses.

### Consultation response:

All respondents fully supported the proposed revised methodology for recovering the IMAP SPF. Respondents also welcomed that we are reimbursing/offsetting the under spend from 2010/11 for both the IMAP and non-IMAP SPF, but some qualified this by saying it indicated we had not budgeted effectively.

Overall, respondents strongly challenged that we are spending too much on SII and that we should give a more detailed breakdown of costs.

### OUR FEEDBACK:

Since February we have reviewed our SII SPF costs for 2011/12 and the final budgets are less. The final IMAP SPF budget will be 22% lower than in CP11/2 and the non-IMAP budget lower by 15%. This will result in lower rates from

those in CP11/2 for all SII SPF fee-payers. This reduction reflects our internal challenge on the level of estimated expenditure and our aim to strike the right balance between not over or under recovering. Given our current expectations, we consider the lower final budget figures on which the final SII SPF rates will be based are a reasonable estimate of the 2011/12 costs of implementing SII Directive effectively.

In CP11/2 we outlined the activities that we will be undertaking to implement SII during 2011/12 the costs of which will be recovered through both the IMAP and non-IMAP SPFs. This is repeated in paragraph 16.2 above. Since CP11/2 we have published our *Business Plan* in March, which set out our strategic priorities as a whole for 2011/12 including details of the work programme for implementing SII. This provides the same level of detail that we publish on the work programmes the costs of which are recovered by our periodic fees.

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# 17

## New fee-block for funding client money and asset regulation

- 17.1 In Chapter 7 of CP10/24<sup>20</sup>, we set out for discussion proposals for a possible new fee-block for recovering regulatory costs related to client money and assets (the 'CASS fee-block'). We do not repeat those proposals here, so this chapter should be read in conjunction with Chapter 7 of CP10/24.
- 17.2 This chapter sets out our feedback on the responses we received to those proposals noting the pros and cons associated with some of the issues raised by respondents. This feedback chapter does not represent our current policy position on the CASS fee block, or related issues. Our policy position will be set out as part of the consultation (with draft rules) on the CASS fee-block at a later date.
- 17.3 This chapter will be of interest to all firms with the authority to hold and control client money, or permission to safeguard and administer (or arrange to safeguard and administer) client assets, or that may do so in the future.
- 17.4 We received 15 responses to our provisional proposals including six from trade associations representing a wide range of firms. The question we had asked was:

*Q17: Do you have any views on the proposals for the future allocation and recovery of the costs of client money and assets regulation?*

<sup>20</sup> CP10/24 – Regulatory fees and levies: Policy proposals for 2011/12 (October 2010)

- 17.5 We have grouped the issues raised by respondents and give our feedback below under three main headings:
- Overall concept of a 'CASS fee block';
  - Scope, including CASS 5 risk transfer monies issue; and
  - Tariff base.

### Overall concept of a 'CASS fee block'

#### Discussion responses

- 17.6 Many respondents were neutral on the overall concept of a CASS fee block. Several were supportive, while four were not supportive:
- One did not think that CASS regulation needed its own dedicated funding, and that it should be funded from more generalist fee blocks as a matter of our internal budgeting. Another stated that it believes that our commitment to avoid cross subsidy could be extended to other areas, and should be rolled into a wider review of our funding, and that as such, it could not support the consideration of a new CASS fee block in isolation.
  - One was concerned about the knock-on effects of a new CASS fee block on the business model for insurance distribution. They based their concerns on a fear that many general insurance intermediaries would try and remove themselves from the client money regime altogether, by seeking risk transfer for all of their business, causing disruption for the UK insurance market as a whole, and considerable costs to certain firms such as themselves. This led to the respondent having concerns about whether a new CASS fee block would be proportionate.
  - A trade association was sceptical of the benefits of introducing a separate fee block for client money and assets regulation cost recovery (and the necessity for the split between the current A12 and A13 fee blocks to be removed) due to that trade association's wider concerns about how fee block A12 in particular is framed.
  - One respondent was not supportive because it thought that the proposed CASS fee block would involve us moving away from basing our fees on impact risk.



## Our feedback

- 17.7 The benefits of introducing a CASS fee block include reducing cross-subsidy within the existing fees system as it will target the recovery of the costs of our increased focus on client money and assets regulation, across both investment and insurance intermediation industries rather than only the firms currently in the current A.12 fee-block. This is in line with our overall fees policy to minimise cross-subsidy where it is proportionate to do so.
- 17.8 We also note that, even if we isolate the recovery of our costs of regulating client money and assets, the A.12/A.13 fee-block will continue to be defined by a regulated activities that can be carried out by a wide range of firms e.g. securities firms (retail and wholesale), non-discretionary investment managers, retail intermediaries as well as wholesale intermediaries and that they do pose different levels of risk to our statutory objectives. While this diverse coverage does increase the likelihood of cross-subsidy the development of a new CASS fee-block is we believe a step in the right direction in reducing cross-subsidy.
- 17.9 As explained in CP10/24, to recover costs allocated to a fee-block we generally use size of the business activity a firm carries out within a fee-block as a proxy for the impact on our statutory objectives should that firm fail (impact risk). We use a common metric that best measures size for each fee-block which we refer to as tariff base. We are proposing the same approach for the CASS fee-block and provide feedback below on the issues raised by respondents on the tariff base we proposed.

## Scope, including CASS 5 risk transfer monies issue

### Discussion responses

#### *Whether firms subject to CASS 5 should be in scope for the block at all*

- 17.10 One general insurance intermediary firm wondered whether it was appropriate for CASS 5 client monies to be caught by the fee-block at all, and asked why we wish to commit more resources to insurance intermediation client money risk/regulation, given that CASS audits are already required for some firms. The same respondent was also concerned that compliant firms would cross-subsidise the regulation of non-compliant firms that might be holding CASS 5 client money without the relevant permissions.

### *CASS 5 and risk transfer monies*

- 17.11 Several general insurance intermediation firms and several trade bodies representing such firms commented on whether risk transfer monies should be within the CASS fee-block's scope. They noted that CP10/24 indicated that we were not minded to charge CASS fees on risk transfer monies (as such monies are not client money), but only to charge fees on monies that are CASS client monies. They noted that it is common practice for risk transfer monies (i.e. that belong to the relevant insurer on a credit-debit basis) to be co-mingled with CASS 5 client money in a client bank account. When this is the case, risk transfer monies do in fact become CASS 5 client money. Were we to calculate the CASS fee on the total balance of CASS 5 client money held by a firm, including money that had been risk transfer money, some respondents feared that some firms would be inappropriately overcharged. So these respondents said the scope of the CASS fee block should provide for fees to be calculated only on balances of CASS 5 monies that had not been risk transfer monies. One respondent even went so far as to say that we should mandate risk transfer for all general insurance intermediation business, preventing client money arising under CASS 5 at all. We will take forward the wider issues concerning the scope and application of CASS 5 in the later review.

### *Opt-ins to the CASS 5 regime*

- 17.12 Two respondents noted that a CASS fee block that charge firms for their CASS 5 client monies might discourage firms from bringing monies from certain business lines within the CASS 5 regime voluntarily.

### *Depositories*

- 17.13 Another respondent raised concerns around CASS fee-block scope, and depositories. This respondent argued that depositories, when acting as such, would not be caught by the CASS fee-block as set out in CP10/24, that this was the correct outcome, and that this position should be maintained in any further development of the CASS fee-block.

### **Our feedback**

#### *Whether firms subject to CASS 5 should be in scope for the block at all*

- 17.14 There are advantages in ensuring that firms subject to CASS 5 contribute to the recovery of our costs of supervising their client money activity. Primarily, given that we do expend resources on general insurance intermediary client money regulation, and given that this resource will increase over the next few years, bringing firms subject to CASS 5 within the scope of the fee-block will prevent firms doing investment business (and holding client money/assets) from subsidising the relevant general insurance intermediation firms.

**17.15** We note that the CASS audit can never provide a complete assurance that firms are compliant with our client money rules. There is a need for resource to be deployed by us to investigate breaches and concerns, whether highlighted by the CASS audit or by another source, and to take appropriate action. Not all general insurance intermediaries that hold client money are even subject to the need for a CASS audit. For these reasons, we believe there is a strong case for including firms subject to CASS 5 in the new fee-block, especially as the tariff data on which we would calculate fees is already available. However, if we felt that a new CASS fee block covering CASS 5 would cause major disruption and cost to the (UK insurance and insurance mediation) industry, we would consider this carefully in developing our policy framework.

*CASS 5 and risk transfer monies*

**17.16** There are advantages and disadvantages related to the proposition that risk transfer monies co-mingled in a client bank account should attract a fee.

