

Consultation Paper

CP16/33**

Regulatory fees and levies: policy proposals for 2017/18



November 2016

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We are asking for comments on this Consultation Paper by 16 January 2017.

You can send them to us using the form on our website at:
www.fca.org.uk/cp16-33-response-form.

Or in writing to:

David Cheesman
Finance and Business Services
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Telephone: 020 7066 5406
Email: cp16-33@fca.org.uk

We have developed the policy in this consultation paper in the context of the existing UK and EU regulatory framework. We will keep the proposals under review to assess whether any amendments will be required due to changes in the UK regulatory framework, including as a result of any negotiations following the UK's vote to leave the EU.

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.

All our publications are available to download from www.fca.org.uk. If you would like to receive this paper in an alternative format, please call 020 7066 0790 or email publications_graphics@fca.org.uk or write to Editorial and Digital Department, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS

Abbreviations used in this paper

AFR	annual funding requirement
BA	benchmark administrator
CFO	community finance organisation
CP	consultation paper
DRSP	data reporting service provider
EIA	equality impact assessment
FEES	Fees manual
IFA	independent financial adviser
FCA	Financial Conduct Authority
FSA	Financial Services Authority
FSBRA	Financial Services (Banking Reform) Act 2013
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
IML	illegal money lending
MDP	market data processor
MELL	management expenses levy limit
MiFID II	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MLRs	Money Laundering Regulations
MTF	multilateral trading facility

OTF	organised trading facility
PRA	Prudential Regulation Authority
RAP	recognised auction platform
RIE	recognised investment exchange
ROIE	recognised overseas investment exchange
SC	service company
UKLA	UK Listing Authority

1. Overview

Introduction

- 1.1** This consultation paper (CP) sets out our proposed policy changes to how FCA fees will be raised from 2017/18. We are funded entirely by the fees and levies recovered from the firms we regulate. We do not receive any subsidies from other sources.

Who does this consultation affect?

- 1.2** Each chapter identifies the firms and other bodies it will affect. There is a summary in Table 1.1 in this CP.

Is this of interest to consumers?

- 1.3** This CP contains no material directly relevant to retail financial services consumers, although our fees are indirectly met by consumers.

Context

- 1.4** Generally, our annual fees consultation follows this cycle:
- **October/November** – we consult on any changes to the policy on how fees and levies are raised. We provide feedback on the responses received to this consultation in the following February Handbook Notice or the March/April CP.
 - **January** – we consult on the Financial Services Compensation Scheme (FSCS) management expenses levy limit (MELL). This is a joint consultation with the Prudential Regulation Authority (PRA). We provide feedback on responses received in February or March Handbook Notice.
 - **March/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, Money Advice Service and Pensions Guidance levies for the next financial year.
 - **June/July** – we publish feedback on the responses received to the March CP together with final fees and levy rates in a policy statement.

- 1.5** This CP covers the first part of this annual cycle. Further information about our approach to fees is presented in our publication, '*How we raise our fees*', which is available on our website: www.fca.org.uk/publication/corporate/how-we-raise-our-fees.pdf.

Summary of our proposals

- 1.6** Each chapter covers a self contained area of policy, as summarised below.
- Chapter 2 sets out proposals to introduce a new levy on consumer credit firms to recover HM Treasury's expenses in tackling illegal money lending as required under s333T FSMA introduced by the Bank of England and Financial Services Act 2016.
 - Chapter 3 seeks comments on the fee-blocks through which we propose to recover our costs in implementing the second Markets in Financial Instruments Directive (MiFID II).
 - Chapter 4 proposes to base the fees of recognised investment exchanges (RIEs) and benchmark administrators (BAs) on income, and to adjust the charging structure for service companies (SCs).
 - Chapter 5 proposes updates to the Fees manual (FEES) in the Handbook with a number of technical clarifications.

Equality and diversity considerations

- 1.7** Our equality impact assessment (EIA) has concluded that none of the proposals presented in this CP appear to raise issues of equality or diversity. We would welcome your comments if you believe equality and diversity issues might arise from our proposals.

Next steps

What do I need to do next?

- 1.8** Please consider our proposals and send us your comments on the questions in this CP by 16 January 2017.

How do I send my comments?

- 1.9** Use the online response form on our website or write to us at the address on page 2 of this document.

What will the FCA do?

- 1.10** We will consider your comments and publish our feedback, along with our rules, in the Handbook Notice in February or March 2017.

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

Issue	Fee payers likely to be affected	Chapter
Recovering HM Treasury's expenses for tackling illegal money lending	All firms with credit related permissions	2
Identifying the fee-blocks through which we should recover the costs of implementing and regulating MiFID II and Markets in Financial Instruments Regulation (MiFIR).	All firms that might be affected by MiFID II/MiFIR	3
Basing the fees of firms in the B fee-blocks on income	RIEs; BAs; and SCs. In the future operators of multilateral trading facilities (MTFs) and organised trading facilities (OTFs)	4
Reducing application fee of small limited permission community finance organisations (CFOs) to bring them into line with other applicants	Any CFO with consumer credit income up to £50,000 seeking limited permission	5
Clarification of use of proxy income measure by credit brokers seeking consumer credit authorisation	Any credit broker seeking authorisation for credit-related activity	5
Including fee-block G1 in the Handbook (firms registered under the Money Laundering Regulations (MLRs)	Firms registered with FCA under the MLRs	5
Other clarifications and minor revision	Drafting changes with no impact on any firms, but all firms may be interested	5

2.

Introduction of levy to recover the costs of tackling illegal money lending

(Draft rules in Appendix 1: FEES 13)

- 2.1** In this chapter we invite comments on the structure of a new levy to be introduced from 2017/18 to provide funding for action against illegal money lending (IML). The proposed rules relating to the levy are set out in a new chapter of the Handbook, FEES 13.
- 2.2** S333T FSMA, introduced by the Bank of England and Financial Services Act 2016, gives us the duty to introduce a levy to recover the expenses that HM Treasury incur in providing funding for the teams that combat IML. The work of these teams has resulted in the prosecution of over 300 illegal money lenders, the writing off of over £60m of illegal debt, and has helped over 25,000 consumers.
- 2.3** Our responsibility will be to calculate the levy rates, collect the levy from firms and pay the revenues collected to HM Treasury, after deducting our administration costs. We will have no involvement in the finances of the teams combating IML, although we will continue to work with them in policing the perimeter of the consumer credit regulatory regime.
- 2.4** HM Treasury have asked us to collect the levy from consumer credit firms under the following structure:

Limited permission (fee-block CC1): £5 flat rate

Full authorisation (fee-block CC2):

Up to £250,000 consumer credit income: £10

Over £250,000 consumer credit income: £10 + variable rate per £1,000

- 2.5** HM Treasury expect the total cost for 2017/18 to be £5.2m, giving a variable rate of £0.2065 per £1,000. The variable rate may be higher in the future, depending on the level of funding that HM Treasury wishes to provide to the teams. We will finalise the variable rate in the March 2017 fee rates CP. The levy will not affect firms which have no credit related permissions.
- 2.6** The structure proposed by HM Treasury mirrors the FCA structure for consumer credit fees so keeps our costs to the minimum. There will be no additional data reporting required by firms for fees purposes and no changes to the reports they already send us. We will collect the levy along with the FCA fees and the levies we collect for other organisations, using the same invoice. The breakdown of the IML levy will be shown separately on the invoice.

Q1: Do you have any comments on the structure proposed for the illegal money lending levy?

3.

Recovering the costs of implementing the Markets in Financial Instruments Directive.

- 3.1** In this chapter, we invite comments on our initial assessment of the fee-blocks from which we intend to recover the costs of implementing MiFID II and MiFIR.
- 3.2** MiFID prescribes standards for the regulation of financial markets, including the authorisation and supervision of investment firms, requirements for the provision of investment services and activities, the authorisation and supervision of trading venues and the requirements for trading activities of financial instruments across the EU. MiFID II strengthens MiFID and takes effect from 3 January 2018. Some of the revisions have been incorporated into MiFIR. Further information about MiFID II/MiFIR and our regulatory approach are set out in CP16/19¹.
- 3.3** Chapter 10 of CP16/19 summarised the main fees implications of MiFID II. It put forward new proposals on application fees and followed up on the consultation we undertook in our fees policy CP² on recovering the costs associated with market data reporting under MiFID II/MiFIR. Consultation on CP16/19 ended on 28 October and we intend to provide feedback on the fees chapter in December 2016.

Recovery of costs from fee-blocks

- 3.4** CP16/19 did not cover how we proposed to recover the costs of implementing MiFID II and MiFIR through annual periodic fees. In this chapter, we identify the fee-blocks from which we intend to focus the recovery of MiFID II costs. Since MiFID II will not be implemented until January 2018, we do not yet have comprehensive information about the proportion of firms in each fee-block that will directly benefit from it. As an interim measure, we intend next year to allocate the costs between the relevant fee-blocks in proportion to their share of the FCA's AFR. We will propose the costs to be recovered when we consult on fee-rates for 2017/18 in spring 2017. When we complete cost recovery in 2018/19, we expect to have sufficient information to moderate the allocations for fee-blocks with lower proportions of firms benefiting directly from MiFID II. We will set out the final position in spring 2018.
- 3.5** We propose to focus our cost recovery on the fee-blocks most directly impacted by the MiFID II regulatory regime and market data reporting. Table 3.1 lists all the A and B fee-blocks, with our view on which should contribute. Small firms in the A fee-blocks below the minimum fee threshold (for example, income up to £100,000 in fee-blocks A.13 and A.14) will continue to pay the standard minimum fee (£1,084 in 2016/17) without making any additional contribution towards cost recovery. From January 2018, OTFs (B fee-block) and data reporting

1 CP16/19 *Markets in Financial Instruments Directive II Implementation* (July 2016):
www.fca.org.uk/publication/consultation/cp16-19.pdf

2 CP15/34 *Regulatory fees and levies: policy proposals for 2016/17* (November 2015):
www.fca.org.uk/publication/consultation/cp15-34.pdf

service providers (DRSPs – new fee-block G.25) will start becoming authorised and contributing towards our costs.

