

Regulatory fees and levies: policy proposals for 2022/23

Consultation Paper

CP21/33**

November 2021

How to respond

We are asking for comments on this Consultation Paper (CP) by **31 January 2022**.

You can send them to us using the form on our website at: www.fca.org.uk/cp21-33-response-form

Or in writing to:

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1 Summary

Why we are consulting

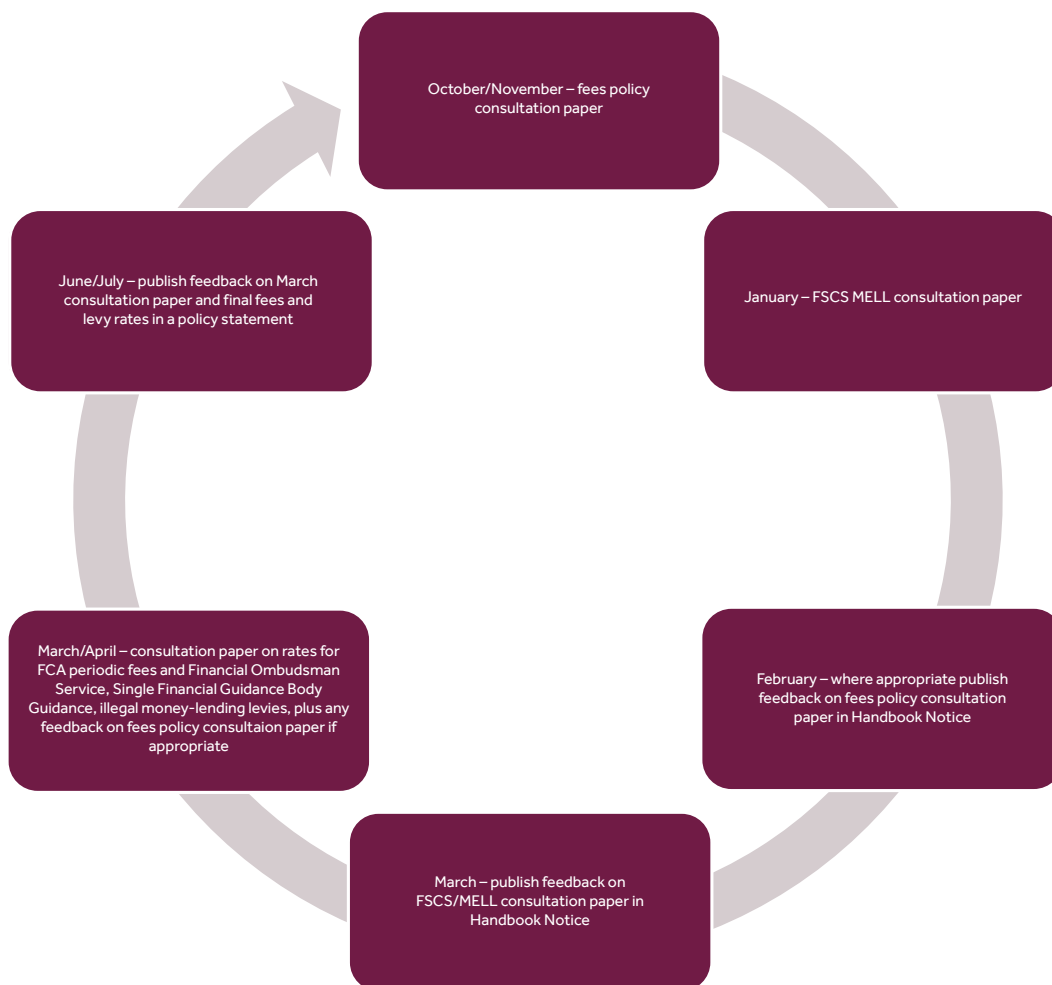
- 1.1** This consultation paper (CP) sets out our proposed policy changes to the way we will raise FCA fees from 2022/23. We are funded entirely by the fees and levies from the firms we regulate. We do not receive any funding from other sources.

Who this applies to

- 1.2** This document applies to all FCA fee-payers and to any businesses considering applying for FCA authorisation or registration.
- 1.3** Each chapter deals with a specific policy area and identifies the bodies it will affect. See Table 1.1 of this CP.
- 1.4** This CP is not directly relevant to retail financial services consumers, although our fees are indirectly paid by users of financial services.

The wider context

- 1.5** Our annual fees consultation follows the following cycle:
- October to November – we consult on any changes to our policy on how we raise fees and levies. We give our feedback on the consultation responses in the following February/March Handbook Notice or the March/April CP.
 - January – we consult on the Financial Services Compensation Scheme (FSCS) management expenses levy limit (MELL), a joint consultation with the Prudential Regulation Authority (PRA). We give our feedback on the consultation responses in the March Handbook Notice.
 - March to April – we consult on FCA periodic fees rates for the next financial year (1 April to 31 March) and any proposed changes to application fees or other fees. We also consult on the Financial Ombudsman Service general levy, the Single Financial Guidance Body levies and illegal money-lending levies for the next financial year.
 - June to July – we publish feedback on responses received to the March CP with final fees and levy rates in a policy statement.



Summary of proposals

1.6 Each chapter deals with a self-contained area of policy, summarised below.

- Chapter 2 presents a model for calculating minimum fees in the A fee-blocks and proposes integrating consumer credit firms with the minimum fees and prudential charges of A-block firms.
- Chapter 3 reviews the fees implications of the Investment Firms Prudential Regime (IFPR). It proposes charging special project fees (SPFs) to recover costs directly from firms whose applications for the use of certain risk models will require exceptional supervisory resources and discusses our approach to periodic fees.
- Chapter 4 presents other fees policy proposals – reporting arrangements for pre-paid funeral plan firms and the extension to them of the annual charge for approved persons; an uplift to the application fees of recognised overseas investment exchanges which intend to use new and untried IT; and two technical drafting clarifications to the FEES handbook.
- Chapter 5 discusses our approach to recovering the costs of projects which bring new types of firm into our regulatory scope following changes in legislation.