**17.17** One advantage is that the resulting regime would be simple. Monies that are CASS 5 client monies are charged for, monies that are not CASS 5 client monies are not. Indeed, one respondent noted that levying a fee on such co-mingled risk transfer money would be positive for firms, as it would avoid the need for firms to calculate which CASS 5 client money is only CASS 5 client money because of risk transfer and co-mingling, and which is 'other' CASS 5 client money. To the extent that we do and will continue to expend regulatory resource on firms holding client money in a risk-based manner, based primarily on size of client money balances, charging firms for the total amount of CASS 5 client money that they hold would ensure that the fee-block more accurately recovers regulatory costs from the right firms. In addition, we understand that firms often co-mingle risk transfer monies with other CASS 5 client money because it is administratively easier to do so, and/or because the insurer appreciates the extra protection delivered for its money, making it easier for the insurers to do business with the intermediary. It may not be fair to decline charging firms in relation to these benefits. It is also the case that general insurance intermediaries can attempt to obtain risk transfer from all of their insurers, or, if this is not desirable or possible, set up their business so that risk transfer monies that do arise are not co-mingled with that general insurance intermediary's client bank account.

**17.18** A disadvantage to this position is that general insurance intermediaries holding client money would potentially be charged for CASS 5 client money that belongs to a person the regulatory system is not designed to protect, that is, the insurer, as compared to a 'normal' client. In addition, to the extent that a general insurance intermediary feels that it needs to take action to change its business arrangements so that insurer risk transfer money is not co-mingled in the client bank account, this may cause such firms to incur some costs.

**17.19** We note the suggestion that the CASS 5 regime should be done away with completely, via us mandating risk transfer for all insurance intermediaries, may not be realistic, and would in any case likely have, significant downsides, stemming from the potentially large costs and

major disruption that would result from such a move. Other respondents to the consultation confirmed that it is not possible for insurance intermediaries to obtain risk transfer agreements from all, or even most insurers.

### *Opt-ins to the CASS 5 regime*

- 17.20** There are advantages and disadvantages to levying fees on firms subject to CASS 5 on both their CASS 5 client money balances from mandated business lines as well as on those balances that are bought into the regime from other business lines on a voluntary basis. The advantages and disadvantages are similar to those applying to the question of whether CASS 5 client monies that are CASS 5 client money due to risk transfer and co-mingling should be subject to the fee or not.
- 17.21** Advantages of levying fees on such monies include keeping the regime simple and ensuring more accurate cost recovery from firms that we are more likely to expend resources on. We understand that firms bring money into the CASS 5 regime because their clients value the protections it offers, or because it is administratively easier to do so. It may not be fair for a firm to avoid fees driven by the extra protection they are able to provide to these clients, or by the administrative benefits they may gain. Disadvantages include the possible incentive that would exist for firms to decline to bring monies voluntarily into the CASS 5 client money regime from non-mandated business lines, possibly leading to greater risk to clients transacting in the UK.

### *Depositories*

- 17.22** We can see advantages in relation to ensuring that the CASS fee block only levies fees on firms with permission to carry out the relevant activities, that is holding client money, or safeguarding/holding safe custody assets. We understand that a depository, when acting solely as such, would not need such permissions, and note that CP10/24 envisaged that firms with permissions, but not actually carrying out the activity (i.e. not actually safeguarding/holding any client money/assets), while in scope for the fee block, would be likely to attract a zero fee.

## **Tariff base**

### **Discussion responses**

#### *Comments on the risk measures that could determine fees*

- 17.23** Several respondents made detailed comments on the outline tariff base that we set out in CP10/24. Some respondent firms doing general insurance intermediation business, and trade bodies representing such firms, suggested that it would be appropriate for CASS 5

client money to be underweighted versus CASS 7 client money, in terms of the fees that balances of the two types of client money attracted, on the grounds that client money held in relation to general insurance intermediation was 'less risky' than that held in relation to investment business, although little was provided to back this assertion up. Another respondent wondered whether there should be additional criteria driving impact risk, and therefore levels of fees, with one respondent suggesting a consideration of retail/nonretail risk, another suggesting a consideration of the level of activity around the client property in question, and another suggesting that our own detailed assessment of the risk associated with a specific firm be considered.

- 17.24 Other comments were made on the proposed data sources for the CASS fee-block tariff base itself. We proposed in CP10/24 that for investment business, we should use data that related to the highest balance of client money and assets held during a reporting period, collected either from the forthcoming client money and assets return (CMAR), or from the notification requirements contained within CASS 1A. For insurance intermediation, we proposed to use data that recorded client money balances at the end of a reporting period, as found on the current retail mediation activities return (RMAR). Some respondents raised concerns about possible inconsistency in this area, with some focusing on the possibility for manipulation that could arise where an 'end of reporting period' data point is used.
- 17.25 There was also a concern about large one-off amounts of money, deemed to be client money, which could be sent to a firm in error, driving up the fees for that firm.

#### *Other tariff base comments*

- 17.26 One correspondent asked about 'double counting' in relation to safe custody assets data collected on the forthcoming CMAR. They noted that the value of the same safe custody assets could be recorded on two or more firms' CMARs so that more than one set of CASS fees would be levied on the same safe custody assets, as the fees would be levied on each of the relevant firms.
- 17.27 One respondent believed that we should make the difference clearer between arranging holding/safeguarding of (client) assets and the activity of holding/safeguarding (client) assets itself was.

### **Our feedback**

#### *Comments on the risk measures determining fees*

- 17.28 We see important advantages in ensuring that the CASS fee block calculates fees in a way that does not put additional costly reporting burdens on firms, and that accurately reflects the risk measures we use to direct our resource. We proposed the tariff base set out in CP10/24 on the grounds that this is data that either is, or will shortly, be available, and that it currently mirrors the risk measures that we use to direct CASS regulatory resource. We do not see any disadvantages with this approach.

- 17.29** In relation to large one-off amounts of money, held as client money, driving up a firm's fees but sent in error, we would need to consider whether such exceptional circumstances should be accounted for by making provision in the tariff base definition or to rely on the current relieving provisions under FEES 2.3. The former has the administrative advantage of allowing for any adjustments before the fee is levied rather than refunding part of a fee already levied.

#### *Other tariff base comments*

- 17.30** We always intended to ensure that the value of safe custody assets held/safeguarded by each firm subject to CASS 6 should be recorded on that firm's CMAR. While a set of safe custody assets may be held/safeguarded by a chain of custodians and sub custodians, to the extent that the holding/safeguarding is carried out by firms in the UK under CASS, we could expend regulatory resource checking on the compliance of each of those firms with CASS 6. As such, we see no disadvantages in the fact that our proposed tariff base will involve each such firm being billed under the proposed CASS fee block.
- 17.31** We do not believe that the distinction between arranging for another person to hold/safeguard client assets, as opposed to a person holding/safeguarding client assets itself, needs any further explanation. Both terms are set out in the Regulated Activities Order (RAO).

#### **Next steps**

- 17.32** Bearing all of these issues in mind, and any others that need to be considered, we intend to bring forward formal consultation proposals (with draft rules) on the CASS fee-block at a later date.

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## Section 6: Funding the Financial Ombudsman Service

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### 18. Financial Ombudsman service general levy 2011/12

# 18

## Financial Ombudsman Service general levy 2011/12

### (FEES 5 Annex 1 – see Appendix 1)

- 18.1** In chapter 12 of CP11/2, we consulted on the Financial Ombudsman Service (the ombudsman service) general levy for 2011/12, and how the proposed general reserve should be allocated.
- 18.2** The ombudsman service general levy is based on its annual budget, which we approve. The ombudsman service annual budget of £127.9m for 2011/12 was approved by our board in March 2011. This is made up of an operating budget of £102.9m and a general reserve of £25m.
- 18.3** The annual budget for 2011/12 is a 20% increase on the 2010/11 budget of £113.7m. The increase is driven by the general reserve. If not for this, the ombudsman service's operating budget is 10% less than that of 2010/11. In CP11/2, we explained that an additional general reserve is a prudent part of the annual budget and is driven by inherent volatility and uncertainty in caseloads faced by the ombudsman service.

### General levy/case fee split 2011/12

- 18.4** The ombudsman service is funded by a combination of annual fees (including the compulsory jurisdiction (CJ) general levy, which we collect) and case fees (collected by the ombudsman service). All authorised firms pay a general levy, even if they have not had any cases referred to the ombudsman service, unless they have notified us that they are exempt.<sup>21</sup> The case fee is paid by firms that have cases referred to the ombudsman service. There will be no change to the case fee (£500) or number of free cases (three) for 2011/12.

<sup>21</sup> Under DISP1.1.12R, a firm or payment service provider falling within the compulsory jurisdiction, which does not conduct business with eligible complainants and has no reasonable likelihood of doing so, can, by written notification to the FSA, claim exemption from the rules relating to the funding of the Financial Ombudsman service.