Table 3.1: A and B fee-blocks affected by MiFID II

Fee block	Definition in FEES 4 Annex 1AR Part 1	Cost recovery for MiFID II?
A.1	Deposit acceptors Its permission includes accepting deposits or operating a dormant account fund BUT DOES NOT include either of the following: effecting contracts of insurance; carrying out contracts of insurance.	No
A.2	Home finance providers and administrators Its permission includes a regulated activity within one or more of the following: entering into a home finance transaction; or administering a home finance transaction; or agreeing to carry on a regulated activity which is within either of the above.	No
A.3	Insurers – general Its permission includes one or more of the following: - effecting contracts of insurance; – carrying out contracts of insurance; in respect of specified investments that are: - general insurance contracts; or long-term insurance contracts other than life policies.	No
A.4	Insurers – life Its permission includes one or more of the following: effecting contracts of insurance; carrying out contracts of insurance; in respect of specified investments including life policies; - entering as provider into a funeral plan contract.	No
A.5	Managing agents at Lloyd's Its permission includes managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's.	No
A.6	The Society of Lloyd's it is the Society of Lloyd's	No
A.7	Portfolio managers (1) its permission includes managing investments (a firm falling within this category is a class (1) firm); OR (2) its permission includes ONLY either one or both of: safeguarding and administering of investments (without arranging); and arranging safeguarding and administration of assets (a firm falling within this category is a class (2) firm); OR (3) the firm is a venture capital firm (a firm falling within this category is a class (3) firm if it is not a class (1) or (2) firm). OR (4) its permission includes managing an AIF or managing a UCITS (a class 4 firm)	Yes

A.9	<p>Managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes</p> <p>(1) its permission:</p> <p>(a) includes one or more of the following: managing an AIF; managing a UCITS; acting as trustee or depositary of an AIF; acting as trustee or depositary of a UCITS; establishing, operating or winding up a collective investment scheme; 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 A1 or A4);</p> <p>AND</p> <p>(b) PROVIDED the firm is NOT one of the following: a corporate finance advisory firm; a firm in which the above activities are limited to carrying out corporate finance business; a venture capital firm; a firm which would be a venture capital firm but for the inclusion of managing an AIF on its permission; but only where the firm is managing an AIF exclusively in respect of AIFs which only invest in venture capital investments.</p> <p>OR</p> <p>(2) if the fee-payer has none of the regulated activities above within its permission, but ALL the remaining regulated activities in its permission are limited to carrying out trustee activities.</p>	Yes
A.10	<p>Firms dealing as principal its permission includes:</p> <p>(a) dealing in investments as principal; and/or(b) bidding in emissions auctions;</p> <p>BUT NOT if one or more of the following apply:</p> <p>the firm is acting exclusively as a matched principal broker; the above activity is limited either to establishing, operating or winding up a collective investment scheme, establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme, or to carrying out depositary activities; the firm is a corporate finance advisory firm;</p> <p>the above activity is otherwise limited to carrying out corporate finance business; the firm is subject to a limitation to the effect that the firm, in carrying on this regulated activity, is limited to entering into transactions in a manner which, if the firm was an unauthorised person, would come within article 16 of the Regulated Activities Order (Dealing in contractually based investments); the above activity is limited to not acting as a market maker;</p> <p>the firm is an oil market participant, energy market participant or a local (except where the firm is bidding in emissions auctions);</p> <p>its permission includes either:</p> <ul style="list-style-type: none"> - effecting contracts of insurance; or - carrying out contracts of insurance. 	Yes
A.13	<p>Advisors, arrangers, dealers or brokers</p> <p>(1) it is an authorised professional firm and ALL the regulated activities in its permission are limited to non-mainstream regulated activities (a firm falling within this category is a class (1) firm);</p> <p>OR</p> <p>(2) its permission:</p> <p>(a) includes one or more of the following, in relation to one or more designated investments: dealing in investments as agent; arranging (bringing about) deals in investments; making arrangements with a view to transactions in investments; dealing as principal in investments where the activity is carried on as a matched principal broker, oil market participant, energy market participant or local; advising on investments (except pension transfers and pension opt-outs); giving basic advice on a stakeholder product; advising on pension transfers and pension opt-outs; advising on syndicate participation at Lloyd's;</p> <p>(b) BUT NONE of the following: effecting contracts of insurance; or carrying out contracts of insurance;</p> <p>AND (c) PROVIDED the fee-payer is NOT any of the following: a corporate finance advisory firm; a firm for whom all of the applicable activities above are otherwise limited to carrying out corporate finance business; a firm for whom all the applicable activities above are limited to carrying out venture capital business; a firm for whom all the applicable activities above are limited to acting as a residual CIS operator; a firm for whom all the applicable activities above are limited to acting as trustee or depositary of an AIF and/or acting as trustee or depositary of a UCITS; a service company.</p>	Yes

A.14	Corporate finance advisers The firm is carrying on corporate finance business PROVIDED the fee-payer is NOT a venture capital firm.	Yes
A.18	Home finance providers, advisers and arrangers its permission includes a regulated activity within one or more of the following: entering into a home finance transaction; or arranging (bringing about) a home finance transaction; or making arrangements with a view to a home finance transaction; or advising on a home finance transaction; or agreeing to carry on a regulated activity which is within any of the above.	No
A.19	General insurance mediation its permission includes one or more of the following in relation to a non-investment insurance contract: dealing in investments as agent; or arranging (bringing about) deals in investments; or making arrangements with a view to transactions in investments; or assisting in the administration and performance of a contract of insurance; or advising on investments; or agreeing to carry on a regulated activity which is within any of the above.	No
A.21	Firms holding client money or assets, or both (1) It is a firm carrying on a regulated activity defined in fee-block A.13; AND EITHER OR BOTH: (2A) It is a firm to which the client money rules apply AND/OR (2B) Its permissions includes safeguarding and administration of assets (without arranging) UNLESS CASS does not apply to that firm in accordance with CASS 1.2	No
B	Market infrastructure providers	
	Market operators	Yes
	Service companies	No
	Operators of multilateral trading facilities (MTFs) (<i>and from January 2018 of organized trading facilities – OTFs</i>)	Yes
	Recognised investment exchanges	Yes
	Recognised auction platforms	No
	Principal benchmark administrators: It is a benchmark administrator who administers the arrangements for determining one or more specified benchmarks.	No
	Benchmark administrators: It is a benchmark administrator who does not administer arrangements for determining one or more specified benchmarks.	No

Q2: Do you have any comments on the fee-blocks that should contribute towards the recovery of MiFID II costs?

4.

B fee-block proposals for using income to calculate fees

(Draft rules in Appendix 1: FEES 4.1.1AR; FEES 4 Annex 1AR; FEES 4 Annex 2AR; FEES 4 Annex 6R; FEES 4 Annex 11 AR; FEES 4 Annex 13G Table 1; TP 13)

- 4.1** This chapter sets out our proposals to use income as a measure for calculating fees to recover our AFR allocated to the B fee-block (market infrastructure providers). At this stage we are consulting only on RIEs, BAs and SCs:
- **RIEs and BAs:** We propose to introduce an income measure for RIEs and BAs from 2017/18
 - **SCs:** The fees of SCs are already based on income but we are consulting on replacing the higher charging bands with a variable-rate fee
 - **MTFs:** In future, we also intend to propose to base the fees for operators of MTFs on income. However, this will not occur until after the implementation of MiFID II which will bring transparency to how firms charge clients for the various services they offer. In the meantime, we are maintaining the fees structure we introduced this year following consultation in April 2016¹. OTFs will be treated like MTFs when they come into scope under MiFID II from 2018
 - **Recognised overseas investment exchanges (ROIEs):** We intend to keep the flat fee structure that is currently in place for ROIEs
 - **Recognised auction platforms (RAPs):** We intend to keep the flat fee structure that is currently in place for RAPs
 - **Transaction reporting:** We are making no changes to the charging structure for entities submitting transaction reports under SUP 17, though we may revise the rates for 2017/18 when we consult on fee rates in spring 2017. As we explained in CP15/34 in November 2015³, these charges will be discontinued when MiFID II comes into effect and the reports are submitted through our new MDP.

Recognised investment exchanges and benchmark administrators

- 4.2** The proportion of our AFR allocated to the B fee-block that relates to all RIEs is recovered through regulatory fees set for each RIE individually. They are calculated from our records of the resources put into supervising each entity over the previous year and the projected level

³ CP15/34 *Regulatory fees and levies: policy proposals for 2016/17* (November 2015): www.fca.org.uk/publication/consultation/cp15-34.pdf

of supervisory intensity over the coming year. BAs pay a flat fee that collectively recovers the allocated AFR that relates to all BAs. These methods do not necessarily reflect the scale of regulated business they undertake. We believe using income as a measure of size will increase fee transparency for firms and represent an effective proxy for the impact risk they pose to our objectives.

- 4.3** Income as a measure ensures an equitable distribution of cost recovery between firms – provided all are reporting on the same basis. The definition must be clear, easy to understand and minimise the risk of inconsistent interpretation. Therefore, we propose to incorporate RIEs and BAs into the definition of income we have successfully applied to several of the A fee-blocks and to SCs. A similar definition is used for consumer credit firms.

- 4.4** The definition of income for fee-blocks A.13, A.14, A.18, A.19 and SCs is in FEES 4 Annex 11AR, with guidance in FEES 4 Annex 13G Table 1. The key element is:

‘the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the firm’s accounts during the reporting year 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.’

- 4.5** This definition is deliberately set widely, without allowing deductions for business expenses, so that firms report their gross income. The definition applies only to income reported for fees purposes and does not affect our regulation of firms.

- 4.6** We recognise that a firm’s accounts may not necessarily identify the specific income streams required for fees purposes. If a firm is not able to separate out its income on the basis of the activities defined by us, it may apportion its revenue on the basis of a proportionate split of its business. We do not prescribe how the firm should make the calculation but our guidance in FEES 4 Annex 13G Table 1 states that the firm must be ‘able on request to provide a sound and clearly expressed rationale for its approach’ and to:

‘provide an audit trail which demonstrates that the choice of methodology was properly considered at an appropriate level or in the appropriate forums within the firm, and the decision periodically reviewed at the same level or in an equivalent forum.’

- 4.7** In our view, RIEs and BAs can be brought into the existing definition and guidance with only a few adjustments. These are discussed in separate sections below. The detailed definitions and other rules are in the draft instrument in Appendix 1.