Next steps

- 1.7** Please consider our proposals and send us your comments on the questions in this CP by 31 January 2022.
- 1.8** Use the online response form [insert link] or write to us at the address on page 2.
- 1.9** We will consider your comments and publish our feedback, and our rules, in our Handbook Notice in March 2022 or in the March/April 2022 CP on fee-rates.

Equality and diversity considerations

- 1.10** We have considered the equality and diversity issues from our proposals.
- 1.11** Overall, we do not consider that the proposals negatively affect any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.
- 1.12** In the meantime, we welcome your input to this consultation on this.

Table 1.1: Fee-payers likely to be affected by each chapter of this CP

Issue	Fee-payers likely to be affected	Chapter
Model to set the minimum fee in fee-block A.0 in relation to the minimum cost of being regulated	All fee-payers in the A and CMC (claims management companies) fee-blocks	2
Integrate fully authorised consumer credit minimum fees into fee-block A.0 and link limited permission minimum fees to the A.0 model	All consumer credit firms in fee-blocks CC.1 and CC.2	2
Integrate fully authorised consumer credit firms into the AP.0 prudential fee-block	All variable rate fee-payers in fee-block CC.2	2
Fee for risk modelling and approach to periodic fees under the investment firms prudential regime (IFPR)	All firms affected by IFPR in fee-blocks A.10 and A.13	3
Data reporting for fees purposes	All pre-paid funeral plan (FP) firms	4
Inclusion of pre-paid funeral plan (FP) firms in annual charge for appointed representatives (ARs)	All FP firms which are or are considering becoming ARs and all FP firms which have registered, or intend to register, ARs	4
Additional charge for recognised overseas investment exchanges (ROIEs) which intend to use new and untried IT systems	All ROIEs	4
Minor drafting clarifications	All FCA fee-payers	4
Approach to recovery of costs from firms brought into the scope of FCA regulation through legislation	All FCA fee-payers and prospective fee-payers	5

2 Review of FCA minimum fees

(Draft instrument in Appendix 1 - FEES 4 Annex 1A and 2A)

2.1 When we consulted on FCA fee-rates in April 2021, we said we would undertake a review of our fees structure, including minimum fees, as part of our Transformation Programme. This chapter presents our initial proposals on minimum fees:

- Fee-block A.0: Rebase the fee on the minimum cost of being regulated;
- Fee-block CC.2: Integrate fully authorised consumer credit minimum fees into fee-block A.0;
- Fee-block CC.1: Rebase limited permission consumer credit minimum fees on the A.0 fee;
- Fee-block AP.0: Integrate fully authorised consumer credit into the prudential fee-block.

2.2 At this stage, we are consulting about our approach to setting the fees. We are not speculating on the additional revenue our proposals might generate nor considering how we might use it. We will set the rates in our spring 2022 consultation on fee-rates. By that time we will have set our budget for 2022/23, so will be able to take into account our funding requirements for the coming year and the feedback we have received through this consultation.

Fee-block A.0: rebase the fee on the minimum cost of being regulated

2.3 Almost all FCA fee-blocks have a structure of minimum fees and variable fees. All firms in the fee-block pay a minimum fee, and then the larger ones whose fees metric takes them above a certain threshold pay variable fees on top of that. Firms in the A fee-blocks pay a single minimum fee in fee-block A.0, currently £1,151, no matter how many A-blocks they fall into. In the fee-blocks which use income as a metric, the most common threshold is £100,000 of regulated income. So, for example, a financial intermediary in fee-block A.13 pays the A.0 minimum fee of £1,151 plus £2.443 per £1,000 on regulated income above the £100,000 threshold. About 37% of firms in the A fee-blocks pay minimum fees only.

2.4 The charge for fee-block A.0 was set at £1,000 over 10 years ago in 2010/11. It remained at that level until 2015/16 when we increased it in line with the overall increase in our annual funding requirement (AFR). In 2017/18, we introduced a policy to link minimum fees with the annual change in our operating costs (ORA – ongoing regulatory activities). It has been frozen at £1,151 since 2020/21 to protect the smallest firms during the pandemic.

2.5 Minimum fees ensure that all firms contribute towards the costs of regulating them. We said in our April 2021 consultation that small firms who only pay minimum fees should make a contribution that more fully reflects the costs associated with FCA authorisation and ongoing supervision. A firm which needs to be regulated by the FCA, even if that is for an ancillary part of its business, will recognise that regulatory approval

brings value but also specific and serious obligations. We have seen over recent years that the costs to customers of small firms can be high when things go wrong. We have to take a data-led approach to ensure effective oversight of the large number of small firms within our remit. That is why we are investing £100m in improving our technology so we can make the best use of our data and strengthen our capability for surveillance and intelligence to identify firms and individuals of concern. We recognise too that there is a high cost to firms, through levies under the Financial Services Compensation Scheme (FSCS), when their competitors fail. We are accordingly enhancing our scrutiny of applications for authorisation to reduce the possibility of unsuitable firms passing through the regulatory gateway. This includes recruiting more staff to strengthen our assessment of applications for approval by both firms and individuals.

2.6 In 2010/11, the FSA (Financial Services Authority - predecessor to the FCA) developed a model to quantify the cost of its basic services. The aim was that the minimum costs of regulation should be clearly defined, based on a stated rationale and applied consistently so that, allowing for exceptions where appropriate, every firm should make an equal contribution to the minimum costs of regulation. As explained in paragraph 2.4, the FSA set the charge at £1,000. We have reviewed this exercise and consider that it continues to provide a rational and consistent basis for calculating minimum fees. The model factors in pro-rated overheads of accommodation and central services such as HR, payroll, the CEO and the Board. It presents a virtual FCA carrying out minimal regulatory functions - effectively acting as a registrar, with about 700 employees and costing about £50m.