- 18.5 The ombudsman service continues to see significant growth in its caseload (around a 7% increase in the last 12 months). The ombudsman service expects to receive £82.7m of its 2011/12 income from case fees based on forecasts of how many cases are referred to it. However, a greater or fewer number of cases, and how quickly the ombudsman service is able to close complaints, affect the level and rate of income the ombudsman service collects from case fees.
- 18.6 The general levy for 2011/12 will remain at £19.5m (£17.7m for the CJ, which excludes consumer credit jurisdiction fees<sup>22</sup>). This represents 14% of the ombudsman service's total budget for 2011/12, compared with 19% in 2010/11. This means that the firms generating complaints will pay a greater proportion of the ombudsman service's costs than the firms that generate few or no complaints.

### **Ombudsman service general reserve**

- 18.7 In CP11/2, we described how volatility experienced by the ombudsman service can include sharp fluctuations in case load volumes, as well as unpredictability in what those cases are about. The ombudsman service has seen an increasing volatility in its workload, primarily as a result of mass claims. Of over one million cases received by the ombudsman service in the last ten years, more than half have related to just six topics.
- 18.8 It is essential for confidence in financial services that the ombudsman service is able to operate effectively and efficiently. This requires funding that can deal with the uncertain risks arising from volatility that cannot be reasonably forecast. Any significant interruption in case-fee income – whether or not accompanied by increased overheads as a result of having to respond to more complex cases – can have a considerable effect on the ombudsman service's reserves quite quickly.
- 18.9 Consequently, the ombudsman service consulted on its reserve policy at the beginning of the year. Following feedback to that consultation, the ombudsman service recommended that a general reserve to deal with uncertainty be part of the 2011/12 annual budget. The FSA board approved a £25m general reserve in March 2011.

<sup>22</sup> Consumer credit jurisdiction (CCJ) fees are collected by the Office of Fair Trading (OFT). Where a business is licensed by the OFT but is not authorised by the FSA, all complaints about its consumer credit activities would be handled under the CCJ. However, businesses regulated by the FSA would not be required to pay levies and/or fees under both the (compulsory jurisdiction) CJ and the CCJ.

## Ombudsman service general levy categories

- 18.10 The ombudsman service categorises firms into three groups for the purposes of paying the general levy: the compulsory jurisdiction; voluntary jurisdiction; and consumer credit jurisdiction.<sup>23</sup> The total budget for 2011/12 divided between jurisdictions is shown in Table 18.1.

Table 18.1 – Division of ombudsman service 2011/12 budget across jurisdictions

	£m	%
Compulsory jurisdiction (CJ)	125.1	97.8
Voluntary jurisdiction (VJ)	0.4	0.3
Consumer credit jurisdiction (CCJ)	2.4	1.9
Total	127.9	100

## Ombudsman service consultation

- 18.11 In January 2011, the ombudsman service consulted separately on its 2011/12 draft budget, including arrangements for case fees, as part of its corporate plan and budget. These were agreed by the ombudsman service board and approved by the FSA board in March 2011. The ombudsman service published its final budget and corporate plan at the end of March. Details of the ombudsman service's consultation and final budget and plan are available on its website.<sup>24</sup>

## FSA consultation

- 18.12 In CP11/2, we asked:

*Q8: Do you have any comments on the proposed method of calculating the tariff rates for firms in each fee block towards the CJ levy (which this year includes the proposed reserve) and our proposals for how the overall CJ levy should be apportioned?*

- 18.13 We received ten responses. Responses were received from both individual firms and trade bodies. We summarise below the responses received and our feedback to the areas focused on by respondents.

<sup>23</sup> All businesses licensed by the Office of Fair Trading (OFT) under the *Consumer Credit Act* would in principle belong to the Credit Consumer Jurisdiction (CCJ). They would be covered for all the consumer credit activities they carry out, including those currently excluded from the Compulsory Jurisdiction (CJ).

<sup>24</sup> [www.financial-ombudsman.org.uk/news/updates/planandbudget-11-12-approved.html](http://www.financial-ombudsman.org.uk/news/updates/planandbudget-11-12-approved.html)

### Consultation responses

In CP11/2, we consulted on the proposed levy rates for individual industry blocks and how the allocation of any reserve raised through the CJ levy ought to be apportioned.

We did not consult on the rationale and merits of the reserve as this formed part of the ombudsman service's consultation.

Responses were divided in their support for the general reserve and how it ought to be apportioned. However, many respondents agreed that a general reserve is prudent. Some respondents thought the ombudsman service should consider short-term funding solutions; for example, an extended banking facility. There was agreement that the reserve should be used as a contingency measure.

Most respondents commented on our proposals for how the reserve should be funded. We consulted on the proposal that the general reserve be funded by the compulsory jurisdiction, and that allocations mirror that of the general levy. Many of those that commented on this issue wanted to see a fair and proportionate funding method that reduced the risk of cross-subsidy.

Those who provided feedback on levy rates for industry blocks supported the proposals on calculating tariff rates and how the general levy should be apportioned.

### OUR FEEDBACK

#### *A general reserve*

We consulted on the basis that, in establishing the general reserve, all industry blocks should be levied proportionately based on 2010/11 contributions to the ombudsman service's general levy. The reserve is intended to help the ombudsman service manage uncertainty and volatility in the caseload volumes it receives. Due to the inherent uncertain nature of the risk, we were unable to consult on a proposed size of the general reserve. Instead, we consulted on the basis that the reserve would be up to £30m.

Following feedback to the ombudsman service's consultation on its draft budget and corporate plan, the board of the ombudsman service recommended to our board that the ombudsman service's annual budget include a general reserve of £25m. The FSA board approved this recommendation in March 2011, as part of approving the overall annual budget.

Since approving the ombudsman service's annual budget in March 2011, the High Court dismissed the legal challenge of our measures on PPI, and the banking industry has confirmed its intention not to appeal. The judicial judgement provides legal certainty and enables the ombudsman service to proceed in its

handling of cases relating to PPI – many of which were hampered during the legal challenge. However, considerable operational uncertainty remains, and the more general risks from volatility in caseloads brought to the ombudsman service continue. Therefore, the ombudsman service continue to regard it as prudent, in the circumstances, to maintain the level of the general reserve at £25m.

Having considered the responses received, we have decided to apportion the levy for funding the general reserve on the same basis as that of the CJ general levy. We believe that using existing contributions to the general levy is the fairest and simplest way to apportion the additional costs for the reserve.

Some respondents thought short-term funding options (for example, an extended bank facility) would be preferable. However, the board of the ombudsman service has concluded that it would present an unacceptable level of risk to depend on such an option alone.

The board of the ombudsman service intends to review its reserves each year. This will reflect advice from its audit committee on the implications of relevant circumstances at the time. That may lead to a proposed decrease or increase in the level of the reserve in future years. How any change in the reserve affects funding requirements would be the subject of public consultation in the usual way.

#### *Industry blocks and tariff rates*

As in previous years, the proposed allocation of the general levy across fee blocks is based on the ombudsman service's best estimates of the number of staff that will be required to deal with the volume of cases it expects to receive from firms within each block in 2011/12.

The minimum levies and tariff rates for individual fee blocks indicated in CP10/5 were based on the most accurate estimate of firms allocated to individual fee blocks available at the time.

Annex 7 shows the final minimum levies and tariff rates for each block.

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## Section 7: Funding the Money Advice Service

### 19. Money Advice Service levy 2011/12

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# 19

## Money Advice Service levy 2011/12

### (FEES 7 – see Appendix 1)

- 19.1 In Chapter 13 of CP11/2, we consulted on the 2011/12 levy rates for the Consumer Financial Education Board (CFEB), and in Chapter 4 of CP11/7 (*April Quarterly Consultation Paper*) we clarified the arrangements for making ‘on-account’ payments. Since 4 April 2011, CFEB has been renamed the Money Advice Service.
- 19.2 The Money Advice Service’s annual budget is approved by the FSA and funded by a levy to all FSMA-authorized firms, PIs and firms subject to 2EMD. The Money Advice Service levy mirrors the fee-block structure used to allocate our annual funding requirement (AFR).
- 19.3 The Money Advice Service’s annual budget of £43.7m for 2011/12 was approved by our board in December 2010.
- 19.4 The Financial Services Act 2010 (the Act) required us to establish a new Consumer Financial Education Body (CFEB) to enhance:
- the public’s understanding and knowledge of financial matters (including the UK financial system); and
  - the ability of members of the public to manage their own financial affairs.
- 19.5 The Money Advice Service’s remit replaces our public awareness objective under the Financial Services and Markets Act 2000 (FSMA), which required us to promote public awareness of financial services. We had delivered this through our National Strategy for Financial Capability and Money Guidance, and by working in partnership with the government, industry and the third sector.
- 19.6 The Money Advice Service’s functions include promoting awareness of the benefits of financial planning, and the benefits and risks associated with different kinds of financial activity. The Money Advice Service will continue to provide information and advice to members of the public.