Income data reporting for fees purposes

- 4.8** RIEs and BAs will be required to report their annual income for their financial year ended in the calendar year ending 31 December, preceding the relevant fee-year. They will need to report their income data for fees purposes by 28 February. That is to say, the 2017/18 fees will be based on firm’s annual income for their financial year ending during 2016.
- 4.9** Our analysis of the income data for RIEs and BAs which they have already reported to us suggests that smaller firms will see a reduction in their regulatory fees while the larger firms in each sector will see an increase. The indicative fee-rates referred to below are based on our estimate of firms’ income. They also assume for this purpose that the level of our AFR allocated to the B fee-block and recovered from RIEs and BAs as a whole is the same as 2016/17.

4.10 However, these indicative estimates of income and fees will not be based on the income definition we are currently consulting on so they are likely to be inconsistent. Also, we need to base 2017/18 fee-rates on all firms' annual income for their financial year ending during 2016. Therefore, we are proposing the following timetable for 2017/18 fees and have included appropriate transitional rules in Appendix 1.

- **February 2017** – taking into account the responses to this consultation we will finalise the income definition rules and publish the final rules and feedback on the responses received
- **March 2017** – we will consult on the 2017/18 AFR allocation to the B fee-block and the proportion to be recovered from RIEs and BAs as a whole
- **30 April 2017** – by this date firms report their annual income for their financial year ending during 2016/17 in line with the income definition rules finalised in February
- **June 2017** – taking into account the responses to the March consultation we will confirm the 2017/18 AFR allocations and feedback on the responses received. At the same time we will consult on the draft fee-rates rules, based on the income firms reported by 30 April and set to recover the confirmed 2017/18 AFR allocations
- **September 2017** – taking into account the responses to the June consultation we will finalise the fee-rates rules and feedback on responses received
- **October 2017** – firms will be invoiced for their 2017/18 fees.

4.11 Firms should note that under FEES 4.3.6R firms whose fees in 2016/17 were at least £50,000 must continue to pay fees 'on-account' for 2017/18 based on 50% of their 2016/17 fees. The balance of fees for 2017/18 will be invoiced in October 2017.

Recognised investment exchanges

4.12 RIEs are recognised but not authorised, so our definition of income based on 'the regulated activities specified in FEES 4 Annex 1AR Part 1' does not apply to them. Therefore, we propose to expand the definition to include 'activities that comprise a necessary part of an exchange's business as an investment exchange'. The definition is intended to capture all income derived by the RIE from the operation of its markets, including access to those markets, the submission, management and execution of orders, quotes or transactions on those markets, the supply of pre- and post-trade transparency information about those markets, and any other relevant revenue streams. This would include admission to trading or listing fees, membership or connectivity charges, order execution or management fees, trade reporting fees, and market data fees.

4.13 We propose to set a minimum size threshold of £10m. RIEs reporting incomes up to this level will pay a minimum flat fee of £100,000. Using the current income data taken from year end accounts, RIEs will pay £100,000 plus a variable fee-rate of £4.70 per thousand pounds on income above the threshold.

Q3: Do you have any comments on our proposals to base the fees of recognised investment exchanges on an income measure?

4.14 Since RIEs are recognised and therefore not authorised by us, we propose to take the opportunity to ensure that they are subject to the same requirements for annual fees as other fee-payers. The most straightforward way of achieving that would be to extend FEES 4.1.1AR to state that

a reference to a firm in FEES 4 includes an RIE. The proposed amendment is in Appendix 1. This would have the effect of applying all the normal fees requirements to RIEs unless otherwise stated.

4.15 Two provisions would be especially significant.

- In the case of the period after an RIE has been first recognised, we would calculate a full annual fee using the projected income for its first financial year (as provided in the course of the RIE's application to be recognised). The fee payable by the RIE will be 1/12th of that annual fee for every month it was recognised. For example, if a RIE was recognised in October 2017 it would pay 6/12ths of the annual 2017/18 fee covering the months October to March 2018. It would be our intention for the calculation of the second and subsequent full annual fee to depend on when the RIE became recognised and the extent it can report a full year's income for the relevant year.
- In the case of the period after an RIE has applied to be de-recognised, we propose that the annual fees payable by the RIE will depend on when the application to be de-recognised was received by us and when the de-recognition has occurred. If the application is received by 31 March and the de-recognition has occurred before 30 June then no annual fee would be payable for the fee-year commencing 1 April. If the application is received by 31 March but de-recognition does not occur before 30 June or the application is received after 31 March then the full annual fee for the fee-year commencing 1 April would be payable.

Q4: Do you have any comments on our proposal to ensure recognised investment exchanges are subject to the same requirements for annual fees as other fee-payers?

Benchmark administrators

4.16 Administering a benchmark is a defined regulated activity, so the standard definition in FEES 4 Annex 11AR based on 'the regulated activities specified in FEES 4 Annex 1AR Part 1' would incorporate BAs without change.

4.17 BAs currently pay a flat rate fee depending on whether they are a 'principal benchmark administrator' administering the arrangements for determining a benchmark, or a 'benchmark administrator' carrying out a more limited role such as calculation agent. Some principal BAs undertake the full range of administrator functions, while some contract out certain functions to other BAs. Our current fees model does not allow for these nuances, nor does it take account of the size or impact of the benchmarks administered. Now that we and the administrators themselves have experience of the regulatory regime for benchmark administration, we are in a position to extend to them the income model that has worked well with other firms. An income metric removes the need to distinguish between principal and other BAs, relating the fee more closely to the impact of the benchmark.

4.18 The income measure will also help us to prepare for the large number of benchmarks and administrators we anticipate coming into scope under the Benchmarks Directive from 2018. The Directive will distinguish between critical benchmarks, significant benchmarks and others. Many administrators will have a portfolio of benchmarks covering all three categories. This would greatly complicate our existing fees model but an income measure would adjust automatically to the scale of the business, removing the need to set different fees for the various categories of benchmark.

4.19 Our analysis of the income figures submitted to us by BAs as part of their regulatory reporting suggests that they have not interpreted their income consistently. Some seem to have taken

a wide ranging view, while others have taken a narrower definition. Such discrepancies become critical once the figures are used as the basis for charging fees. As part of the present consultation, we would like to engage actively with the current BAs to discuss the adjustments we should make to the definition and guidance to ensure consistent reporting. The main issues we have considered are set out below.

- Some benchmarks are less widely used and although important to a small community, are not of significance to the wider market or the general public. These are unlikely to generate significant revenues – their income may be restricted to subscriptions from users.
- In contrast other benchmarks are used in transactions across the whole spectrum of markets nationally and internationally. Their outputs are cited in the media and research reports, analysed by and licensed to businesses, consultants and academics, and kept under public scrutiny. If a benchmark of this type failed, not only might it dislocate global markets, but the fallout could damage the reputation of the UK markets and the UK itself. These benchmarks are likely to generate substantial income through subscriptions, licence fees, charges for research and analyses, royalties, etc. The income is a good indicator of their importance and their impact.
- There is also a range of funding models for benchmark administration:
 1. At one end of the spectrum, income generated from the regulated activity of benchmark administration is booked to the legal entity which actually undertakes the benchmark administration.
 2. At the other end of the spectrum, a legal entity within a larger group may obtain FCA authorisation, administer the benchmark and generate the data while an unauthorised entity or entities within the group would handle the sales and marketing and receive all the income, passing on to the authorised firm a subsidy to administer the benchmark. The authorised firm would legitimately report the subsidy as its regulated income but this might be unrepresentative of the actual income generated by the regulated benchmark(s) and therefore might not reflect the intrinsic importance or impact of the benchmark.

4.20 As we explained in paragraph 4.5, our planned definition of income has been set widely to keep it simple and restrict the scope for ambiguity through reinterpretation. In principle, that would ensure a fair differentiation between the benchmarks described in the first two bullets under paragraph 4.19 without amending the rules or guidance. Funding model (1) under the third bullet point would be covered by our guidance on apportionment.

4.21 However, our existing definition would result in the BA in funding model (2) understating the income generated by the benchmark. Suppose a specialist benchmark was administered under funding model (1) while a widely used benchmark was administered under funding model (2), then (1) would almost certainly pay a higher fee than (2) because user subscriptions would include an element of profit whereas the subsidy for the other benchmark would just cover costs. This would not represent a fair distribution of cost recovery.

4.22 Accordingly, we have drafted an amendment to our rule stating that, where the sales and marketing of a benchmark are undertaken by a separate legal entity, the authorised benchmark administrator is responsible for identifying the relevant income and reporting it to us. We would welcome comments on any practical guidance we could provide for firms on identifying and reporting the relevant income streams. On the assumption that the subsidy was paid out

of the income, we are proposing that to avoid double counting the BA would report only the income from sales and not its subsidy.

- 4.23** We propose to set a minimum size threshold of £3m. BAs reporting incomes up to this level will pay a flat fee of £100,000. Using the current income data taken from year end accounts, BAs will pay £100,000 plus a variable fee-rate of £13.55 per thousand pounds on income above the threshold.
- 4.24** We are not at present proposing any changes to authorisation fees for BAs.

Q5: Do you have any comments on our proposals to base the fees of benchmark administrators on an income measure?

Service companies

- 4.25** SCs already pay their fees on the basis of income and we are proposing to change the structure of fees. We are not proposing to make any changes to their reporting. At present, they pay fixed rates based on income bands. Our proposal is to retain the lowest income band as a fixed minimum fee and replace the higher bands with a variable rate. On 2016/17 figures, SCs with incomes up to £100,000 would continue to pay £1,067 while the firms with incomes above that would pay £1,067 plus a variable rate of £1.80 per thousand pounds. We will consult on final rate for 2017/18 in our March 2017 fee-rates CP.

Q6: Do you have any comments on our proposals to introduce a variable fee for service companies with incomes above £100,000?

5. Other fees policy issues

(Draft rules in Appendix 1)

- 5.1** In the course of our everyday business, we identify features of the Fees Manual which are ambiguous or which firms have difficulty understanding, or where changes are needed to ensure consistency. In this chapter, we consult on a number of clarifications.
- 5.2** In addition, some proposals affecting the reporting of consumer credit income for fees purposes will be included in a consultation we will undertake later in the year on guidance for regulatory reporting. The proposals affecting fees will be:
- reporting of income by debt purchasers
 - treatment of vouchers sometimes given to credit broking staff by lenders as a reward for making introductions, and
 - treatment of credit broking commission clawed back by lenders when customers repay loans early or default
- 5.3** These proposals will be published in our quarterly CP in December.