2.7 Our model of the minimum cost of being regulated is summarised below:

- **Regulatory reporting** - Costs of collecting, validating and carrying out first line checks on regulatory returns. All firms are required to submit regulatory returns and these functions represent the minimal level of supervisory oversight. The amounts we receive from firms who pay an administrative charge of £250 when they submit their regulatory returns late are deducted.
- **Supervision Hub** – This was known as the Customer Contact Centre in 2010/11. It provides advice and guidance to regulated firms and consumers. All firms benefit from this service, so it is reasonable that they should contribute towards its costs.
- **Unrecovered authorisation costs** – These are the costs of authorising firms, dealing with variations of permission (VoPs), registering appointed representatives, vetting approved persons, dealing with changes in control, etc, after deducting the revenues recovered through application and VoP fees. We have used the annual estimates quoted in our November 2020 consultation for the revenue anticipated from application fees after we revalorise them later this financial year. All firms benefit from the market confidence that is generated by preventing entry of firms that do not meet threshold conditions, vetting key individuals and overseeing changes in control.
- **Policing the perimeter** - As with authorisation costs, all firms benefit from the market confidence that is generated by investigating persons who may be carrying on regulated activities without authorisation.

- 2.8** At this stage, we propose to limit the model to the firms in fee-block A.0. These account for 83% (£510.9m) of our AFR costs and cover major regulated activities such as deposit taking by banks and building societies, insurance, fund management, retail investment, claims management, investment, mortgage and general insurance intermediation. Once we have established the model, taking into account any modifications suggested through consultation, we will consider how to apply it more widely.
- 2.9** At 83% of the AFR, the A fee-blocks would be liable to about £41.5m of the £50m generated by our model, compared to £21m currently raised by A.0. This is equivalent to a minimum fee of £2,200 per firm.

Fee-block CC.2: Integrate fully authorised consumer credit (CC) minimum fees into fee-block A.0

- 2.10** Consumer credit permissions fall under FSMA Part 4A but consumer credit minimum fees were kept out of fee-block A.0 when we took over responsibility for consumer credit regulation from the Office of Fair Trading (OFT) in 2014. Our objective was to target consumer credit fees on recovering the cost of setting up the new regime - approximately £62m. OFT charges were extremely low, so we supported the smallest firms by introducing low tiered minimum charges based on regulated income. Only consumer credit fee-blocks follow this model of tiered minimum fees. By 2020/21, consumer credit minimum fees ranged from £106 - £530 for limited permission firms in fee-block CC.1 and £318 - £1,061 for full permission firms in fee-block CC.2. Now that the project costs have been fully recovered, we used our April 2021 [consultation](#) to raise the minimum fees to £250 - £750 in fee-block CC.1 and £750 - £1,151 (equal to A.0) in CC.2.
- 2.11** A firm which is in an A fee-block and also in CC.2 pays both the A.0 minimum fee and the minimum fee for CC.2. This particularly affects financial intermediaries, such as mortgage brokers, whose consumer credit activities are ancillary to their main business. They and their representatives have for some years argued that they should not pay an additional consumer credit minimum fee when they derive no income from credit-related activity.
- 2.12** We said in our [April 2021 CP](#) that we would consider merging the CC and 'A' structures and that increasing minimum fees for consumer credit firms was a first step towards this. We now propose to complete the process by removing the minimum fees from CC.2 and bringing fully authorised consumer credit firms into A.0. Instead of paying different minimum fees in fee-block CC.2 based upon their income, they will pay the single standard minimum fee in fee-block A.0.
- 2.13** There are over 13,000 fee-payers in CC.2 but most of them (about 65%) are already in fee-block A.0 because they have permissions in various A fee-blocks. These firms would continue to pay their A.0 fee but would no longer pay an additional fee in fee-block CC.2. About 4,500 firms would be new to fee-block A.0, paying that fee instead of their CC.2 minimum fee.

Fee-block CC.1: rebase consumer credit limited permission minimum fees on the A.0 fee

- 2.14** Firms with limited consumer credit permission are subject to a lighter regulatory regime so pay lower fees. Although their costs are included in the model summarised in paragraph 2.7, we believe they should continue to pay lower minimum fees. We do not separately quantify the demands on our services from limited permission consumer credit firms in comparison to fully authorised firms, but we consider it would not be reasonable to set the charge for limited permission firms at more than half of the fee for fully authorised firms. That would in practice mean setting it at half the A.0 fee.
- 2.15** If the A.0 fee was £2,200, this would make the CC.1 fee £1,100. In 2020/21, limited permission firms with income up to £10,000 paid £106 and we raised that to £250 in 2021/22. A jump to £1,100 in 2022/23 seems unreasonably large, so we propose to stagger it over 2 years, with a charge of £500 in 2022/23, then moving to £1,100 in 2023/24.

Fee-block AP.0: Integrate fully authorised consumer credit firms into the prudential fee-block

- 2.16** Firms in the A fee-blocks which pay variable fees on top of the A.0 minimum fee pay an additional charge in fee-block AP.0 to cover prudential regulation. This seeks to ensure that firms prudentially regulated by the PRA do not inadvertently pay for FCA prudential regulation. The fee is calculated from the sum of all their fees in the respective A fee-blocks, multiplied by 0.1055 in 2021/22. Consumer credit firms were excluded from AP.0 to target recovery of the project costs so it is now reasonable to integrate them into it. Most of the variable fee-payers already pay fees in the A fee-blocks, so this only brings 602 new fee-payers into fee-block AP.0. 95% of consumer credit firms pay minimum fees only so the firms affected by this proposal are larger fee-payers, with incomes above the minimum fee threshold of £250,000 for consumer credit firms.