- 19.7 This is the first year the Money Advice Service is an operationally independent organisation, with a new Board and Chief Executive. The Money Advice Service are developing a full set of metrics against which proposed outputs can be assessed for progress against its strategic objectives and value for money and this will be included within their 2012/13 plan.

**Table 19.1: Breakdown of the Money Advice Service expenditure for 2011/12**

Staff and associated costs	£13,474,000
Core operational and change costs	£5,363,000
FSA/CFEB IT Transition costs	£750,000
Non-digital delivery (including face to face, telephone and print)	£9,743,000
Web and digital development and delivery	£3,443,000
Online health check development and delivery	£2,081,000
All other product and service development	£1,471,000
Research and evaluation	£2,300,000
Monitoring and information	£525,000
Communications and marketing	£4,585,000
	<b>£43,735,000</b>

### Allocation and recovery of the Money Advice Service's funding

- 19.8 The Money Advice Service's 2011/12 funding will come entirely from levies raised from FSMA-authorized firms, PIs and firms subject to the 2EMD. Overall this will come through an allocation and recovery framework that:
- mirrors the allocation of Money Advice Service funding to the fee-block structure used to allocate our AFR in 2010/11; and
  - recovers those allocations from the firms that have permission to undertake the regulated activities covered by the relevant fee-blocks, based on the size of the business undertaken, using the tariff data (which is the unit of measure for the size of business undertaken) used to calculate FSA periodic fees. This is subject to a fixed £10m levy.
- 19.9 As stated in CP10/24, we will retain this 2010/11 framework for 2011/12. The Money Advice Service (and as CFEB previously) has existed as an independent body for a year, and is not yet in a position to review the levy structure and propose an alternative.
- 19.10 The allocation of £43.7m to the Money Advice Service funding requirement from the FSA fee-block structure for 2011/12 is set out in Table 19.2.

**Table 19.2: Allocation of Money Advice Service 2011/12 budget to fee-blocks, compared to allocation for 2010/11**

Fee-blocks	Allocation 2011/12 (£)	Allocation 2010/11 (£)	% year-on-year change
A.0 Minimum fee (i)	0.2	0.2	0
A.1 Deposit acceptors	13.9	10.5	33
A.2 Home finance providers and administrators	1.0	0.8	33
A.3 Insurers – General	3.3	2.5	33
A.4 Insurers – Life	5.2	3.9	33
A.5 Managing Agents at Lloyd's	0.1	0.1	33
A.6 The Society of Lloyd's	0.2	0.1	3
A.7 Fund managers	3.3	2.5	33
A.9 Operators, Trustees and Depositaries of collective investment schemes	0.6	0.5	33
A.10 Firms dealing as principal in investments	3.0	2.3	33
A.12 Advisory arrangers, dealers or brokers (holding client money)	2.8	2.1	33
A.13 Advisory only firms and advisory, arrangers, dealers, or brokers (not holding client money)	4.3	3.2	33
A.14 Corporate finance advisors	0.8	0.6	33
A.18 Home finance providers, advisors and arrangers	1.5	1.2	33
A.19 General insurance mediation	3.3	2.5	33
<b>Total (ii)</b>	<b>43.6</b>	<b>32.9</b>	<b>33</b>

Notes: (i) We are maintaining the minimum fee at £10 so have maintained the 2011/12 allocation to this fee-block as that allocated in 2010/11  
(ii) The difference between the total CFEB funding requirement of £43.7m in table 19.1 and the £43.6m in this table relates to the £0.1m to be recovered from PLs and 2EMD firms

19.12 The question we asked was:

**Q8:** *Do you have any comments on the proposed 2011/12 CFEB levy rates?*

19.13 We received five responses. We summarise below the responses received and our feedback to the areas focused on by respondents.



### Consultation responses

We consulted on the basis that the Money Advice Service's 2011/12 funding will come entirely from levies raised from FSMA-authorised firms, PIs and firms subject to the 2EMD. This will come through an allocation and recovery framework that mirrors the fee-block structure used to allocate our AFR in 2010/11. This approach was supported by those respondents who commented on this issue.

Some respondents noted the total budget for the Money Advice Service had increased by 33% to £43.7m. However, generally respondents agreed the Money Advice Service plays an important role in contributing to financial capability and well-being.

### OUR FEEDBACK

Having considered the responses received, we have decided to apportion the Money Advice Service levy as set out in CP11/2. This means the allocation of funding for the Money Advice Service will mirror the fee-block structure used to allocate our AFR in 2010/11. We will recover the funds from firms that have permission to undertake the regulated activities covered by the relevant fee-blocks, based on the size of the business undertaken, using the tariff data<sup>25</sup> used to calculate FSA periodic fees. This is subject to a fixed £10m levy. As explained in Chapter 13, we consulted with proposed fee rates in CP11/2 based on the latest data on firm populations and tariff data available at the time. The final 2011/12 fee rates are based on the actual tariff data reported by firms that we have received since then, and the number of authorised firms as of 1 April.

In the future, we will work with the Money Advice Service to propose a minimum levy structure that remains simple to collect, but more closely matches the Money Advice Service's strategy and business activities.

## Money Advice Service levies on account payments

- 19.14 In CP10/5<sup>26</sup> we consulted on the basis for raising Money Advice Service<sup>27</sup> levies and introduced a new chapter of the fees manual – FEES 7. The Money Advice Service levy framework covered by FEES 7 mirrors that of the FSA's periodic fees framework set out in FEES 4.

<sup>25</sup> The unit of measure for the size of business undertaken.

<sup>26</sup> *Regulatory fees and levies: Rates proposals 2010/11 and feedback statement on Part 1 of CP09/26* (February 2010)

<sup>27</sup> At the time of the CP10/5 consultation the Money Advice Service was called the Consumer Financial Education Board (CFEB)

- 19.15** Under FEES 4.3.6(1) R if a firm pays in one financial year an FSA periodic fee that is at least £50,000, it must pay 50% of that periodic fee 'on account' as a pre-payment towards its periodic fee for the following financial year by the 30 April of that year – the balance being payable by 1 September. FEES 4.3.6(2) provides that, where the FSA periodic fee was less than £50,000 in the last fee year, the whole amount due for the following year is payable by 1 July.
- 19.16** The provisions of FEES 4.3.6R are applied to the Money Advice Service levy through FEES 7.2.1(2) R. Our intention as stated in CP10/5, was that if a firm was paying its FSA periodic fees 'on account', it would also pay 50% of its Money Advice Service levy. However, as currently drafted, FEES 4.3.6R could be interpreted as saying that instead of the arrangement being triggered by the FSA fee, a firm would only pay 50% of its Money Advice Service levy 'on account' if its Money Advice Service levy had been at least £50,000 the previous year.
- 19.17** We accordingly proposed in Chapter 4 of our April 2011 Quarterly Consultation Paper (CP11/7) to amend FEES 7.2.1R to clarify this policy intention by adding a modification.
- 19.18** We asked:

*Q4.2: Do you agree that the proposed amendment to FEES 7.2.1R more clearly aligns it to the policy intention for when an 'on account' Money Advice Service levy should be paid by firms?*

#### **Consultation responses**

We received only one comment, agreeing with our proposals.

#### **OUR FEEDBACK**

We are proceeding as proposed.



## Annex 1

# Rules and guidance on fees

### Legal powers

1. The Financial Services and Markets Act 2000 (FSMA) contains two main sets of similar provisions concerning our fee-raising powers and financial penalties. One set of provisions relates to the FSA's general functions under FSMA; and the other to the UK Listing Authority (UKLA) function. The table below sets out where the provisions can be found in FSMA:

### Location of main fees material in FSMA

	Fees	Financial penalties
General functions (excluding UKLA)	paragraphs 17 – 18 of part III of schedule 1	paragraph 16 of part III of schedule 1
UKLA function	section 99	section 100

2. In addition, certain pieces of secondary legislation convey powers on us to raise fees – for example, section 5 of The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (SI 1999/2979).

### Handbook of Rules and Guidance

3. The table overleaf shows the organisation of rules and guidance in the Fees manual (FEES) in the FSA Handbook.
4. You can access our Handbook on our website at: [www.fsa.gov.uk/handbook](http://www.fsa.gov.uk/handbook).