Community finance organisation applying for limited consumer credit permission

(FEES 3 Annex 1R Part 1)

- 5.4** We charge CFOs a concessionary application fee of £200 for all credit related permissions. We are proposing to adjust this rule because it does not take account of the fact that a firm with credit related income up to £50,000 pays only £100 for limited permission. As the rule stands, a CFO would pay more than this. Accordingly, we intend to modify the CFO application fee to charge £100 if they apply for limited permission with income up to £50,000. We will charge the lower rate if any CFOs apply in the meantime. We are not aware of any CFOs which have been charged the higher rate. If any CFO has, it should contact its case officer to request a rebate.

Use of Bank of England Bank Rate in calculating proxy consumer credit income

(FEES 4 Annex 11BR (2)(b)(iv))

- 5.5** We are clarifying our definition of consumer credit income to confirm that firms applying for credit related authorisation should calculate any proxy income on the basis of the Bank of England Bank Rate in force at the time of submission. This reflects the advice we are currently giving applicants. The proxy is used by credit brokers when they do not receive commission from lenders. The rule was drafted for firms that are already authorised, therefore already

trading, and refers them to their last financial year end. This is not appropriate for a firm which has not yet started trading.

Valuation date for fee-block A.9

(FEES 4 Annex 1AR Part 5)

- 5.6** The valuation date for fee-block A.9 should be 'up to' 31 December not 'before' 31 December to bring it into line with other fee-blocks.

Firms registered under the Money-Laundering Regulations

(FEES 4 Annex 11R)

- 5.7** We intend to add fee-block G.1 (Firms registered under the MLRs) to FEES 4 Annex 11R. At present the Annex starts with fee-block G.2 and the MLR fees in fee-block G.1 do not appear in the Handbook.

Other clarifications

- 5.8** We have redrafted some provisions in the Handbook which firms have told us that they find difficult to understand. Our purpose is simply to clarify the existing rules. None of these amendments are intended to make any changes to policy. We would welcome comments on whether we have improved clarity and suggestions for further improvement.

- Application to UKLA for eligibility assessment

(FEES 3.2.7R)

We propose to amend the table of application fees in FEES 3.2.7R to clarify that the UKLA transaction fees in FEES 3 Annex 12R are payable by any person whose securities are the subject of an eligibility application for admission to listing.

- Newly authorised firms: calculation of annualised data

(FEES 4.2.6R – 4.2.7R)

When a firm is authorised part-way through a fee-year and does not have a complete year's trading data to report, it may be several years before it is in a position to report a full 12-month period of trading after authorisation. The issues and an illustrative scenario were set out in a CP⁴ published by our predecessor body, the Financial Services Authority (FSA), in 2012. If a firm is not able to report for a full year, we ask it to provide annualised data. In the first year, the annualised data are pro-rated and the firm charged for the number of months remaining in the fee-year. In subsequent years, the annualised data form the basis for the calculation of annual fees.

We have attempted to simplify the text of this part of the fees Manual and have also tried to take into account metrics, such as funds under management and headcount, which are reported at a point in time rather than cumulatively across the year.

⁴ CP12/28 Regulatory fees and levies: policy proposals for 2013/14, paras 5.2-5.6 (www.fsa.gov.uk/static/pubs/cp/cp12-28.pdf)

- Transfer of business between authorised firms: responsibility for fees

(FEES 4.3.15R – 4.3.17R)

When one authorised firm (as transferee) acquires business from another (as transferor), it becomes liable for the transferor's fees. The principle is straightforward but some firms tell us that the rule setting out the practical detail is unclear. The FSA issued a clarification in 2007, explaining that the rule only applies where both firms already had fee liabilities in the fee period before the transfer took place. In the same CP, the FSA explained there was a particular concern about transfers that take place between January – March. As the following year's fees will be based on a reporting year ending on 31 December, there is a risk of the data from the transferor being lost. For example, if a transferor had a valuation date of 31 January and had its authorisation cancelled in February 2017, its February 2016 – January 2017 data might never be reported for 2018/19 fees purposes. Other firms would have to pick up the difference.⁵ It is the transferee's responsibility to report the data.

We are consulting on amendments we have made to make it clear that:

- If the transferor has fully paid the relevant fees or levies for the relevant year, then the transferee has nothing more to pay on that account
- If the transferor still has any fees outstanding, then the transferee is liable to pay them and to ensure that the data on which the fees should be based are reported to the FCA
- Regardless of the transferee's valuation date:
 - a. if the transfer takes place before the transferor's valuation date, then the transferee would report the tariff data for, and pay fees or levies on, the transferred business up to the date of the transfer. (After the date of transfer it would in any case include the business in its own data); or

⁵ CP07/19 *Regulatory fees and levies: policy proposals for 2008/09* (November 2007), chapter 4: www.fsa.gov.uk/pubs/cp/cp07_19.pdf.

- b.** if the transfer takes place after the transferor's valuation date and the transferor has not paid the relevant fees or levies, then the data should be reported (and the fees paid) by the transferee as if the transfer had taken place immediately before the valuation date. So in the case above, the transferee would report the 2016-17 data, even though the transfer took place afterwards. If the transferor was still authorised, it would strip the transferred business out of its report

Q7: Do you have any comments on the Handbook clarifications presented in chapter 5?

Annex 1

List of questions

- Q1:** Do you have any comments on the structure proposed for the illegal money lending levy?
- Q2:** Do you have any comments on the fee-blocks that should contribute towards the recovery of MiFID II costs?
- Q3:** Do you have any comments on our proposals to base the fees of recognised investment exchanges on an income measure?
- Q4:** Do you have any comments on our proposal to ensure recognised investment exchanges are subject to the same requirements for annual fees as other fee-payers?
- Q5:** Do you have any comments on our proposals to base the fees of benchmark administrators on an income measure?
- Q6:** Do you have any comments on our proposals to introduce a variable fee for service companies with incomes above £100,000?
- Q7:** Do you have any comments on the Handbook clarifications presented in chapter 5?

Annex 2

Compatibility statement

Compatibility with the FCA's general duties

- 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), as amended by the 2012 Act and the Financial Services (Banking Reform) Act 2013 (FSBRA). Our proposals relate only to the FCA.
- 2.** When consulting on new rules, we are required by section 138I(2)(d) FSMA to explain why we believe making the proposed rules is compatible with our strategic objective, advances one or more of our operational objectives, and has regard to the regulatory principles in s.3B FSMA. We are also required by s.138K(2) 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 the duty of the FCA to discharge its general functions (which include rule-making) in a way that 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 further includes our assessment of the equality and diversity implications of these proposals.

The FCA's objectives and regulatory principles

- 5.** The proposals we set out in this consultation are not intended in themselves to advance our operational objectives. However, they will contribute to enabling us to fund the activities we need to undertake in 2017/18 to meet our responsibilities under FSMA. 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
- 6.** We also consider that these proposals are compatible with our strategic objective of ensuring that the relevant markets function well because they will again contribute to funding activities to meet this strategic objective. For the purposes of our strategic objective, 'relevant markets' are defined by s.1F FSMA. In the rest of this annex, reference to objectives means both our strategic objective and operational objectives.

7. In preparing the proposals set out in this consultation, we have regarded the regulatory principles set out in s.3B FSMA. The most relevant regulatory principles are considered below.

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

- Fees proposals generally address the way we recover our costs rather than the way we carry out our business. All the proposals in this CP rely on processes and systems that are already in place, avoiding additional demands on our resources. The IML levy has been structured so that it can be collected within existing resources and with minimal administrative adjustment.

The principle that a burden or restriction should be proportionate to the benefits, considered in general terms, which are expected to result from the burden or restriction being imposed

- We are proposing to target the recovery of MiFID II and MiFIR costs on the fee-blocks which are most affected by the Directive.
- The IML levy mirrors our existing fees structure, avoiding the need to impose new data reporting requirements on firms.

The desire to exercise our functions in a way that recognises differences in the nature of the businesses carried on by different persons we regulate

- Basing the B-block fees on income ensures that they will more effectively reflect the size and potential impact of individual firms.

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

- The clarifications and drafting revisions in chapter 5 are intended to improve the transparency and accessibility of the fees manual.

Expected effect on mutual societies

- We do not expect any of these proposals to affect mutual societies.

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

- The changes we are proposing are intended to improve the targeting of our cost recovery, to ensure we apply our fees as fairly as possible across all fee-payers and/or to clarify our rules where we have become aware that some firms may not be interpreting them consistently. Precisely targeting our cost recovery should help to ensure that distortions to competition are minimised.

Equality and diversity

- 5.9** 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 EIA to ensure that the equality and diversity implications of any new policy proposals are considered. Our EIA concluded that none of our current proposals are relevant to the equality and diversity agenda.

Appendix 1

Draft Handbook text

FEES (MISCELLANEOUS AMENDMENTS) (NO 9) INSTRUMENT 2017**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 73A (Part 6 Rules);
 - (b) section 137A (The FCA’s general rules);
 - (c) section 137T (General supplementary powers);
 - (d) section 139A (Power of the FCA to give guidance);
 - (e) section 166 (Reports by skilled persons)
 - (f) section 166A (Appointment of skilled person to collect and update information)
 - (g) section 213 (The scheme);
 - (h) section 214 (Provisions of the scheme);
 - (i) section 234 (Industry funding);
 - (j) section 333Q (Funding of the FCA’s pensions guidance costs);
 - (k) section 333R (Funding of the Treasury’s pensions guidance costs);
 - (l) section 333T (Funding of action against illegal money lending);
 - (m) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) of the Act; and
 - (n) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body);
 - (2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance);
 - (3) the following provisions of the Electronic Money Regulations 2011 (SI 2011/99):
 - (a) regulation 49 (Reporting requirements);
 - (b) regulation 59 (Costs of supervision); and
 - (c) regulation 60 (Guidance);
 - (4) the following powers and related provisions in the Regulated Covered Bond Regulations 2008 (SI 2008/346):
 - (a) regulations 18, 20, 24 and 25 (Notification requirements);
 - (b) regulation 42 (Guidance); and

- (c) regulation 46 and paragraph 5 of Schedule 1 (Fees);
 - (5) article 25 (Application of provisions of the Act to the FCA in respect of its supervision of consumer buy-to-let mortgage firms) of the Mortgage Credit Directive Order 2015 (SI 2015/910);
 - (6) regulation 15A (Fees payable to the Financial Conduct Authority) of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information Regulations) 2015 (SI 2015/542); and
 - (7) the powers in paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013.
- 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 *[date]*.