Summary of proposals

- 2.17** Table 2.1 summarises our proposals for minimum fees in fee-blocks A.0, CC.1 and CC.2. We recognise that the revised rates represent large increases for the smallest firms which pay minimum fees only, especially small CC firms. But we consider that basing the charges on our model represents a more realistic contribution towards the cost of being regulated. We have not yet decided whether to introduce the increases immediately or spread them over a longer period as we have proposed for fee-block CC.1 and we would welcome comments on that.

Table 2.1: Proposed minimum fees - summary

Credit-related income	2020/21	2021/22	Proposed	
			2022/23	2023/24
Fee-block A.0				
Not applicable	£1,151	£1,151	£2,200	£2,200
Fee-block CC.1 (limited consumer credit permission)				
Up to £10,000	£106	£250	£500	£1,100
£10,000 - £50,000	£266	£500	£1,100	
£50,000 - £100,000	£424			
Over £100,000	£530	£750		
Fee-block CC.2 (full consumer credit authorisation)				
Up to £50,000	£318	£750	£2,200*	£2,200*
£50,000 - £100,000	£530	£1,000		
Over £100,000	£1,061	£1,151		

*Note: Fee-block CC.2 integrated into fee-block A.0 from 2022/23

2.18 Our proposals for consumer credit fees do not affect credit unions, not-for-profit debt advisers, mutuals and community finance organisations. These firms have a social purpose and we are maintaining their existing concessions on fees to support their role in delivering government policy towards low income, financially vulnerable and/or financially excluded consumers.

Q1: Do you have any comments on our proposals to rebase minimum fees for the A and consumer credit fee-blocks on our model of the minimum cost of being regulated, and to integrate consumer credit firms into the prudential fee-block AP.0?

3 Investment firms prudential regime

- 3.1** In this chapter we consult on charges for investment firms which submit applications that take up significant amounts of our resources. We also set out our high-level approach towards the calculation of periodic fees for firms which have permission to deal in investments as principal (trading firms) in the light of the new Investment Firms Prudential Regime (IFPR) that we expect to come into force on 1 January 2022.

Background

- 3.2** The IFPR is a new prudential regime for UK firms authorised under the UK Markets in Financial Instruments Directive (MiFID) regime. It streamlines and simplifies prudential requirements by introducing a single prudential regime. It shifts the focus away from only looking at the risks firms face and also seeks to mitigate the potential for harm that these firms can pose to their consumers and markets. We consulted on our approach to regulation under the IFPR in [December 2020](#), [April 2021](#) and [August 2021](#). FCA regulation will be undertaken under a new sourcebook, MIFIDPRU.

Application fees

(Draft instrument in Appendix 1 – FEES 3 Annex 9R)

- 3.3** In our [April 2021](#) consultation and our subsequent policy statement in [July 2021](#), we explained that we did not intend to charge fees for the majority of applications under MIFIDPRU and would instead recover our costs from all affected firms through periodic fees.
- 3.4** However, we recognised that some applications would put significant demands on our resources because they would require a high level of external expertise and take a substantial amount of time to determine. We said we would consider extending the model of special project fees (SPFs) to recover these costs. SPFs are charged to recover our exceptional supervisory costs where a firm requires major input from us. They are calculated from the number of hours individuals work on the specific project, plus the costs of any professional advisers we need to engage. The hourly FCA rates are set out in [FEES 3 Annex 9R](#). External payments are charged at cost. We start charging when our costs go above £50,000 and we give firms advance notice of our intention. At that stage firms may, if they wish, withdraw their application with no charge. If we proceed, we charge the full amount, including our costs below the £50,000 threshold.
- 3.5** We accordingly propose to amend the definition of SPFs in [FEES 3 Annex 9R](#) to include applications under MIFIDPRU 4.12.4R for permission to use advanced internal models to calculate K-NPR (market risk) own funds requirements.

Q2: Do you have any comments on our proposal to extend the definition of special project fees to include certain significant applications under MIFIDPRU?

Periodic fees

- 3.6** In this section, we present for discussion some changes we are considering in our approach to periodic fees payable by firms affected by the IFPR. We are not consulting at this stage. But we would welcome comments on the topics we address and any technical questions we should take into account to ensure that all firms contribute consistently, fairly and proportionately towards our cost recovery.
- 3.7** The IFPR aligns the treatment of different types of MiFID firms that deal on their own account (which we refer to below as MiFID trading firms) by requiring them to apply the same harm-based metrics for capital requirements purposes. Regardless of whether they ultimately trade for their own benefit or on their underlying clients' behalf, they are treated the same, and should be treated the same for fees purposes as well.
- 3.8** While most MiFID and non-MiFID trading firms are currently in fee block A.10 (firms dealing as principal), there are some MiFID trading firms who, as a result of historical prudential categorisation, fall instead within fee block A.13 (Advisors, arrangers, dealers or brokers).
- 3.9** Firms in fee block A.10 have their fees calculated on the basis of the number of traders they employ who commit the firm in market dealings or other specified investments. This fee block comprises all MiFID trading firms with the exception of those falling within the following pre-IFPR prudential categories:
- 'local' investment firms
 - matched principal dealers
 - specialist commodities derivatives investment firms (oil market participants (OMPS) and energy market participants (EMPS))
- 3.10** Instead, these MiFID trading firms currently fall within fee block A.13 and have their fees calculated on the basis of their annual income from the regulated activities. Details of the fee-blocks are in [FEES 4 Annex 1A](#).
- 3.11** When the IFPR comes into force, the prudential categorisation which resulted in MiFID trading firms falling within 2 different fee blocks ceases to apply. In the longer term we expect to merge the 2 fee blocks into a single fee-block. We anticipate achieving this by expanding the definition of A.10 to incorporate the types of firm listed in paragraph 3.9. We do not propose any changes to how firms calculate their periodic fees for the year ahead. But we wish to ensure that, going forward, there is a single fee block for all trading firms subject to MIFIDPRU, so that their fees can be calculated using a metric that better reflects the level of harm their activities pose.
- 3.12** Under the current definitions, matched principal brokers fall into A.13 because dealers as principal whose permission is limited to matched principal broking are excluded from A.10. Once the IFPR comes into force, they will be able to remove that limitation. That would have the effect of bringing them into fee-block A.10. Usually, removal of a limitation does not affect a firm's fee-block and is liable to an administrative charge