## Location of fees rules and guidance in the Fees Manual

Chapter	Fees rules and guidance, and fee annexes
<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 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 permission or guidance on its availability in connection with the Basel Capital Accord
Annex 7R	Fees where changes are made to firms' transaction reporting systems and the FSA is asked to check that these systems remain compatible with FSA systems
Annex 8R	Fees payable for authorisation as an authorised payment institution or registration as a small payment institution in accordance with the Payment Services Regulations and electronic money issuers under the Electronic Money Regulations
Annex 9R	Special Project Fee for restructuring
Annex 10R	Fees payable for authorisation as an authorised electronic money institution or registration as a small electronic money institution or variation thereof in accordance with the Electronic Money Regulations
<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 for the period from 1 April 2010 to 31 March 2011
Annex 3R	Transaction reporting fees
Annex 4R	Periodic fees in relation to collective investment schemes payable for the period 1 April 2010 to 31 March 2011
Annex 5R	Periodic fees for designated professional bodies payable in relation to the period 1 April 2010 to 31 March 2011
Annex 6R	Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April 2010 to 31 March 2011
Annex 7R	Periodic fees in relation to the Listing Rules for the period 1 April 2010 to 31 March 2011

## Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2011/12

Annex 8R	Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April 2010 to 31 March 2011
Annex 9R	Periodic fees in respect of securities derivatives for the period from 1 April 2010 to 31 March 2011
Annex 10R	Periodic fees for MTF operators payable in relation to the period 1 April 2010 to 31 March 2011
Annex 11R	Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations and electronic money issuers under the Electronic Money Regulations in relation to the period 1 April 2011 to 31 March 2012
Annex 12G	Guidance on the calculation of tariffs set out in FEES 4 Annex 1R Part 2
<b>FEES 5</b>	<b>Financial Ombudsman service Funding</b>
Annex 1R	Annual Fees Payable in Relation to 2010/11
<b>FEES 6</b>	<b>Financial Services Compensation Scheme Funding</b>
Annex 1R	Management Expenses Levy Limit
<b>FEES 7</b>	<b>Money Advice Service</b>
Annex 1R	Money Advice Service levies for the period from 1 April 2011 to 31 March 2012

Notes: Fees for unauthorised mutuals – the ‘registrant-only’ fee-block – are in rules outside the FSA Handbook. They are available at: [www.fsa.gov.uk/Pages/Doing/small\\_firms/MSR](http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR).



## Annex 2

# Fee-blocks and tariff bases

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
A.0 Minimum periodic fee	it also falls into one of the other 'A' sub-set fee-blocks below except if it only falls in A.6 or A.20.	<b>Not applicable.</b> <i>This fee-block recovers certain minimum regulatory costs which make up the minimum periodic fee per applicable firm. For 2010/11 the minimum fee was £1,000.</i>
A.1 Deposit acceptors	its <i>permission</i> includes <i>accepting deposits or issuing e-money</i> ; <b>BUT DOES NOT</b> include either of the following: <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance</i>;</li> <li>• <i>carrying out contracts of insurance</i>.</li> </ul>	<b>MODIFIED ELIGIBLE LIABILITIES</b> <b>For banks:</b> Modified eligible liabilities (MELs), valued at: <ul style="list-style-type: none"> <li>- for a <i>firm</i> which reports monthly, the average of the MELs for October, November and December;</li> <li>- for a <i>firm</i> which reports quarterly, the MELs for December.</li> </ul> <b>For e-money issuers:</b> MELs, valued at the end of the financial year ended in the calendar year ending 31 December. <b>For credit unions:</b> MELs, valued at December or as disclosed by the most recent annual return made prior to that date. <b>For building societies:</b> MELs, valued at the average of the MELs for October, November and December.
A.2 Home finance providers and administrators	<ul style="list-style-type: none"> <li>• its <i>permission</i> includes one or more of the following:</li> <li>• <i>entering into a regulated mortgage contract</i>; or</li> <li>• <i>administering a regulated mortgage contract</i>; or</li> <li>• <i>agreeing to carry on a regulated activity</i> which is within either of the above.</li> </ul>	<b>NUMBER OF MORTGAGES OR OTHER HOME FINANCE TRANSACTIONS ENTERED INTO AND ADMINISTERED</b> The number of new mortgage contracts, <i>home purchase plans</i> or <i>home reversion plans</i> entered into in the twelve months ending 31 December; and the number of mortgage contracts, <i>home purchase plans</i> or <i>home reversion plans</i> being administered on 31 December, multiplied by 0.05 for mortgage outsourcing <i>firms</i> or other home finance outsourcing <i>firms</i> and by 0.5 for all other <i>firms</i> .



Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<b>A.3 Insurers – general</b>	its <i>permission</i> includes one or more of the following: • <i>effecting contracts of insurance;</i> (1) <i>carrying out contracts of insurance;</i> in respect of <i>specified investments</i> that are: - <i>general insurance contracts;</i> or - <i>long-term insurance contracts</i> other than <i>life-policies.</i>	<b>GROSS PREMIUM INCOME AND GROSS TECHNICAL LIABILITIES</b> Annual gross <i>premium</i> income, for the financial year ended in the calendar year ending 31 December. <b>AND</b> Gross technical liabilities valued at the end of the financial year ended in the calendar year ending 31 December.
<b>A.4 Insurers – life</b>	its <i>permission</i> includes one or more of: • <i>effecting contracts of insurance;</i> • <i>carrying out contracts of insurance;</i> in respect of <i>specified investments</i> including <i>life-policies;</i> • <i>entering as provider into a funeral plan contract.</i>	<b>ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES</b> Adjusted gross <i>premium</i> income, for the financial year ended in the calendar year ending 31 December. <b>AND</b> Mathematical reserves valued at the end of the financial year ended in the calendar year ending 31 December.
<b>A.5 Managing agents at Lloyd's</b>	its <i>permission</i> includes <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's.</i>	<b>ACTIVE CAPACITY</b> Active capacity, in respect of the Underwriting Year which is current at the beginning of the period to which the fee relates.
<b>A.6 The Society of Lloyd's</b>	It is the <i>Society of Lloyd's.</i>	Not applicable.
<p><b>Note for authorised professional firms:</b></p> <p>Generally, for fee-blocks A.7 to A.19 below, only those regulated activities that are not limited to non-mainstream regulated activities should be taken into account in determining which fee-block(s) fee payers belong to for the purpose of charging periodic fees.</p> <p>However, in the case that all the regulated activities within a firm's permission are limited to non-mainstream regulated activities, then that firm will be allocated to fee-block A.13 alone.</p> <p>This does not prevent a fee being payable by an authorised professional firm under FEES 3.2.7R (p) where it applies to vary its Part IV permission such that it would normally be allocated to fee-block(s) other than A.13 if the variation was granted.</p>		

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
A.7 Fund managers	<p>(2) its <i>permission</i> includes <i>managing investments</i>;  <b>OR</b>  (2) its <i>permission</i> includes <b>ONLY</b> either one or both of:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of investments (without arranging)</i>; and</li> <li>• <i>arranging safeguarding and administration of assets</i>;</li> </ul> <p><b>OR</b>  (3) the <i>firm</i> is a <i>venture capital firm</i>.  <b>Class (1) firms</b> are subdivided into three classes:</p> <ul style="list-style-type: none"> <li>- <b>class (1)A</b>, where the funds managed by the <i>firm</i> belong to one or more <i>occupational pension schemes</i>;</li> <li>- <b>class (1)B</b>, where: <ul style="list-style-type: none"> <li>(a) the <i>firm</i> is not a class (1)A <i>firm</i>; and</li> <li>(b) the <i>firm's</i> <i>permission</i> includes <b>NEITHER</b> of the following: <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of investments (without arranging)</i>;</li> <li>• <i>arranging safeguarding and administration of assets</i>; and</li> </ul> </li> <li>(c) the <i>firm</i> <b>EITHER</b>: <ul style="list-style-type: none"> <li>• has a <i>requirement</i> that prohibits the <i>firm</i> from holding or controlling <i>client money</i>, or both; <b>OR</b></li> <li>• if it does not have such a <i>requirement</i>, <b>only</b> holds or controls <i>client money</i> (or both), arising from an agreement under which <i>commission</i> is rebated to a <i>client</i>;</li> </ul> </li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• <b>class (1)C</b>, where the <i>firm</i> is not within class (1) A or class (1)B.</li> </ul> </li></ul>	<p><b>FUNDS UNDER MANAGEMENT</b>  Total funds under management, valued at 31 December.</p>

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
A.8	Not applicable.	Not applicable.
A.9 Operators, Trustees and Depositaries of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes	<p>(1) its <i>permission</i>:</p> <p>(a) includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>establishing, operating or winding up a regulated collective investment scheme;</i></li> <li>• <i>establishing, operating or winding up an unregulated collective investment scheme;</i></li> <li>• <i>acting as trustee of an authorised unit trust scheme;</i></li> <li>• <i>acting as the depositary or sole director of an open-ended investment company;</i></li> <li>• <i>establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme (but only if the firm does not fall within activity group A.1 or A.4);</i></li> </ul> <p><b>AND</b></p> <p><b>PROVIDED</b> the <i>firm</i> is <b>NOT</b> one of the following:</p> <ul style="list-style-type: none"> <li>• <i>a corporate finance advisory firm;</i></li> <li>• <i>a firm in which the above activities are limited to carrying out corporate finance business;</i></li> <li>• <i>a venture capital firm;</i></li> </ul> <p><b>OR</b></p> <p>(2) if the fee-payer has none of the <i>regulated activities</i> above within its <i>permission</i>, but <b>ALL</b> the remaining <i>regulated activities</i> in its <i>permission</i> are limited to carrying out trustee activities.</p>	<p><b>GROSS INCOME</b></p> <p>Annual gross income, valued at the most recent financial year ended before 31 December.</p>