Amendments to the Handbook

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

Notes

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

Citation

- G. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 9) Instrument 2017.

By order of the Board
[date]

Annex A

Amendments to the Glossary of definitions

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

Insert the following new definitions in the appropriate alphabetical position. All the text is new and is not underlined.

MLR person a person that is registered under the *Money Laundering Regulations*.

IML levy The levy payable to the FCA pursuant to FEES 13.

Amend the following as shown.

firm ...

(9) (in FEES 4) includes a *recognised investment exchange* in accordance with FEES 4.1.1AR.

Annex B

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

...

- 3.2.7 R Table of application, notification, vetting and other fees payable to the FCA

Part 2: UKLA fees		
(1) Fee payer	(2) Fee payable	(3) Due date
...		
(b) An applicant for approval as a sponsor.	FEES 3 Annex 12R	On or before the date the application is made.
(c) <u>Under For the purposes of the listing rules, an issuer requesting approval of a document arising in relation to a specific event or transaction, which is not a significant transaction or a super transaction or an issuer or person applying for eligibility for listing of its securities.</u>	FEES 3 Annex 12R	On or before the date that relevant document is first submitted.

Part 1(a) Authorisation Fees payable to the FCA by FCA-authorised persons	
Application type	Amount payable (£)
(1) <i>Community finance organisations</i>	

...	
(aa) <i>Community finance organisations</i> - where application is for a <i>Part 4A permission</i> limited to <i>permission to carry on credit-related regulated activity</i>	200
(ab) <i>Community finance organisations</i> - where application is for a <i>Part 4A permission</i> as a <i>home finance provider</i> or <i>home finance administrator</i>	300
(ac) <i>Community finance organisations</i> - where application is for <i>limited permission</i>	<p>(i) 100 if consumer credit annual income is between £0 – £50,000; and</p> <p>(ii) 200 if consumer credit annual income is more than £50,000</p>
...	

...

4 Periodic fees

4.1 Introduction

...

- 4.1.1A R A reference to *firm* in this chapter includes a reference to a *fee-paying payment service provider*, a *CBTL firm* and a *fee paying electronic money issuer* and a *recognised investment exchange*.
- ...

4.2 Obligation to pay periodic fees

...

Modifications for persons becoming subject to periodic fees during the course of the fee year

- 4.2.6 R (1) For the *fee year* during which the event described in column 4 of the table in *FEES 4.2.11R*, giving rise to, or giving rise to an increase in, the fee payable in *FEES 4.2.1R* occurs, the periodic fee required under *FEES 4.2.1R* is modified for: [deleted]

- (a) firms (other than AIFM qualifiers, ICVCs and UCITS qualifiers) in accordance with FEES 4.2.7R and FEES 4.2.8R;
- (b) all other fee payers in column (1) of the table in FEES 4.2.11R, in accordance with the formula set out below.

Formula for the calculation of fees payable under FEES 4.2.6R(1)		
(1)	calculate the number of calendar months between and including:	
	(i)	the calendar month in which the event described in column 4 of the table in FEES 4.2.11R occurred; and
	(ii)	the last month of the relevant fee year;
(2)	divide the number of calendar months calculated in (1) by 12;	
(3)	Multiply the total fee payable for the relevant fee year by the number calculated in (2).	

- 4.2.7 R A firm (other than an AIFM qualifier, ICVC or UCITS qualifier) which becomes authorized or registered, or whose permission and/or payment service activities are extended, during the course of the fee year must pay a fee which is calculated by:
- (1) identifying each of the tariffs set out in Part 1 of FEES 4 Annex 2AR, and/or Part 1 of FEES 4 Annex 11 as appropriate for the relevant fee year that apply to the firm only after the permission is received or extended or payment service activities are authorized or registered or extended or electronic money issuance activities are authorised or registered under the Electronic Money Regulations;;
 - (2) calculating the amount for each of the applicable tariffs which is the higher of:
 - (a) Any applicable minimum fee specified in relation to a particular tariff in FEES 4 Annex 2AR (but note, for the avoidance of doubt, that these are not the A.0 minimum fees set out under Part 2 of FEES 4 Annex 2AR); and
 - (b) The result of applying the tariff to the projected valuation, for its first year (as provided in the course of the firm's application), of the business to which the tariff relates;
 - (3) adding together the amounts calculated under (2);

- (4) ~~working out whether an A.0 minimum fee is payable under Part 2 of FEES 4 Annex 2Ar (except that minimum fee is not payable again by a firm whose permission is extended if the fee was already payable before the extension);~~
 - (4A) ~~Working out whether an AP.0 FCA prudential fee is payable under Part 2 of FEES 4 Annex 2AR and if so how much;~~
 - (5) ~~Adding together the amounts calculated under (3), (4) and (4A) and then adding this sum to any applicable flat rate fee; and~~
 - (6) ~~Modifying the result in accordance with the formula set out in FEES 4.2.6R (except that FEES 4 Annex 10R (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant fee year and FEES 4.2.6R does not apply).~~
~~[deleted]~~
- 4.2.7A G Projected valuations for a firm's first year will be collected for the 12 month period beginning with the date a firm becomes authorised or registered, or the date its permission and/or payment service activities are extended. That information will be used to calculate the periodic fee for the remainder of the fee year in which the firm was authorised or registered or its permission and/or payment service activities were extended (adjusted in accordance with FEES 4.2.7R) and to calculate the periodic fee for the following fee year. Projected valuations are not relevant for those fee payers that are only required to pay fixed fees.
~~[deleted]~~
- 4.2.7B R (1) This rule deals with the calculation of:
- (a) ~~A firm's fees for its second and subsequent fee year. These are the fee years following the fee year in which it was given permission and/or was authorised or registered under the Payment Services Regulations or the Electronic Money Regulations or had its permission and/or payment services activities extended (the relevant permissions); and~~
 - (b) ~~The tariff base for the fee block or fee blocks that relate to each of the relevant permissions.~~
 - (2) ~~The starting point for calculating the fees referred to in (1)(a) is determining whether or not the firm's tariff base for the relevant fee year can be calculated using data from a complete period (as specified in Part 5 of FEES 4 Annex 1AR or Part 4 of FEES 4 Annex 11R) that begins on or after the date that the firm obtained the relevant permission to which that tariff base~~

relates.

- (a) If it can, the firm must use that data for calculating its tariff base.
- (b) If it cannot, the tariff base must be calculated using the projected valuations for its first year of the business to which the tariff relates (as provided in the course of the firm's application), unless (5)(b) or 5(c) applies.
- (3) This rule does not apply to a firm with a permission for operating a multilateral trading facility.
- (5)
 - (b) If a firm:
 - (i) receives a relevant permission between 1 April and 31 December inclusive; and
 - (ii) is, but for this rule, required to calculate its tariff base for that relevant permission by reference to the average of its modified eligible liabilities for October, November and December;

it must calculate that tariff base as at the December before the start of the fee year.

 - (c) If a firm:
 - (i) is, but for this rule, required to calculate its tariff base for the relevant permission by reference to the firm's financial year ended in the calendar year ending on the 31 December before the start of the fee year and, since obtaining the relevant permission, the firm has yet to complete a full financial year ended in the calendar year ending on the 31 December before the start of the fee year; or
 - (ii) is, but for the rule, required to calculate its tariff base by reference to the twelve months ending on the 31 December before the start of the fee year and, since obtaining the

~~relevant permission the firm has yet to complete a full twelve months ending on the 31 December before the start of the fee year;~~

~~it must calculate the tariff base under (d) below unless it is in its second fee year and was authorised between 1 January and 1 April (in which case it must use the projected valuations provided for in (2)(b) above).~~

- (d) ~~If a firm satisfies either of the conditions in (e) it must calculate its tariff base as follows:~~
 - (i) ~~it must use actual data in relation to the business to which the tariff relates rather than projected valuations;~~
 - (ii) ~~in respect of firms satisfying condition (5)(e)(i), the tariff is calculated by references to the period beginning on the date it acquired the relevant permission relating to the tariff, and ending on either the 31 December before the start of the fee year or, if earlier, the start date of the firm's financial year; and in respect of firms satisfying condition (5)(e)(ii), the tariff is calculated by reference to the period beginning on the date on which it acquired the relevant permission, and ending on the 31 December before the start of the fee year~~
 - (iii) ~~The figures are annualised by increasing them by the same proportion as the period of 12 months bears to the period starting from when the firm received its relevant permission to the relevant period end date specified in (ii).~~

- (e) Where a firm is required to use the method in (d) it must notify the FCA (in its own capacity and, if applicable, in its capacity as collection agent for the PRA) of this by the date specified in FEES 4.4 (Information on which Fees are calculated).
- (f) Where a firm is required to use actual data under this rule FEES 4 Annex 1AR Part 5 and FEES 4 Annex 11 Part 4, are modified, where applicable, in relation to the calculation of that firm's valuation date in the fee years to which this rule applies. [deleted]

Application of FEES 4.2.7BR

- 4.2.7C G The table below sets out the period within which a firm's tariff base is calculated (the data period) for second year fees calculated under FEES 4.2.7BR. The example is based on a firm that acquires permission on 1 November 2009 and has a financial year ending 31 March. Where valuation dates fall before the firm receives permission it should use projected valuations in calculating its fees.