of £250 for the variation of permission (VoP). This will increase to £500 under the new structure of application fees we consulted on in November 2020 and which will come into force later this financial year. In this case, however, removal of the limitation would exclude them from A.13 and bring them into A.10. The VoP charge for taking on a permission in a new fee-block is 50% of the application fee. The application fee for A.10 is now £5,000, rising to £10,000 under the new structure. Any firm removing the limitation would therefore pay half of the full application fee for the VoP and also pay fees in A.10, based on the number of traders. The current rate is £6,687.26 per trader.

- 3.13** We no longer consider a headcount of traders to be a good proxy for the risks trading firms pose to our statutory objectives, and therefore the way we allocate the periodic fees they pay. The growth of automation and high frequency trading, among other things, mean that the link between a headcount of traders and the level of harm posed by individual firms is weaker and more variable than in the past.
- 3.14** While annual income, being a volume-based metric, may be a good proxy for the risks of harm posed by firms in general, and a good measure for fee-block A.13, alternative metrics may provide better measures of the risks arising from the specific activity of dealing in investments as principal.
- 3.15** We believe that market risk and trading volume metrics used for the purpose of calculating capital requirements are the best proxy for the level of harm trading firms pose to our statutory objectives and propose to use them as the basis for calculating periodic fees. However, market-risk capital requirements are currently calculated differently for MiFID and non-MiFID firms. This makes it harder to identify one single market risk metric that could be used by all these firms. In order to create a common fee block for all trading firms, we may therefore initially need to split out the non-MiFID firms into a separate fee block for a period.
- 3.16** There are several market risk or trading volume metrics that we could use for the purpose of fees calculation. The IFPR uses K-NPR (net position risk) and K-DTF (daily trading flow) for MiFID firms, while IPRU-INV Chapter 3 uses PRR (position risk requirement) for non-MiFID firms. A combination of K-DTF and K-NPR can be used for MiFID firms, while non-MiFID firms can use PRR alone. Pending future review of the prudential regime for non-MiFID firms, we will aim to ensure that eventually all trading firms are in the same fee block and use the same metrics.
- 3.17** We welcome stakeholders' views on this high-level approach to how periodic fees are calculated after implementation of IFPR. We will use data from the regulatory returns under IFPR next year to assess how fees for MiFID trading firms based on such harm-based metrics might be calibrated, and the impact compared to the current metrics, with a view to consulting on a detailed proposal in autumn 2022.

Q3: Do you have any comments on the most appropriate metric or combination of metrics we might use to calculate the fees of MiFID trading firms, and are there any technical issues we should take into account to ensure consistency, fairness and proportionality?

Q4: Can you suggest an alternative metric or combination of metrics that we should consider?

4 Other fees policy proposals

4.1 In this chapter, we set out proposals for:

- collecting data from pre-paid funeral plan (FP) firms for the calculation of FCA fees and not exempting them from the annual charge for registered appointed representatives (ARs)
- introducing a new charge for recognised overseas investment exchanges (ROIEs)
- clarifying 2 of our rules

Pre-paid funeral plan (FP) firms

4.2 FP firms are being brought into the scope of FCA regulation from July 2022. We consulted on FP application fees and our approach to periodic fees in [April 2021](#). In [July 2021](#), we provided feedback on the consultation responses and set the application fees. To help FP firms with their business planning, we also quoted an indicative variable rate for periodic fees of around £15 per £1,000 of regulated income. We will consult on the final rate for 2022/23 in spring 2022. The fees for 2022/23 will be based on the income data that firms provided with their applications.

4.3 We are now consulting on how we should collect the data required to calculate periodic fees going forward and on whether we should exempt FP firms from the annual charge for appointed representatives (ARs).

Data reporting

4.4 The periodic fees for FP firms will be based on their annual income from regulated FP activity. In [April 2021](#) we consulted on extending to FP firms our standard definition of income in FEES 4 Annex 11AR, along with the guidance in FEES 4 Annex 13G Table 1, and we confirmed the position in [July 2021](#). FP firms should report their annual income from regulated FP activity for their latest financial year.

4.5 Also in [July 2021](#), we finalised the regulatory returns that FP firms will start to submit from 29 July 2022 when pre-paid funeral plans come into our regulation.

4.6 It will be most convenient, both for ourselves and firms, if FP firms provide the information required for fees as part of their standard regulatory reports rather than submitting it separately. We accordingly propose to introduce a section on fees into their half-yearly prudential reports. This will enable FP firms to submit their data when their financial year-end falls within the reporting period.

4.7 The regulatory returns will be in SUP 16 Annex 50AR, with guidance in SUP 16 Annex 50BG. They have been published in Appendix 1 of [PS21/08](#) (pages 171–194). Form FPR003a will be completed by providers and form FPR003b by intermediaries. We propose to add a new Part 4 on fees at the end of both returns, as set out in Table 4.1.

Table 4.1: Proposed report on income data for fees, to be added to forms FPR003a and FPR003b

Part Four: Data required for the calculation of fees

Section F: Gross income

98	Did your financial year end during the current reporting period? If Yes, please report your gross income for the latest financial year. This will be used to calculate your periodic (annual) fee.	Yes/No
99	Gross income recognised in the accounts from regulated pre-paid funeral plan activity	

Note: Table shows the addition to form FPR003a. In form FPR003b, the questions would be 73 and 74

4.8 Table 4.2 shows the guidance we propose to add to SUP 16 Annex 50BG. There is only one guidance annex for both returns, using the numbering of FPR003a. A validation in the returns will prevent firms from inadvertently reporting an income figure if their financial year did not end during the reporting period.