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<p><b>A.10</b> Firms dealing as principal</p>	<p>its <i>permission</i> includes <i>dealing in investments as principal</i>;  <b>BUT NOT</b> if one or more of the following apply:</p> <ul style="list-style-type: none"> <li>• the <i>firm</i> is acting exclusively as a matched principal broker;</li> <li>• the above activity is limited either to acting as an <i>operator</i> of a <i>collective investment scheme</i>, or to carrying out <i>trustee</i> activities;</li> <li>• the <i>firm</i> is a <i>corporate finance advisory firm</i>;</li> <li>• the above activity is otherwise limited to carrying out <i>corporate finance business</i>;</li> <li>• the <i>firm</i> is subject to a <i>limitation</i> to the effect that the <i>firm</i>, in carrying on this <i>regulated activity</i>, is limited to entering into transactions in a manner which, if the <i>firm</i> was an <i>unauthorised person</i>, would come within article 16 of the <i>Regulated Activities Order</i> (Dealing in contractually based investments);</li> <li>• the above activity is limited to not acting as a <i>market maker</i>;</li> <li>• the <i>firm</i> is an <i>oil market participant</i>, <i>energy market participant</i> or a <i>local</i>;</li> <li>• its <i>permission</i> includes either:</li> <li>• <i>effecting contracts of insurance</i>; or</li> <li>• <i>carrying out contracts of insurance</i>.</li> </ul>	<p><b>NUMBER OF TRADERS</b>                      Number of traders as at 31 December.</p>
<p><b>A.11</b></p>	<p>Not applicable.</p>	<p>Not applicable.</p>

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<p><b>A.12</b>  <b>Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both)</b></p>	<p>its <i>permission</i>:</p> <p>(a) includes one or more of the following, in relation to one or more <i>designated investments</i>:</p> <ul style="list-style-type: none"> <li>• <i>dealing in investments as agent</i>;</li> <li>• <i>arranging (bringing about) deals in investments</i>;</li> <li>• <i>making arrangements with a view to transactions in investments</i>;</li> <li>• <i>dealing as principal in investments where the activity is carried on as a matched principal broker, oil market participant, energy market participant or local</i>;</li> <li>• <i>advising on investments (except pension transfers and pension opt-outs)</i>;</li> <li>• <i>proving basic advice on a stakeholder product</i>;</li> <li>• <i>advising on pension transfers and pension opt-outs</i>;</li> <li>• <i>advising on syndicate participation at Lloyd's</i>;</li> </ul> <p>(b) <b>BUT NONE</b> of the following:</p> <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance</i>; or</li> <li>• <i>carrying out contracts of insurance</i>;</li> </ul> <p><b>AND</b></p> <p>(c) <b>CAN HAVE</b> one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of assets</i>;</li> <li>• <i>arranging safeguarding and administration of assets</i>;</li> <li>• the ability to hold or control <i>client money</i>, or both: <ul style="list-style-type: none"> <li>- that is, there is no <i>requirement</i> which prohibits the <i>firm</i> from doing this; and</li> <li>- provided that the <i>client money</i> in question does not only arise from an agreement under which <i>commission</i> is rebated to a <i>client</i>;</li> </ul> </li> </ul>	<p><b>APPROVED PERSONS</b></p> <p>Relevant <i>approved persons</i> as at 31 December.</p>

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
	<p><b>AND</b></p> <p><b>(d) PROVIDED</b> the fee-payer is <b>NOT</b> any of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm</i>;</li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>venture capital business</i>;</li> <li>• a <i>firm</i> whose activities are limited to acting as an operator of a <i>regulated collective investment scheme</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>trustee activities</i>;</li> </ul> <p>a <i>service company</i>.</p>	

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<p><b>A.13</b>  <b>Advisory arrangers, dealers or brokers (not holding or controlling client money or assets, or both)</b></p>	<p>(1) it is an <i>authorised professional firm</i> and <b>ALL</b> the <i>regulated activities</i> in its <i>permission</i> are limited to <i>non-mainstream regulated activities</i>;  <b>OR</b>  (2) its <i>permission</i>:  (a) includes one or more of the following, in relation</p> <ul style="list-style-type: none"> <li>• to one or more <i>designated investments</i>:</li> <li>• <i>dealing in investments as agent</i>;</li> <li>• <i>arranging (bringing about) deals in investments</i>;</li> <li>• <i>making arrangements with a view to transactions in investments</i>;</li> <li>• <i>dealing as principal in investments</i> where the activity is carried on as a <i>matched principal broker, oil market participant, energy market participant or local</i>;</li> <li>• <i>advising on investments (except pension transfers and pension opt-outs)</i>;</li> <li>• <i>providing basic advice on a stakeholder product</i>;</li> <li>• <i>advising on pension transfers and pension opt-outs</i>;</li> <li>• <i>advising on syndicate participation at Lloyd's</i>;</li> </ul> <p>(b) <b>BUT NONE</b> of the following:</p> <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance</i>;</li> <li>• <i>carrying out contracts of insurance</i>;</li> <li>• <i>safeguarding and administration of assets</i>;</li> <li>• <i>arranging safeguarding and administration of assets</i>;</li> </ul> <p><b>AND</b>  (c) <b>MUST EITHER</b>:</p> <ul style="list-style-type: none"> <li>• have a <i>requirement</i> that prohibits the <i>firm</i> from holding or controlling <i>client money</i>, or both;</li> </ul> <p><b>OR</b></p>	<p><b>APPROVED PERSONS</b>  Relevant <i>approved persons</i> as at 31 December.</p>

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
	<ul style="list-style-type: none"> <li>• if it does not have such a <i>requirement</i>, only holds or controls <i>client money</i> (or both), arising from an agreement under which <i>commission</i> is rebated to a <i>client</i>;</li> </ul> <p><b>AND</b></p> <p>(d) <b>PROVIDED</b> the fee-payer is <b>NOT</b> any of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm</i>;</li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>venture capital business</i>;</li> <li>• a <i>firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>regulated collective investment scheme</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>trustee</i> activities;</li> <li>• a <i>service company</i>.</li> </ul>	
<b>A.14 Corporate finance advisers</b>	the <i>firm</i> is carrying on <i>corporate finance business</i> <b>PROVIDED</b> the fee-payer is <b>NOT</b> a <i>venture capital firm</i> .	<b>APPROVED PERSONS</b> Relevant <i>approved persons</i> as at 31 December.
<b>A.15</b>	Not applicable.	Not applicable.
<b>A.16 Pensions review levy firms (FSCS levies only)</b>	it was liable to pay the Pensions Levy to <i>PIA</i> in 2001/2002.	Percentage share of the amount paid towards <i>PIA</i> 's 2001/2002 pensions review levy by fee payers in fee-block A.16.
<b>A.17</b>	Not applicable.	Not applicable.



Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<b>A.18</b> <b>Home finance providers, advisers and arrangers</b>	its <i>permission</i> includes a <i>regulated activity</i> within one or more of the following: <ul style="list-style-type: none"> <li>• <i>entering into a home finance transaction; or</i></li> <li>• <i>arranging (bringing about) a home finance transaction; or</i></li> <li>• <i>making arrangements with a view to a home finance transaction; or</i></li> <li>• <i>advising on a home finance transaction; or</i></li> <li>• <i>agreeing to carry on a regulated activity which is within any of the above.</i></li> </ul>	<b>ANNUAL INCOME</b> Annual income for the financial year ended in the calendar year ending 31 December.
<b>A.19</b> <b>General insurance mediation</b>	its <i>permission</i> includes one or more of the following in relation to a <i>non-investment insurance contract</i> : <ul style="list-style-type: none"> <li>• <i>dealing in investments as agent; or</i></li> <li>• <i>arranging (bringing about) deals in investments; or</i></li> <li>• <i>making arrangements with a view to transactions in investments; or</i></li> <li>• <i>assisting in the administration and performance of a contract of insurance; or</i></li> <li>• <i>advising on investments; or</i></li> <li>• <i>agreeing to carry on a regulated activity which is within any of the above.</i></li> </ul>	<b>ANNUAL INCOME</b> Annual income for the financial year ended in the calendar year ending 31 December.
<b>A.20</b> <b>Markets in Financial Instruments Directive (MiFID) transaction – targeted recovery of additional IS costs</b>	it is a firm or market operator in respect of certain securitised derivatives.	<b>ANNUAL INCOME</b> For Firms: Annual income for the financial year ended in the calendar year ending 31 December in the preceding year; and  Number of relevant contracts entered into by firms in securitised derivatives which are entered into on or settled through LIFFE or Eurex Clearing AG. For market operators, a fee.