References in this table to dates or months are references to the latest one occurring before the start of the FCA's fee year unless otherwise stated. [deleted]

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 4.2.7BR	Data period under FEES 4.2.7BR
Accepting deposits (monthly reporting firms)	Modified eligible liabilities (MELs)	Average of the MELs for October, November, December so projected valuations will be used	MELs for December 2009.
Accepting deposits (quarterly reporting firms)	MELs	December 2009	December 2009.
Entering into a home finance	Number of mortgages,	12 months ending 31	1 November

<i>transaction</i>	<i>home purchase plans or home reversion plans entered into</i>	<i>December 2009—so projected valuations will be used</i>	<i>er to 31 December 2009.</i>
<i>Effecting contracts of insurance (Insurers—general)</i>	<i>Gross premium income and gross technical liabilities</i>	<i>31 March 2009—so projected valuations will be used</i>	<i>1 November to 31 December 2009.</i>

4.2.7D R If an issuer of a regulated covered bond becomes registered after 31 December its valuation date will be calculated in the manner described in 1R Part 4. [deleted]

4.2.7E R (1) A firm (other than AIFM qualifiers, ICVCs and UCITS qualifiers, or issuers of regulated covered bonds) which becomes authorised or registered, or whose permission and/or activities are extended, during the course of the fee year must pay a fee based on its projected valuation for the first twelve months of its new business. This is the valuation provided by the firm in the course of its application.
 (2) The calculation for the first year of authorisation for AIFM qualifiers, ICVC and UCITS qualifiers are set out in FEES 4 Annex 4R Part 1 and for issuers of regulated covered bonds in FEES 4 Annex 11R Part 4.

Calculating the fee in the firm's first year of authorisation

4.2.7F R (1)	<u>identify the tariff rate or rates which will be relevant to the firm as a result of its new or extended permission; and then</u>
(2)	<u>apply the formula (A+B+CxD), where:</u>
	<u>A = the amount arrived at by applying the tariff rates to the firm's projected valuation for its first year of new business, as provided by it in the course of its application;</u>
	<u>B = the A.0 minimum fee, unless already paid;</u>
	<u>C = the AP.0 minimum fee, unless already paid; and</u>
	<u>D = the number of calendar months (inclusive) between the calendar month during which the firm received its new or extended permission and the last calendar month of that fee year ÷ 12.</u>

Calculating fees in the second fee-year where the firm received permission between 1 January – 1 April in its first fee year

- 4.2.7G R When a *firm* receives permission between 1 January and 1 April, its fee for the following *fee year* starting 1 April will be calculated from the projected valuation for the first twelve *months* of its new business that it provided in the course of its application.

Calculating all other fees in the second and subsequent years of authorisation where a full year of tariff data is not available

- 4.2.7H R If it can, a *firm* must provide data from a complete period (as specified in FEES 4 Annex 1AR Part 5 or FEES 4 Annex 11R Part 4) that begins on or after the date that the *firm* obtained the relevant permissions to which the tariff base relates. If it cannot, the tariff base must be calculated using projected valuations. Projected valuations are not relevant where the fee payer is only required to pay fixed fees.

- 4.2.7I R If a *firm* has not yet submitted sufficient tariff data to enable the periodic fees calculation to be made in respect of that *fee year*, it should calculate an annualised figure based on actual data where possible. If the tariff base is a cumulative measure like income, covering the full year, it should apply the formula $(A \div B) \times 12$, where:
- A = the total income from the date of authorisation up to 31 December, calculated according to the relevant *rules*; and
- B = the number of complete *months* in the period referred to in A.

- 4.2.7J G For example, suppose the tariff data for a particular *permission* is based on income for the *financial year* ending during the calendar year ending 31 December before the relevant *fee year* starting the following April. A *firm* is authorised in October and its *financial year* ends in June. By April, it will not have been able to report on the basis of its *financial year*. The value of A would therefore cover the period from October to December and the value of B would be two i.e. November and December.

Suppose the *firm* was authorised in June and its *financial year* ended in October, then the value of A would cover June to October and the value of B would be four i.e. July to October.

- 4.2.7K R Where the measure is not cumulative (e.g. the number of traders for fee-block A10), the firm should use the figure relating to its annual reporting date (e.g. 31 December for A10) or, if that is not available, the projected figure used when it was authorised. Table A sets out the reporting requirements for the key fee-blocks when actual data are not available:

Table A: calculating tariff data for second and subsequent years of authorisation when full trading figures are not available

Fee-block	Tariff base	Calculation where trading data are not
-----------	-------------	--

		available
A1. Deposit acceptors	<u>Average MELS for October - December</u>	<u>Use data available at 31 December or, if trading has not commenced by 31 December, use the projection submitted as part of the application process.</u>
A2. Home finance providers and administrators	<u>Number of relevant contracts entered into or being administered in the twelve months up to 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at an annualised figure.</u>
A3. Insurers - general	<u>Annual gross premium income for the financial year ended in the calendar year ending 31 December and gross technical liabilities valued at the end of the financial year</u>	<u>Income – apply the formula (A÷B) x 12 to arrive at an annualised figure.</u>
A4. Insurers - life	<u>Adjusted gross premium income for the financial year ended in the calendar year ending 31 December and mathematical reserves valued at the end of the financial year</u>	<u>Gross technical liabilities and mathematical reserves. Use data at valuation date or, if trading has not commenced by then, use projections provided at authorisation</u>
A5. Managing agents at Lloyd's	<u>Active capacity in respect of the underwriting year at the beginning of the period to which the fee relates</u>	<u>Not applicable</u>
A6. The Society of Lloyd's	<u>Bespoke fee</u>	<u>Not applicable</u>

<u>A7. Portfolio managers</u>	<u>Funds under management valued at 31 December</u>	<u>Use data as at 31 December or, if trading has not commenced by 31 December, use the projection submitted as part of the application process.</u>
<u>A9. Managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes</u>	<u>Annual gross income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at an annualised figure.</u>
<u>A10. Firms dealing as principal</u>	<u>Number of traders as at 31 December</u>	<u>Use data as at 31 December or, if trading has not commenced by 31 December, use the projection submitted as part of the application process</u>
<u>A13. Advisors, arrangers, dealers or brokers</u>		
<u>A14. Corporate finance advisers</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at the annualised figure</u>
<u>A18. Home finance providers, advisers and arrangers</u>		
<u>A19. General insurance mediation</u>		
<u>A21. Firms holding client money or assets, or both</u>	<u>The highest amount of client money and the highest amount of custody assets held over the 12 months ending 31 December</u>	<u>The highest amount of client money and/or custody assets over the period between the date of authorisation and 31 December or, if trading has not started, use the projection submitted as part of the application process</u>

<u>B. Market operators and MTF operators</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>B. Service companies</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at the annualised figure</u>
<u>B. Benchmark administrators</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at the annualised figure</u>
<u>B. Recognised investment exchanges</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at the annualised figure</u>
<u>B. Recognised auction platforms</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>B. Recognised overseas investment exchanges</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>CC1. Credit-related regulated activities with limited permission</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>Apply the formula (A÷B) x 12 to arrive at an annualised figure.</u>
<u>CC2. Credit related regulated activities</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December</u>	<u>See A1 deposit acceptors</u>
<u>G.1 Firms registered under the Money Laundering Regulations</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>G.2 Payment services institutions – deposit acceptors</u>		
<u>G.3. Large payment services institutions</u>	<u>Relevant income</u>	<u>Apply the formula (A÷B) x 12 to arrive at an annualised figure.</u>
<u>G.4 Small payment institutions</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>G.5 Other payment institutions</u>	<u>Relevant income</u>	<u>Apply the formula (A÷B) x 12 to arrive</u>

		<u>at an annualised figure.</u>
<u>G.10 Large electronic money institutions</u>	<u>Average outstanding e-money over 12 months ending 31 December</u>	<u>Average over the period from authorisation to 31 December</u>
<u>G.11 Small electronic money institutions</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>G.15 Issuer of regulated covered bonds</u>	<u>Value as at 31 December</u>	<u>Not applicable</u>
<u>G.20 Consumer buy-to-let (CBTL) lender</u>	<u>Flat fee</u>	<u>Not applicable</u>
<u>G.21 CBTL adviser and arranger</u>		

...

4.3 Periodic fee payable by firms (other than AIFM qualifiers, ICVCs and UCITS qualifiers)

...

Firms acquiring businesses from other firms

- 4.3.15 R (1) This ~~rule~~ applies if:
- (a) ~~A firm (A) acquires all or a part of the business of another firm (B), whether by merger, acquisition of goodwill or otherwise, in relation to which a periodic fee would have been payable by B, unless no periodic fee was payable by A in the financial year that the business was acquired from B; or~~
 - (b) ~~A became authorised or registered as a result of B's simple change of legal status (as defined in FEES 3 Annex 1 Part 6).~~
 - (2) ~~If, before the date on which A acquires the business, B had paid any periodic fee payable for the period in which the acquisition occurred, FEES 4.2.6R to FEES 4.2.7R do not apply to A in relation to the business acquired from B.~~
 - (3) ~~If the acquisition occurs after the valuation date applicable to the business (as set out in FEES 4 Annex 1AR and FEES 4 Annex 11R) which A acquired from~~

~~B, for the period following that in which the acquisition occurred, FEES 4.2.1R applies to A, in relation to that following period, as if the acquisition had occurred immediately before the relevant valuation date.~~

[deleted]

...

- 4.3.17 R (1) This rule applies if a firm (A):
- (a) (i) is a firm which would have been required to pay a periodic fee and acquires, in that fee year, all or a part of the business of another firm (B), whether by merger, acquisition of goodwill or otherwise; or
 - (ii) becomes authorised or registered as a result of another firm's (B) simple change of legal status (as defined in FEES 3 Annex 1R Part 6); and
 - (b) had that acquisition or simple change of legal status (or any associated cancellation) not taken place, a periodic fee would have been payable by B in that same fee year.
- (2) If, before the date of acquisition or simple change of legal status, B had paid any periodic fee that would have become payable by it in that fee year, FEES 4.2.7ER to FEES 4.2.7KR will not apply to A in relation to the business of B.
- (3) If, before the date of acquisition or simple change of legal status, B had not paid any periodic fee that would have become payable by it in that fee year, FEES 4.2.7ER to FEES 4.2.7KR will apply to A in relation to the business of B. Periodic fees that would have become payable in that fee year include those which may have been dis-applied under FEES 4.3.13R.
- (4) Regardless of A's valuation date:
- (a) if the acquisition or simple change of legal status takes place before B's valuation date, then A must report the tariff data for, and pay fees or levies on, the transferred business up to the date of the transfer; and

- (b) if the acquisition or simple change of legal status takes place after B's valuation date and B has not paid the relevant fees or levies, then the data should be reported and fees be paid by A as if the transfer had taken place immediately before the valuation (if B continues to be authorised, it should strip the transferred business out of its report).
- ...