Table 4.2: Proposed guidance on data required to calculate fees

98	Did your financial year end during the current reporting period?	Only answer question 99 if your latest financial year ended during the six-month period covered by this return
99	Gross income recognised in the accounts from regulated pre-paid funeral plan activity	The definition is in FEES 4 Annex 11AR , with guidance in FEES 4 Annex 13G Table 1

Q5: Do you have any comments on our proposal to include a question on income for fees purposes in the half-yearly returns submitted by pre-paid funeral plan firms?

Charge for appointed representatives (ARs)

4.9 Since FP firms are not paying periodic fees in 2021/22, they were not included in our consultation in [April 2021](#) on introducing an annual charge for registered ARs. However, two took the opportunity to express dissatisfaction with the proposal. One argued that if applied to the FP sector the charge would contribute towards the departure of independent local funeral directors from the market. In our feedback in [July 2021](#), we said we would consult on extending the charge to FP firms in this CP.

4.10 Firms liable to the charge fall into fee-block A.22 and pay £75 per introducer AR and £250 for all other ARs. FP principal firms will automatically fall into fee-block A.22 when they become liable for periodic fees in 2022/23. Although the fees are paid to us by the principal firms, they will recover the costs directly from the ARs as part of their financial arrangements with them. We are not convinced that a charge of £250 will influence funeral directors who have registered as ARs to leave the market and have no evidence that our costs in supervising FP principals will be lower than for principals in other markets who are already paying the fee. As a result, we see no reason to amend the definition of fee-block A.22 ([FEES 4 Annex 1AR Part 1](#)) to exclude FP firms.

Q6: Do you agree that the definition of fee-block A.22 should not be amended to exempt pre-paid funeral plan firms from the annual charge for appointed representatives?

Recognised overseas investment exchanges (ROIEs)

(Draft rules in Appendix 1 – FEES 3 Annex 3R)

4.11 ROIEs operate in the UK on the basis of comparable home country regulation. They currently pay an application fee of £50,000 and UK recognised investment exchanges (RIEs) pay £100,000. These will rise to £100,000 and £200,000 respectively when the new structure of application fees is implemented later this financial year. RIEs and ROIEs also pay an uplift of £25,000 (due to increase to £50,000) if they offer safeguarding and administration services. In addition, RIEs are liable to an uplift of £25,000 (due to increase to £50,000) if they intend to use new and untested IT systems. The IT uplift does not currently apply to ROIEs and so we propose to introduce it to them at £25,000. This would set the uplift at 25% of the baseline application fee for both RIEs and ROIEs.

Q7: Do you have comments on our proposal to charge recognised overseas investment exchanges £25,000 if they intend to use new and untested IT systems?

Rule clarifications

(Draft rules in Appendix 1 – FEES 4.2.9G, FEES 4 Annex 11AR)

4.12 Two areas of inelegant drafting have come to our attention, so we propose to clarify the rules. We are making no change to the meaning:

- When a firm cancels its permission, it is charged the full periodic fee for the relevant year. A firm pointed out to us that FEES 4.2.9G does not explain this as clearly as it might. It states: 'The FCA will not refund periodic fees ...' While it is implicit that a fee must have been paid before it can be refunded, the rule explicitly refers only to refunds. We agree that the drafting would be improved by specifying the requirement. We propose: 'The FCA will not **rebate or** refund periodic fees ...'
- Another firm pointed out that it is tautological to refer to 'other authorised firms' in our definition of income in FEES 4 Annex 11A.R. Both italicised words are glossary terms and the glossary definition of a 'firm' is 'an authorised person.' The term 'firm' is always used in this sense in the FEES manual. We accordingly propose to delete the redundant word: 'other ~~authorised~~ firms.'

4.13 We would welcome suggestions for any other improvements in drafting which do not affect the meaning of the rules.

Q8: Do you agree with our drafting clarifications to FEES 4.2.9G and FEES 4 Annex 11AR?

5 Recovery of costs for extensions of regulatory responsibility

- 5.1** In this chapter, we set out for discussion our proposed approach to recovering our costs when we take on new regulatory responsibilities.
- 5.2** When the FCA is given new regulatory responsibilities through legislation, we recover the set-up costs as 'scope change' outside the ORA (ongoing regulatory activities) budget. The bulk of scope change project costs are generated by the development of the appropriate IT systems and additional staff to operate the regulatory gateway. The gateway costs are developed through a TOM (target operating model) which is regularly reviewed and challenged by the project board. Project codes are allocated for each project so that all staff time is recorded. The capital costs are recovered through depreciation, and the revenue costs through fees. When scope change affects firms that are already authorised, such as the introduction of the senior manager regime, we recover the annual costs the year after they are incurred through periodic fees paid by the firms affected by the change.
- 5.3** When new types of firms are brought into scope, such as consumer credit, claims management, cryptoassets and pre-paid funeral plans (FPs), there may not be an existing body of fee-payers to recover the costs from. So the first phase of cost recovery comes through the application fees they pay at the gateway and we may have to defer further cost recovery until we have authorised the full population of fee-payers. Once the project costs have been recovered, we incorporate the annual running costs of supervising the new regime into ORA, increasing the baseline proportionately.
- 5.4** Over the past year, we have become concerned about the viability of this model. Blocking the entry of unsuitable firms reduces future supervisory and enforcement costs and increases confidence in the market but may result in an insufficient pool of potential fee-payers.
- 5.5** Our approach to authorisation application fees suggests an alternative model for cost recovery. Instead of recovering the full costs of processing authorisations through the fees paid by applicants, we pass the balance to the wider body of fee-payers for recovery through periodic fees. It is reasonable to share the costs because all businesses benefit from the confidence that is generated by effective control of the gateway, regardless of the particular sector of the market they happen to operate in. At present, applicants pay about 1/3 of the costs, rising to 2/3 under the new structure of authorisation fees.