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
B.	it: <ul style="list-style-type: none"> <li>• is a <i>recognised body</i> under section 286 of the Act; or</li> <li>• has been prescribed as an operator of a prescribed market under the Financial Services and Markets Act 2000 (Prescribed Markets and Qualifying Investments) Order 2001 (SI 2001/996); or</li> <li>• is a <i>service company</i>.</li> </ul>	Not applicable. Fees set individually for each fee-payer.
C.	it has authorised/recognised CIS products under Part XVII of FSMA.	Number of funds or sub-funds operated by a <i>firm</i> as at 31 March.
D.	it is a <i>designated professional body</i> under section 326 of FSMA.	Number of <i>exempt professional firms</i> registered with each body.
E.	it is: <ul style="list-style-type: none"> <li>• an issuer of securities who has been admitted to the <i>official list</i> (as defined in section 74 of FSMA); or</li> <li>• a sponsor (as defined in section 88 of FSMA).</li> </ul>	<i>Firm's</i> market capitalisation figure (as at 30 November).
F.	it is: <ul style="list-style-type: none"> <li>• an <i>industrial and provident society</i>; or</li> <li>• a society registered under the Friendly Societies Acts; subject to the registration functions transferred to the FSA in Part XXI of FSMA; <b>BUT NOT</b> otherwise authorised under Part IV of FSMA.</li> </ul>	The fee payable by societies is based on their total assets.
G.1 Firms registered under the Money-Laundering Regulations 2007	it is registered with the FSA under the Money Laundering Regulations	Flat rate annual fee.

Activity group	Fee payer falls in the activity group if	Tariff base summary and valuation date For all A fee-blocks, please see FEES 4 Annex 1R, Part 1 and 2 for detailed tariff base descriptions.
<b>G.2 Certain deposit acceptors and e-money issuers</b>	it is a fee-paying payment service provider not falling within any of the other fee-blocks in this table	Annual fee based on modified eligible liabilities determined in the same manner as the tariff-base for relevant firms in the A.1 fee-block set out in FEES 4 Annex 1 Part 2 R.
<b>G.3 Large payment institutions</b>	it is an authorised payment institution, an EEA authorised payment institution or the Post Office Limited	Annual fee based on relevant income
<b>G.4 Small payment institutions</b>	it is a small payment institution or a small e-money issuer	Flat rate annual fee.
<b>G.5 Other institutions</b>	it is the Bank of England, a government department or local authority that provides payment services other than when carrying out functions of a public nature	As in G.3
<b>G.10 Large electronic money institutions</b>	it is a fee-paying electronic money issuer (except if it is a small electronic money institution)	Annual fee based on average outstanding electronic money
<b>G.11 Small electronic money institutions</b>	it is a small electronic money institution	Flat rate annual fee.

## Annex 3

# Administrative aspects of periodic fees

A fee-blocks Firms	Fee-block B Recognised bodies	Fee-block C CIS products	Fee-block D DPBs	Fee-block E Issuers of securities	Fee-blocks F&G Registrant-only
<b>When is the periodic fee payable?</b>					
<p>If previous year's periodic fee was £50,000 or more: 50% of last year's periodic fee by 30 April; balance of current year periodic fee by 1 September;</p> <p>Other firms: full periodic fee by 1 July; or 30 days after invoicing if later</p>	<p>UK recognised bodies: first instalment by 30 April; balance of periodic fee by 1 September;</p> <p>Overseas recognised bodies: 1 July;</p> <p>Service companies and operators of prescribed markets: as for A fee-blocks; or 30 days after invoicing if later</p>	<p>30 April, or 30 days after invoicing if later</p>	<p>If paying by instalments: first instalment by 30 April; balance of periodic fee by 1 September;</p> <p>Other DPBs: full periodic fee by 1 July; or 30 days after invoicing if later</p>	<p>30 days after invoicing</p>	<p>30 days after invoicing</p>

A fee-blocks Firms	Fee-block B Recognised bodies	Fee-block C CIS products	Fee-block D DPBs	Fee-block E Issuers of securities	Fee-blocks F&G Registrant-only
<b>What are the payment methods for the periodic fee?</b>					
Direct debit BACS/CHAPS Cheque Switch Credit card – Visa/ MasterCard only (2% surcharge) Via Premium Credit Ltd	<b>Recognised bodies:</b> None specified Service companies and operators of prescribed markets: as for A fee-blocks	As for A fee-blocks	None specified but payment expected by electronic transfer	None specified but payment expected by electronic transfer	Direct debit BACS/CHAPS Cheque Switch Credit card – Visa/ MasterCard only (2% surcharge)

**Notes:**

- 1) Failure to pay a periodic fee will generally involve contravention of a rule, so may also attract regulatory action.
- 2) Our financial year runs from 1 April to 31 March.

A fee-blocks Firms	Fee-block B Recognised bodies	Fee-block C CIS products	Fee-block D DPBs	Fee-block E Issuers of securities	Fee-blocks F & G Registrant-only
<b>What happens if the full periodic fee is not paid by the due date? (note 1)</b>					
An administrative fee of £250 plus, from the invoice due date interest on any unpaid amount at 5% per annum above the Bank of England's repo rate will be charged for the period from the due date until payment is received.	Recognised bodies: <ul style="list-style-type: none"> <li>• Not specified</li> </ul> Service companies and operators of prescribed markets: <ul style="list-style-type: none"> <li>• as for A fee-blocks</li> </ul>	As for A fee-blocks	As for A fee-blocks	As for A fee-blocks	As for A fee-blocks
<b>What periodic fee is payable where an entity joins a fee-block part-way through a fee period?</b>					
Periodic fee is calculated as for full-year, and then the following discounts apply depending which quarter of the financial year (note 2) the firm joins the fee-block: <ul style="list-style-type: none"> <li>• quarter 1: 0%</li> <li>• quarter 2: 25%</li> <li>• quarter 3: 50%</li> <li>• quarter 4: 75%</li> </ul>	UK recognised investment exchange: <ul style="list-style-type: none"> <li>• £150,000</li> </ul> UK recognised clearing house: <ul style="list-style-type: none"> <li>• £250,000</li> </ul> Overseas recognised investment exchange: <ul style="list-style-type: none"> <li>• £20,000</li> </ul> Overseas recognised clearing house: <ul style="list-style-type: none"> <li>• £50,000</li> </ul> Service companies: <ul style="list-style-type: none"> <li>• not specified</li> </ul> Operators of prescribed markets: <ul style="list-style-type: none"> <li>• as for A fee-blocks</li> </ul>	As for A fee-blocks	Not specified	As for A fee-blocks	None



## Annex 4

# Financial penalty schemes under the Financial Services and Markets Act 2000

1. We are required under FSMA to operate and publish schemes to ensure that financial penalties imposed are applied for the benefit of authorised persons or issuers of securities admitted to the Official List and issuers who have requested or approved the admission of financial instruments to trading on a regulated market.
2. By publishing details of the schemes in this Annex, we consider we are complying with the requirements of sections 100(4), 100(5) and 210(6) and paragraphs 16(4) and 16(5) of part III of schedule 1, of FSMA.

### **Penalties received under section 206 of FSMA**

3. This section of FSMA gives us the powers to impose penalties on authorised persons who have contravened a requirement imposed on them by or under FSMA.
4. Generally, penalties received under this section are for activities undertaken in a particular fee-block or blocks. Our intention is to match the costs of undertaking enforcement actions, as far as possible, with any penalties the action might generate. Following consultation in CP07/3 (February 2007), we consider it fair and proportionate to distribute financial penalties received under this section so that they benefit authorised firms in the following order:
  - firstly, they are allocated to the fee-block(s) paying the enforcement costs of a case, to meet the costs of enforcement action in full, where possible; and
  - secondly, any remaining penalties are applied to all authorised firms (the A. fee-blocks) in proportion to their respective contributions to our annual funding requirement (AFR).



5. In distributing financial penalties received under this section, we use the AFR allocation for the year in which the penalty is being applied, that is, the financial year after we receive the penalty.
6. Where the financial penalty is less than the enforcement costs incurred by a fee-block the balance of the enforcement costs will be met by that fee-block.
7. We also consider that an individual authorised firm should not benefit from penalty deductions generated by a fine we have imposed on it. In this situation, we will therefore invoice the firm to recover the value of the penalty deduction it would have received, where this amount exceeds £250.