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

Part 1	
...	
Activity group	Fee payer falls in the activity group if
...	
B. MTF operators	its <i>permission</i> includes operating a <i>multilateral trading facility</i>
<u>B. Principal benchmark administrators</u>	<u>It is a <i>benchmark administrator</i> who <i>administers the arrangements for determining one or more specified benchmarks</i>.</u>
B. Benchmark administrators	<u>It is a <i>benchmark administrator</i> who <i>does not administer arrangements for determining one or more specified benchmarks</i> it <i>administers one or more specified benchmarks</i>.</u>
<u>B. Recognised investment exchanges</u>	<u>it is a <i>recognised investment exchange</i>.</u>
<u>B. Recognised auction platforms</u>	<u>it is a <i>recognised auction platform</i></u>
<u>B. Recognised overseas investment exchanges</u>	<u>it is a <i>recognised overseas investment exchange</i></u>
...	
Part 3	
...	
Activity group	Tariff base

...	
B. MTF operators	SUPERVISORY CATEGORY The general supervisory category to which the <u>firm</u> was assigned as at the start of the relevant <i>fee year</i> .
B. Benchmark administrators	<u>Not applicable</u> <u>Annual income as defined in FEES 4 Annex 11AR.</u>
<u>B. Recognised investment exchanges</u>	<u>Annual income as defined in FEES 4 Annex 11AR.</u>
<u>B. Recognised auction platforms</u>	Not applicable
<u>B. Recognised overseas investment exchanges</u>	Not applicable
...	

Part 5

Activity group	Valuation date
...	
A.9	Annual gross income (GI), valued at the most recent financial year <u>ended before</u> <u>ending</u> 31 December.
...	
<u>B. MTF Operators</u>	The start of the relevant <i>fee year</i> .
<u>B. Benchmark administrators</u>	<u>Not applicable</u> <u>Annual income for the financial year ended in the calendar year ending 31 December.</u>
<u>B. Recognised investment exchanges</u>	<u>Annual income for the financial year ended in the calendar year ending 31 December.</u>
<u>B. Recognised auction platforms</u>	<u>Not applicable.</u>
<u>B. Recognised overseas investment exchanges</u>	<u>Not applicable.</u>

...	
-----	--

**4 Annex
2AR**

**FCA Fee rates and EEA/Treaty firm modifications for the period from
~~1 April 2016 to 31 March 2017~~ 1 April 2017 to 31 March 2018**

Part 1		
...		
Activity group	Fee payable	
...		
B. Market operators		...
B. Service companies	Band Width	Flat fee (£) Fee (£/£m or part £ thousand of income)
	Annual income up to and including £100,000	1,067 [tbc]
	Annual income up to and including £1,000,000 over £100,000	10,824 [tbc]
	Annual income over £1,000,000	48,216
	A service company that fails to provide income data for the relevant fee year is deemed to fall within the highest band width.	
...		
B. Benchmark administrators	£49,200 <u>Band width</u>	Fee (£/£m or part £ thousand of income)
	Annual income up to and including £3,000,000	100,000

	<u>Annual income over £3,000,000</u>	[tbc]
<u>B. Recognised investment exchanges</u>	<u>Band width</u>	<u>Fee (£/£m or part £ thousand of income)</u>
	<u>Annual income up to and including £10,000,000</u>	<u>100,000</u>
	<u>Annual income over £10,000,000</u>	[tbc]
<u>B. Recognised auction platforms</u>	[tbc]	
<u>B. Recognised overseas investment exchanges</u>	[tbc]	
...		

...

FEES 4 Annex 6R (Periodic fees for recognised investment exchanges, and recognised auction platforms payable in relation to the period 1 April 2016 to 31 March 2017) is deleted in its entirety. The deleted text is not shown.

4 Annex 6R Periodic fees for recognised investment exchanges, and recognised auction platforms payable in relation to the period 1 April 2016 to 31 March 2017

[deleted]

...

4 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 issuance by fee-paying electronic money issuers under the Electronic Money Regulations and issuance of regulated covered bonds by issuers and CBTL business carried on by CBTL firms under the MCD Order and firms registered under the Money Laundering Regulations in relation to the period 1 April 2016 to 31 March 2017 1 April 2017 to 31 March 2018

...

Part 2AA – Activity groups relevant to firms registered under the Money Laundering Regulations

<u>Activity Group</u>	<u>Fee payer falls into this activity group if</u>
G.1	it is a firm that is registered under the Money Laundering Regulations

Part 3

This table indicates the tariff base for each fee-block. The tariff-base is the means by which the FCA measures the amount of business conducted by the *fee-paying payment service providers, fee-paying electronic money issuers, CBTL firms, MLR firms and issuers of regulated covered bonds.*

Activity Group	Tariff base
G.1	<u>Not applicable</u>
G.2	MODIFIED ELIGIBLE LIABILITIES These are 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 2R.
...	

Part 4 – Valuation period

This table indicates the valuation date for each fee-block. A *fee-paying payment service provider, a fee-paying electronic money issuer and a regulated covered bond issuer* can calculate tariff data by applying the tariff bases set out in Part 3 with reference to the valuation dates shown in this table.

Activity Group	Valuation date
...	
G.1	<u>Not applicable</u>
G.2	For <i>banks and building societies</i> as in FEES 4 Annex 1 Part 3.

...

Part 5 – Tariff rates		
Activity group	Fee payable in relation to <u>2016/17</u> <u>2017/18</u>	
<u>G.1</u>	<u>Flat fee (£)</u>	<u>433</u>
G.2	Minimum fee (£)	433 [tbc]
	£ million or part £m of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)
	...	[tbc]

...

4 Annex 11AR

Definition of annual income for the purposes of calculating fees in fee blocks A.13, A.14, A.18, A.19 and B. Service Companies, Recognised Investment Exchanges and Benchmark Administrators

Annual income definition
General definition for all relevant fee-blocks (<u>other than where the firms is an operator of a Recognised Investment Exchange</u>)
“Annual income” for a particular fee block (the “relevant fee block”) is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the <i>firm</i> ’s accounts during the reporting year in respect of, or in relation to, the provision in the <i>UK</i> of the <i>regulated activities</i> specified in FEES 4 Annex 1AR Part 1 as belonging to the relevant fee block.
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 <i>UK</i> 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).
PLUS:
(b) any ongoing commission from previous business received by the firm during the reporting year.
PLUS:
(c) the “fair value” of any goods or services the firm provided to clients. This is the commission equivalent or an estimate of the amount the firm

would otherwise have received for any regulated activity under (a) above, but for which it has made a business decision to waive or discount its charges.

Definition for Recognised Investment Exchanges

“Annual income” for a *recognised investment exchange* is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the firm’s accounts during the reporting year in respect of, or in relation to activities that comprise a necessary part of an exchange’s business as an *investment exchange*.

For the purposes of calculating annual income of the *recognised investment exchange* include amounts received in relation the operation of its markets; access to those markets; the submission, management and execution of orders; quotes or transactions on those markets; the supply of pre-and post-trade transparency information about those markets; fees for admission to trading or listing; membership of connectivity charges; fees for order execution or management; trade reporting; market data and any other relevant revenue streams.

Where the firm is a benchmark administrator

Where the sales and marketing of a benchmark are undertaken by a separate legal entity, the *benchmark administrator* is responsible for identifying the relevant income and reporting it to us as its own income. To avoid double counting, the *benchmark administrator* should report only the income from sales and exclude any amount paid to it from that income to pay for its expenses as a *benchmark administrator*.

Where the firm’s regulated activities are carried on by an appointed representative of the firm

...

4 Annex 11BR

Definition of annual income for the purposes of calculating fees in fee blocks CC1 and CC2

...
(2) Proxy measure of annual income
...
<p>(b) The proxy measure for annual income is calculated:</p> <ul style="list-style-type: none"> (i) for activities in 2(a)(ii), by multiplying the gross loan amount under all agreements falling within the activity by the percentage value at b(iii); (ii) for activities in 2(a)(iii), by multiplying the gross value of all goods under all agreements falling within the activity by the percentage value at

b(iii);

(iii) the percentage is 5% plus the Bank of England base rate on the final day of the firm's *accounting reference date*;

(iv) any proxy income should be calculated on the basis of the Bank of England base rate in force at the time of submission.

...

4 Annex
13G

**Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR
Part 3**

Table 1

The following table sets out *guidance* on how a *firm* should calculate tariffs for fee-blocks A.13, A.14, A.18, A.19 and B. Service Companies, Recognised Investment Exchanges and Benchmark Administrators.

Calculating and apportioning annual income – FEES 4 Annex 11AR

Calculating annual income

Defining relevant income streams

(1)	<p>The <i>firm</i> should refer to the fee-block definitions in <i>FEES 4 Annex 1AR</i>, Part 1 to decide which particular income streams should be taken into account when calculating its annual income for the purposes of fee-blocks A.13, A.14, A.18, A.19 and B. Service Companies, <u>Recognised Investment Exchanges and Benchmark Administrators</u>.</p>
(2)	<p>For the avoidance of doubt, the only income streams reportable for a relevant fee-block are those income streams which relate to a <i>regulated activity</i> listed in that fee-block. Income streams that do not relate to a <i>regulated activity</i> listed in the relevant fee-block should not be reported. <u>It should be noted that under FEES 4 Annex 11AR, where the sales and marketing of a benchmark are undertaken by a separate legal entity the income generated as a result is also deemed to relate to the regulated activity carried on by the benchmark administrator and so should be reported to us by the benchmark administrator as its own income (for fees setting purposes).</u></p> <p>As such, <i>firms</i> should exclude from the calculation of its <u>their</u> annual income <u>for any particular fee-block all income earned in relation to regulated activities belonging to fee-blocks A.13, A.14, A.18, A.19 and B. Service Companies where the income is directly derived from the performance of regulated activities belonging to other fee-blocks,</u> for <u>For</u> example, interest from loans made in the course of providing or administering home finance (A.2); should be excluded from commission earned from</p>

	<p>arranging home finance agreements (A18); premium interest from carrying out or effecting life insurance contracts (A.3), income from managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyds (A.5); <u>should be excluded from commissions for arranging general insurance</u> (A.19); income from managing investments, collective investment schemes or pensions schemes (A.7 or A.9) or income from operating multi-lateral trading facilities (<i>FEES</i> 4 Annex 10R) <u>should be excluded from income derived from investment intermediation</u> (A.13).</p>
(3)	<p><i>Firms</i> should only include revenue streams that relate to <i>regulated activities</i> which are carried on ‘in the <i>United Kingdom</i>’. In many cases, it will be quite straight forward to identify where an activity is carried on. But when there is a cross-border element, for example because a client is outside the <i>United Kingdom</i> or because some other element of the activity happens outside of the <i>United Kingdom</i>, the question may arise as to where the activity is carried on. <i>PERG</i> 2.4 generally and <i>PERG</i> 4.11 regarding activities relating to <i>regulated mortgage contracts</i>, <i>PERG</i> 5.12 regarding activities relating to <i>insurance mediation activities</i> and <i>PERG</i> 14.6 regarding <i>home reversion plans</i> and <i>home purchase plans</i> describe the legislation that is relevant to this question and gives the <i>FCA</i>’s views on various scenarios.</p>
...	