5.6 We believe that, as with application fees, the wider body of fee-payers benefits from the market confidence and lower regulatory costs that arise from effective control of the gateway for scope change and so it is reasonable to split cost recovery between the new entrants and existing fee-payers. We propose that, depending on the prevailing circumstances, we will in future consider dividing the recovery of scope change costs between existing fee-payers and new entrants. When we decide to take this approach in any particular case, we will explain the details in the appropriate spring consultation on the fee-rates for the coming year.

Q9: Do you have any comments on our approach to recovering our costs when new firms enter the scope of FCA regulation through legislation?

Annex 1

Questions in this paper

- Q1:** Do you have any comments on our proposals to rebase minimum fees for the A and consumer credit fee-blocks on our model of the minimum cost of being regulated, and to integrate consumer credit firms into the prudential fee-block AP.0?
- Q2:** Do you have any comments on our proposal to extend the definition of special project fees to include certain significant applications under MIFIDPRU?
- Q3:** Do you have any comments on the most appropriate metric or combination of metrics we might use to calculate the fees of MiFID trading firms, and are there any technical issues we should take into account to ensure consistency, fairness and proportionality?
- Q4:** Can you suggest an alternative metric or combination of metrics that we should consider?
- Q5:** Do you have any comments on our proposal to include a question on income for fees purposes in the half-yearly returns submitted by pre-paid funeral plan firms?
- Q6:** Do you agree that the definition of fee-block A.22 should not be amended to exempt pre-paid funeral plan firms from the annual charge for appointed representatives?
- Q7:** Do you have comments on our proposal to charge recognised overseas investment exchanges £25,000 if they intend to use new and untested IT systems?
- Q8:** Do you agree with our drafting clarifications to FEES 4.2.9G and FEES 4 Annex 11AR?
- Q9:** Do you have any comments on our approach to recovering our costs when new firms enter the scope of FCA regulation through legislation?

Annex 2

Compatibility statement

Compliance with legal requirements

1. This annex explains our reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA). Under section 138I of FSMA, the FCA is exempt from the requirement to carry out and publish a cost benefit analysis for such proposals.
2. When consulting on new rules, section 138I(2)(d) of FSMA requires us to include an explanation of why we believe making the proposed rules is (a) compatible with our general duty, under s.1B(1) of FSMA, so far as reasonably possible, to act in a way which is compatible with our strategic objective and advances one or more of our operational objectives, and (b) our general duty under s.1B(5)(a) of FSMA to have regard to the regulatory principles in s.3B of FSMA. We are also required by s.138K(2) of FSMA to state our opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This annex also sets out our view of how the proposed rules are compatible with our duty to discharge our general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s.1B(4)). This duty applies in so far as promoting competition is compatible with advancing our consumer protection and or integrity objectives.
4. This annex also explains how we have considered the Treasury's recommendations under s.1JA of FSMA of aspects of Her Majesty's Government's economic policy which we should consider in connection with our general duties.
5. This annex includes our assessment of the equality and diversity implications of these proposals.

The FCA's objectives and regulatory principles: Compatibility statement

6. Our proposals in this consultation are not intended in themselves to advance our operational objectives, but the fees we collect will fund our capacity to achieve them. Therefore, these proposals will indirectly advance our operational objectives of:
 - delivering consumer protection - securing an appropriate degree of protection for consumers
 - enhancing market integrity - protecting and enhancing the integrity of the UK financial system
 - building competitive markets - promoting effective competition in the interests of consumers

7. We also think that these proposals are compatible with our strategic objective of ensuring that the relevant markets function well, albeit indirectly. This is because they will enable us to fund the activities to help us meet that objective. For the purposes of our strategic objective, 'relevant markets' are defined by s.1F of FSMA. In the rest of this annex, reference to objectives means both our strategic objective and operational objectives.
8. In preparing the proposals set out in this consultation, we have had regard to the regulatory principles set out in s.3B of FSMA. Most of the relevant regulatory principles are considered below:

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

9. Our fee-raising proposals are set to recover our costs in carrying out our responsibilities under FSMA and associated legislation. We aim to carry out this work in the most efficient and economical way possible, concentrating on the areas of activity that pose the greatest risk to our objectives.

The principle that a burden or restriction should be proportionate to the benefits

10. Our fees are necessary for us to meet our objectives. As outlined above, we aim to use our resources in the most efficient and economic way, while delivering benefits to UK consumers, through our regulatory activities.
11. In chapter 2, we propose a model for estimating the minimum cost of being regulated as a way of ensuring that all fee-payers contribute proportionately towards our basic regulatory costs, and we propose to integrate consumer credit firms into the A fee-blocks so that the smaller firms make a more realistic contribution towards cost recovery and the larger ones contribute towards the costs of prudential regulation.
12. In chapter 3, we propose to extend our use of special project fees to target cost recovery of certain resource-intensive applications on the individual firms that generate the work, so that the costs are not passed to their competitors.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

13. In chapter 2, we set lower minimum fees for limited permission consumer credit firms to reflect their lighter touch regulatory regime. Our proposals in chapter 2 exclude mutuals, other community finance organisations, credit unions and friendly societies, in recognition of the role they play in bringing ethical finance to low income and financially excluded groups.
14. In chapter 4, we consider whether pre-paid funeral plan firms that register appointed representatives are qualitatively different from other firms in terms of our regulatory engagement with them, and have concluded that they are not.

The principle that we should exercise of our functions as transparently as possible

15. Our consultation processes are intended to ensure that we are transparent about the thinking behind our proposals and clearly explain what we expect to achieve. We believe that this CP meets these objectives.
16. In chapter 2, we seek to bring greater transparency to the way we set our minimum fees by basing them on a model of the minimum cost of being regulated.