### **Penalties received under section 66 of FSMA**

8. This section of FSMA gives us the power to impose penalties on any person guilty of misconduct while an **approved person** in the circumstances set out under section 66.
9. Penalties imposed on approved persons will be treated as if the fine had been imposed on the authorised person that employed them when the misconduct occurred, and are dealt with in the same manner as penalties received under section 206, as set out in paragraph 4 above.

### **Penalties received under section 91 of FSMA**

10. This section of FSMA gives us the power to impose penalties for breach of Part 6 rules.
11. Penalties imposed under this section of FSMA are applied for the benefit of issuers of securities admitted to the Official List and issuers who have requested or approved the admission of financial instruments to trading on a regulated market, in the E fee-block.

### **Penalties imposed under section 123 of FSMA**

12. This section of FSMA gives us the power to impose penalties on any person that has engaged in market abuse. How we will apply penalties that we receive under this section of FSMA, for the benefit of authorised persons, differs with the nature of the person to which the penalty applies. The scheme operates as follows:
  - market abuse penalties imposed on **authorised persons** are dealt with, as penalties received under section 206, in the manner described in paragraph 4 above;
  - market abuse penalties imposed on **approved persons** will be treated as if the fine had been imposed on the authorised person that employed them when the abuse occurred, and so allocated as in the manner described in paragraph 4 above; and

- market abuse penalties imposed on persons who are **neither approved nor authorised** are applied for the benefit of all authorised persons (the A. fee-blocks), in proportion to the AFR of each fee-block.



## Annex 5

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# Special project fees case studies

1. Chapter 7 of this paper sets out our policy on special project fees (SPFs) and summarises three types of transactions where a Guidance SPF applies. This Annex contains more detailed case studies for each of those transaction types to provide fee payers with further illustration of the circumstances in which we would be likely to charge a special project fee.

### **Insurance company reorganisations**

#### **Inherited estate transactions**

2. While this case study is based on previous inherited estate transactions carried out under pre-FSMA legislation, it takes into account how the transaction would be affected by the current legislation.
3. *Scenario:* a life insurance group indicated to us that it was considering restructuring a number of subsidiary insurance companies. The proposed restructuring included a transfer of inherited estate assets between two entities under Part VII of FSMA.
4. We had initial discussions with the group regarding the terms of reference for the 'independent expert' and the form of the 'scheme report' to be prepared by the expert. The group then requested formal approval of both these items (section 109 of FSMA). Subject to the outcome of the current consultation (see CP207, published in December 2003), for future transactions we also anticipate considering the terms of appointment of, and then approving the appointment of, a 'policyholder advocate'.

5. Following the appointment of the independent expert (and policyholder advocate), we discussed with the group the details of the proposed restructuring and transfer. This process was repeated and proposals became more detailed over time.
6. Detailed consideration was given to the:
  - proposed legal entity structure of the restructured group;
  - proposed structure of the with-profits fund;
  - likely prudential treatment of the restructured group, including how solvency requirements would be met; and
  - re-attribution proposals and, in particular, the assessment of whether the proposals would adversely affect the interests of policyholders.
7. Had this transaction been taking place under FSMA, we would have been giving the group individual guidance, during the course of these discussions, on how the proposed restructuring and transfer would meet our principles for business (PRIN), in particular principle 6 (customers' interests). We may also have given individual guidance on other aspects of the restructuring – for example, compliance with threshold conditions and aspects of the Handbook. To give this guidance we would need to carry out extensive and detailed analysis of the proposals.
8. At the end of the discussion process, the group would have applied to the court (under section 107 of FSMA) for approval of the Part VII transfer. We have the right to appear in Court (section 110 of FSMA) and must decide whether to appear, and if so whether to support the group's proposals. This will require us to assess the final scheme proposals. The extent to which we will need to analyse the final proposals will depend on the preceding discussions with the group.
9. There may also be applications for change of controller for some entities and/or applications for variations or cancellations of Part IV permissions associated with the restructuring.
10. Based on previous cases we estimate that under FSMA, approximately 90% of the work required during this process would be to prepare and provide individual guidance to the group.

## Merger

11. *Scenario:* a mutual life insurance firm approached us to discuss its proposals for a change of strategy which was likely to involve reorganisation of its business and a merger with another firm.
12. The firm approached us to discuss its options and to find out whether these were likely to raise regulatory concerns during the restructuring process. Areas discussed included:

- the prudential/solvency position of the firm after the reorganisation;
  - the potential supervisory treatment of the firm after the restructuring;
  - how the restructuring proposals would meet our principles for fair treatment of policyholders in the with profits fund; and
  - how the restructuring would affect current outstanding regulatory issues including the conclusion of the pensions review and its approach to guaranteed annuity rates.
13. After the initial discussion, the firm engaged consultants to help them identify and shortlist potential partners. We maintained regular contact throughout that process and provided guidance on issues as they arose and as the proposals became more detailed. It was clear from an early stage that the outcome would include a demutualisation and transfer of business to another shareholder owned entity. It also became clear that some of the options would involve creating a new company which would need to be authorised.
14. We gave the firm guidance on what these various processes would involve and how the firm should approach them to help get early decisions from us. Once a preferred bidder was identified and broad terms of the deal had been agreed by the parties, we then worked with both firms as they drafted the offer to members, publicity material, the business transfer scheme and the application for authorisation of the successor company. We gave extensive guidance to both firms on issues as they arose during the completion of the deal and the drafting of the formal applications to us and the courts.
15. In this case, our estimate is that around 70% of our work amounted to providing individual guidance.

### Large merger

16. *Scenario:* two UK banks intended to merge, and informed us some months before the formal decision by the shareholders of each bank to approve the merger proposal and before any request for formal regulatory approval.
17. During this period, the banks asked us for our view on several issues for the merged bank. These included:
- the proposed legal vehicle and surrounding legal structure of the merged bank;
  - the likely prudential requirements for the merged bank, including the individual capital requirement;
  - the proposed management structure; and
  - the systems and controls to be used in the merged bank.

18. In forming their views on these (and other) issues, our staff had to undertake detailed analysis of, for example, the financial projections for the merged bank, and the scalability of existing systems and controls in the two banks.
19. Following formal approval from their shareholders to proceed with the merger, the banks submitted a formal application to us to approve the change of shareholder controller. In this case there was no requirement for cancellations or variations of Part IV permissions, but there may be in other cases.
20. We had to analyse the information provided in the change of controller application. In this case the change related primarily to the structure of the controllers rather than their identity, and consequently the analysis required to process the application was relatively minor.
21. After the merger took effect, we continued to give individual guidance to formally confirm the prudential and other requirements for the merged bank. There was also a period of more intensive monitoring of the merged firm to check that issues, for example system changeovers, were on track.
22. In this case most of our work was to give individual guidance to the firms on whether their proposals for the merged firm would meet various Handbook requirements, including compliance with threshold conditions (COND) and principles (PRIN), or senior management arrangements, systems and controls (SYSC) requirements.
23. Our estimate is that approximately 90% of FSA effort (and cost) was spent in providing individual guidance.

### **Demutualisation**

24. *Scenario:* a building society informed us that it had decided to demutualise.
25. The society held discussions with us about the initial press release, questions and answers and preliminary information to be sent to members. Where a demutualisation is by way of a merger with another firm, we would normally also hold initial discussions on the issues identified in the 'large merger' case study above.
26. The society then discussed with us the structure of the statutory transfer document (which we have to approve) and the draft specification of the cash/share distribution scheme. We commented on the extent to which the proposals complied with the provisions of the Building Societies Act 1986. If we had viewed the proposed distribution scheme as unlawful – and the society disagreed – this issue would need to be settled in court (as has happened in three of the ten conversions). In these circumstances, we would need to brief counsel and might need to hire other outside lawyers. This might involve a significant amount of work, in particular for our in-house lawyers, in preparing our case.

27. The society then submitted a draft transfer document. There followed a series of meetings, discussions and correspondence between us and the society on successive drafts (normally between six and twelve drafts). Once we agreed the transfer statement, it was sent to society members who then voted on the proposal.
28. The members voted in favour of demutualisation, so the society had to then apply to us for confirmation (a statutory process). As part of this process members and other interested parties can make written and/or oral representations (for, or – usually – against, the transaction proceeding). We held a public hearing to take oral representations and gave the society an opportunity to respond to all representations made. At the same time, we got information from the society about the conduct of the members' vote: this stage may also involve meetings/correspondence.
29. We confirmed our decision in writing (which we published) addressing, among other things, all the representations made and our conclusions on them.
30. When considering demutualisation, the bulk of our analysis is in connection with the approval of the transfer statement, and then the confirmation statement. Individual guidance is normally only given at the very early stages of a demutualisation.
31. Our estimate for a demutualisation that does not go to court is that 35% to 60% of our work relates to providing individual guidance.