Insert the new chapter FEES 13 after FEES 12 (FOS ADR levy). All the text is new and is not underlined.

13 **Illegal money lending levy**

13.1 **Application and purpose**

Application

- 13.1.1 R This chapter applies to every *person* that is in activity group CC1 or CC2.

Purpose

- 13.1.2 G The purpose of this chapter is to set out the requirements on the *persons* listed in *FEES* 13.1.1R to pay the annual *IML levy* in order to fund the costs of taking action against illegal money lending.

- 13.1.3 G Section 333S of the *Act* (Financial assistance for action against illegal money lending) provides that the Treasury may make grants or loans, or give other forms of financial assistance, to *persons* for the purpose

of taking action against illegal money lending.

- 13.1.4 G Section 333T of the *Act* (Funding of action against illegal money lending) requires the Treasury to notify the *FCA* of the amount of the Treasury's illegal money lending costs. The *FCA* must make *rules* requiring *authorised persons*, or any specified class of *authorised person*, to pay to the *FCA* the specified amounts or amounts calculated in a specified way, with a view to recovering the amounts notified to it by the Treasury.
- 13.1.5 G *FEES* 13 sets out the *rules* referred to in *FEES* 13.1.4G.
- 13.1.6 G The amounts to be paid under the *rules* may include a component to recover the expenses of the *FCA* in collecting the payments.
- 13.1.7 G The *FCA* must pay to the Treasury the amounts that it receives under the *IML levy* apart from amounts in respect of its collection costs (which it may keep).
- 13.1.8 G This chapter sets out the method by which the *IML levy* will be calculated. Details of the actual levy payable will vary from year to year, depending on the amount of funding provided by the Treasury for the purpose of combatting illegal money lending. These details are set out in *FEES* 13 Annex 1R. New details will be prepared and consulted on for each *financial year*.

13.2 The IML levy

Obligation to pay the IML levy

- 13.2.1 R A *firm* must pay each *IML levy* applicable to it:
 - (1) in full and without deduction (unless permitted or required by a provision in *FEES*); and
 - (2) in accordance with the provisions of *FEES* 4.3.6R as modified by *FEES* 13.2.2R.
- 13.2.2 R (1) For the purposes of *FEES* 13.2.1R(2), *FEES* 4.3.6R(1C-1E), as applied by *FEES* 13.2.8R, is modified so that if a *firm*'s periodic fees for the previous financial year were at least £50,000, the *firm* must pay:
 - (a) an amount equal to 50% of the *IML levy* payable for the previous year, by 1 April in the *financial year* to which the sum due under *FEES* 13.2.1R relates; and
 - (b) the balance of the *IML levy* due for the current *financial year* by 1 September in the *financial*

year to which that sum relates.

Calculation of the IML levy

13.2.3

R The *IML levy* is calculated as follows:

- (1) identify whether activity group CC1 or CC2 applies to the business of the *firm* for the relevant period (for this purpose, the activity groups are defined in accordance with Part 1 of *FEES* 4 Annex 1AR);
- (2) for each of those activity groups, calculate the amount payable in the way set out in *FEES* 13.2.4R;
- (3) add the amounts calculated under (2);
- (4) work out whether a minimum fee is payable under Part 2 of *FEES* 7 Annex 1R and if so how much;
- (5) add together the amounts calculated under (3) and (4);
- (6) modify the result as indicated by the tables in *FEES* 4.2.6R and *FEES* 4.2.7FR (if applicable);
- (7) apply any applicable payment charge specified in *FEES* 4.2.4R to the amount in (6), provided that:
 - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FCA*; or
 - (b) for payment by credit transfer, the amount due is received by the *FCA* on or before the due date; and
- (8) make the calculation using information obtained in accordance with *FEES* 4.4.

13.2.4

R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:

- (1) for a *firm* in activity group CC1, a £5 flat rate is the amount payable by the *firm* with respect to that activity group;
- (2) for a *firm* in activity group CC2:
 - (a) up to and including £250,000 consumer credit income: £10 is the amount payable by the *firm* with respect to that activity group; and
 - (b) over £250,000 consumer credit income: £10 +

- [tbc] per £ thousand or part £ thousand of consumer credit income;
- (3) a *firm* in activity group CC2 must calculate its tariff base using the annual income calculation in Part 3 of *FEES 4 Annex 1AR* and *FEES 4 Annex 11BR* and the valuation date requirements in Part 5 of *FEES 4 Annex 1AR*.
- 13.2.5 R For the purposes of *FEES 13.2.4R*:
- (1) a *firm* in activity group CC2 may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
 - (a) it has reasonable grounds for believing that the costs of identifying the *firms* *UK* business separately from its non-*UK* business in the way described in *FEES 4 Annex 11BR* are disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES 4.4 (Information on which fees are calculated)*, or if earlier, at the time it pays the fees concerned; and
 - (2) for a *firm* which has not complied with *FEES 4.4.2R (Information on which fees are calculated)* for this period, the *IML levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period multiplied by the factor of 1.10.
- 13.2.6 R The modifications in Part 3 of *FEES 4 Annex 2AR* and Part 7 of *FEES 4 Annex 11R* apply.
- FEES 4 rules incorporated into FEES 13 by cross-reference*
- 13.2.7 G The *Handbook* provisions relating to the *IML levy* are meant to follow closely the provisions relating to the payment of the periodic fees under *FEES 4.3.1R*. In the interests of brevity, not all of these provisions are set out again in *FEES 13*. In some cases, certain *FEES 4 rules* are applied to the payment of the *IML levy* by individual *rules* in *FEES 13*. The rest are set out in the table in *FEES 13.2.9R*.
- 13.2.8 R The *rules* set out in the table in *FEES 13.2.9R* and any other *rules* in *FEES 4* included in *FEES 13* by cross-reference apply to the *IML levy* in the same way as they apply to periodic fees payable under *FEES 4.3.1R*.
- 13.2.9 Table of rules in *FEES 4* that also apply to *FEES 13* to the extent that in

FEES 4 they apply to fees payable to the *FCA*.

FEES 4 rules incorporated into FEES 13	Description
<i>FEES 4.2.4R</i>	Method of payment
<i>FEES 4.2.7GR to FEES 4.2.7KR</i>	Calculation of periodic fee and tariff base for a <i>firm's</i> second financial year
<i>FEES 4.2.8R</i>	How <i>FEES 4.2.7R</i> applies in relation to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>
<i>FEES 4.2.10R</i>	Extension of time
<i>FEES 4.2.11R</i> (first entry only)	Due date and changes in permission for periodic fees
<i>FEES 4.3.7R</i>	Group of <i>firms</i>
<i>FEES 4.3.13R</i>	<i>Firms</i> applying to cancel or vary permission before start of period
<i>FEES 4.3.15R</i>	<i>Firms</i> acquiring businesses from other <i>firms</i>
<i>FEES 4.4.1R to FEES 4.4.6R</i>	Information on which fees are calculated

- 13.2.10 G In some cases, a *FEES 4 rule* incorporated into *FEES 13* in the manner set out in *FEES 13.2.7G* will refer to another *rule* in *FEES 4* that has not been individually incorporated into *FEES 13*. Such a reference should be read as being to the corresponding provision in *FEES 13*. The main examples are set out in *FEES 7.2.10G*.
- 13.2.11 G Table of *FEES 4 rules* that correspond to *FEES 13 rules*

FEES 4 rules	Corresponding FEES 7 rules
<i>FEES 4.2.1R</i>	<i>FEES 13.2.1R</i>
<i>FEES 4.3.1R</i>	<i>FEES 13.2.3R</i>
<i>FEES 4.3.3R</i>	<i>FEES 13.2.3R</i>
<i>FEES 4.3.3AR</i>	<i>FEES 13.2.3R</i>

<i>FEES</i> 4.3.12R	<i>FEES</i> 13.2.6R
<i>FEES</i> 4.3.12AR	<i>FEES</i> 13.2.6R

13 Annex Illegal money lending (IML) levy for 2017/18 1R

Limited permission (fee-block CC1):	£5 flat rate	
	Up to £250,000 consumer credit income: £10	£10
Full authorisation (fee-block CC2):	Over £250,000 consumer credit income: [tbc] per £1, 000	£10 + [tbc]] per £1, 000

Insert the new FEES TP 13 after FEES TP 12 (Transitional provisions relating to direct payment service providers and operators of IFR card payment systems). All the text is new and is not underlined.

TP 13 Transitional Provisions relating to FEES 4 for benchmark administrators and recognised investment exchanges

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
13.1	FEES TP 4.1.2R and	R	FEES TP 4.1.2R does not apply to changes to the	From 1 March 2017	1 March 2017

	<i>FEES 4.4</i>		requirements imposed under <i>FEES</i> on <i>benchmark administrators</i> and <i>recognised investment exchanges</i> made by the [Fees (Miscellaneous Amendments) (No 9) Instrument 2017]. These amendments will have immediate effect for the supply of information under <i>FEES 4.4</i> in relation to the <i>fee year</i> beginning 1 April 2017 and ending 31 March 2018.		
13.2	<i>FEES 4.4.2R</i>	R	For the year ending 31 December 2016, rather than having to provide to the <i>FCA</i> the information required under <i>FEES 4.4.1R</i> within two <i>months</i> of the date specified as the valuation date in Part 5 of <i>FEES 4 Annex 1AR</i> , <i>benchmark administrators</i> and <i>recognised investment exchanges</i> are required to submit this information by 30 April 2017.	From 1 March 2017	1 March 2017

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25 The North Colonnade Canary Wharf
London E14 5HS
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk
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