Expected effect on mutual societies

17. Mutuals are not included in our proposals in chapter 2 relating to consumer credit fees and we do not expect the other proposals in this paper to have a significantly different impact on mutual societies to the impact on other authorised firms.

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

18. These proposals enable us to fund the activities we need to undertake. These activities include meeting our duty to promote effective competition in the interests of consumers. Fees are not intended in themselves to influence firms' behaviour.

Equality and diversity

19. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment to ensure that the equality and diversity implications of any new policy proposals are considered.
20. As explained in paragraphs 1.10 and 1.11 of this CP, we do not think that the proposals negatively impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.

The Treasury's recommendations about economic policy

21. Each year, the Treasury makes recommendations to us under section 1JA of FSMA about aspects of economic policy which we should consider when undertaking our functions. Our fees proposals indirectly take account of the Treasury's recommendations by providing the resources that enable us to meet our objectives in taking responsibility for the claims management market.

Annex 3

Abbreviations used in this paper

Abbreviation	Description
AFR	Annual funding requirement
AR	Appointed representative
CC	Consumer credit
EMPS	Energy market participants
FCA	Financial Conduct Authority
FP	Pre-paid funeral plan
FSA	Financial Services Authority
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
IFPR	Investment Firms Prudential Regime
IPRU-INV	Interim prudential sourcebook for investment businesses
K-DTF	Daily trading flow
K-NPR	Net position risk
MiFID	UK Markets in Financial Instrument Directive
MIFIDPRU	FCA sourcebook for firms subject to IFPR which comes into effect in January 2022
OFT	Office of Fair Trading
OMPS	Oil market participants
ORA	Ongoing regulatory activities
PRA	Prudential Regulation Authority
PRR	Position Risk Requirement
RIE	Recognised Investment Exchange

Abbreviation	Description
ROIE	Recognised Overseas Investment Exchanges
SPF	Special project fee
TOM	Target operating model
VoP	Variation of permission

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

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

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Appendix 1

Draft Handbook text

FEES (MISCELLANEOUS AMENDMENTS) (No 17) INSTRUMENT 2022

Powers exercised

- A. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance); and
 - (4) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) of the Act.
- B. The rule making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on [1 April 2022].

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 17) Instrument 2022.

By order of the Board
[date]

Annex

Amendments to the Fees manual (FEES)

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

3 Application, Notification and Vetting Fees

...

...

3 Annex 9 Special Project Fee for restructuring

- (1) R The Special Project Fee for restructuring (the SPFR) is only payable by a *person* in one of the following categories:

...

- (e) if that *person* falls within any of the B fee-blocks (as defined in Part 1 of *FEES* 4 Annex 1AR); ~~or~~

- (f) if that *person* applies for the permission in *MIFIDPRU* 4.12.4R.

...

4 Periodic fees

...

4.2 Obligation to pay periodic fees

...

...

Fee payers ceasing to hold relevant status or reducing the scope of their permission after start of relevant period

- 4.2.9 G The *FCA* will not rebate or refund periodic fees if, after the start of the period to which they relate:

...

...

4 Annex 1AR FCA activity groups, tariff bases and valuation dates

...

...	
Part 2	
...	
Activity group	Fee payer falls into the fee-block if
A.0 FCA minimum fee	<p>...</p> <p>(2) it is not:</p> <p>(a) a UK ISPV; or</p> <p>(b) a firm whose only permission is operating a dormant fund account; or</p> <p>(c) a firm exclusively carrying on credit-related regulated activities. [deleted]</p>
AP.0 FCA prudential fee	<p>(1) it is an FCA authorised person other than an FCA authorised person exclusively carrying on credit-related regulated activities; and</p> <p>...</p>

**4 Annex
2AR**

FCA Fee rates for the period from 1 April 2021 to 31 March 2022

Part 1		
...		
Activity group	Fee payable	
...		
CC1. Credit-related regulated activities with limited permission	Band Width (£ thousands of annual income (AI))	Fee (£)
	0 - 10	250 <u>500</u>
	>10 –50	500 <u>1,100</u>
	≥50 –100	500
	≥100	750
	PLUS:	
		Fee (£/£ thousand or part £ thousand of AI)

	>250	0.50
CC2. Credit-related regulated activities	Band Width (£ thousands of annual income (AI))	Fee (£) <u>Fee (£/£ thousand or part £ thousand of AI)</u>
	0–50	750
	≥50–100	1,000
	≥100	1,151
	PLUS:	
		Fee (£/£ thousand or part £ thousand of AI)
	>250	1.40
...		

Part 2
...

Part 2(a) tariff rates (minimum fees) payable to the FCA by FCA- authorised persons		
...		
AP.0	Periodic fees payable under fee blocks A.2, A.7 to A.19, A.21 and A.23 and CC2 in Part 1 multiplied by rate £0.1055	

...

...

**4 Annex
11AR**

Definition of annual income for the purposes of calculating fees in fee blocks A.13, A.14, A.18, A.19, A.23 and B. Service Companies, UK Recognised Investment Exchanges, Multilateral Trading Facilities, Organised Trading Facilities, Regulated Benchmark Administrators and Claims Management Companies

Annual income definition
General definition for all relevant fee-blocks (other than where the firm is an operator of a UK Recognised Investment Exchange, a Multilateral

Trading Facility, an Organised Trading Facility, a Regulated Benchmark Administrator or a Claims Management Company)

...

The figure should be reported for the relevant fee block without netting off the operating costs or business expenses, but including:

(a) all brokerages, *commissions*, *fees*, and other related income (for example, administration *charges*, *overrides*, profit shares etc) due to the *firm* in respect of, or in relation to, the provision in the *UK* of the *regulated activities* specified in *FEES* 4 Annex 1AR Part 1 as belonging to the relevant fee block and which the *firm* has not rebated to *clients* or passed on to other *authorised firms* (for example, where there is a commission chain).

...

...

