

# Regulatory fees and levies: policy proposals for 2015/16

November 2014





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We are asking for comments on this Consultation Paper by 2 February 2015.

You can send them to us using the form on our website at: [www.fca.org.uk/your-fca/documents/consultation-papers/cp14-26-response-form](http://www.fca.org.uk/your-fca/documents/consultation-papers/cp14-26-response-form).

**Or in writing to:**

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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.

You can download this Consultation Paper from our website: [www.fca.org.uk](http://www.fca.org.uk).

## Abbreviations used in this paper

<b>AFR</b>	Annual funding requirement
<b>ARM</b>	Approved reporting mechanism
<b>AGPI</b>	Adjusted gross premium income
<b>AIFs</b>	Alternative Investment Funds
<b>C&amp;CC</b>	Cheque and Credit Clearing
<b>CIS</b>	Collective Investment Schemes
<b>CP</b>	Consultation paper
<b>DP</b>	Discussion paper
<b>DPBs</b>	Designated Professional Bodies
<b>EPF</b>	Exempt Professional Firm
<b>FCA</b>	Financial Conduct Authority
<b>FEES</b>	Fees Manual
<b>FPS</b>	Faster Payments Service
<b>FSA</b>	Financial Services Authority
<b>FSBRA</b>	Financial Services (Banking Reform) Act 2013
<b>FSMA</b>	Financial Services and Markets Act
<b>FSCS</b>	Financial Services Compensation Scheme
<b>FuM</b>	Funds under management
<b>ITE</b>	Industry Testing Environment (for IT system)
<b>MCD</b>	Mortgage Credit Directive
<b>MFT</b>	Manage File Transfer (IT system)
<b>MTF</b>	Multilateral Trading Facility

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<b>NICC</b>	Northern Ireland Cheque Clearing
<b>OFT</b>	Office of Fair Trading
<b>OPS</b>	Occupational Pension Schemes
<b>PRA</b>	Prudential Regulation Authority
<b>PS</b>	Policy statement
<b>PSO</b>	Payment Systems Operator
<b>PSR</b>	Payment Systems Regulator
<b>RIE</b>	Recognised Investment Exchange
<b>SIPPS</b>	Self-invested personal pensions schemes
<b>UCITs</b>	Undertakings for collective investment in transferable securities

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# 1. Overview

- 1.1** This consultation paper (CP) sets out our proposed policy changes to our fee and levy regimes. We are funded entirely by the fees and levies recovered from the firms we regulate – we receive no subsidies from other sources.
- 1.2** This forms part of our annual cycle of fees consultation. In October or November, we consult on any proposed changes to the underlying policy of the fee and levy regimes of the FCA, the Financial Ombudsman Service, the Financial Services Compensation Scheme (FSCS), the Money Advice Service and, from 2015/16, the Payment Systems Regulator (PSR). We expect to consult on the fee rates for the forthcoming year in the following March. We do not consult on any proposals affecting the FSCS in this CP, but we do flag up the implications for the different bodies where appropriate.
- 1.3** Some of our proposals affect firms that are regulated both by us and the Prudential Regulation Authority (PRA), and these are signposted in the text.

## Who does this consultation affect?

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- 1.4** Fees policy directly affects all firms regulated by us, but each chapter of this CP covers a different aspect of fees policy so will affect different types of firm. Table 1.1 sets out the fee-payers most likely to be affected.

## Is this of interest to consumers?

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- 1.5** Our proposals are not directly of interest to consumers, although indirectly our fees are met by consumers.

## Context

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- 1.6** Further information about our approach to fees is presented in our brief guide on *How we raise our fees*, which is available on our website: [www.fca.org.uk/your-fca/documents/how-we-raise-our-fees](http://www.fca.org.uk/your-fca/documents/how-we-raise-our-fees).
- 1.7** It is a fundamental principle of our fees policy that our fees are neutral and, as far as practicable, do not inadvertently influence firms' behaviour, interfere in the market or undermine effective competition. So the proposals set out in this CP should not directly affect our objectives of consumer protection, market integrity and effective competition, except to the extent that they provide us with the resources we need to conduct our business and meet our objectives.

## Summary of our proposals

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- 1.8** Each chapter covers a self-contained area of policy, as summarised below.
- 1.9** *Chapter 2* sets out our proposals for how we should raise fees to recover the 2015/16 funding needed by PSR to regulate the payments systems expected to be designated by Treasury.
- 1.10** *Chapter 3* presents our feedback on the responses we received to our provisional proposals on how we should raise the pensions guidance levy which we consulted on in chapter 3 of CP14/11 *Retirement reforms and the Guidance Guarantee* (July 2014).<sup>1</sup>
- 1.11** *Chapter 4* sets out our further pensions guidance levy proposals, that have been informed by the responses to CP14/11, together with draft levy rules.
- 1.12** *Chapter 5* summarises the responses we received to the discussion paper we issued in June setting out a range of options for recovering costs from applicants for authorisation.
- 1.13** *Chapter 6* discusses the fees second charge mortgage lenders and intermediaries will be paying when they move from our consumer credit regime to our mortgage regime under the Mortgage Credit Directive in March 2016.
- 1.14** *Chapter 7* proposes the introduction of an annual fee for ARMs (approved reporting mechanisms) and other entities providing transaction reports directly to us.
- 1.15** *Chapter 8* proposes a revised structure of charges for access to information on the Mutuals Public Register.
- 1.16** *Chapter 9* proposes adjustments to the methodology we use to calculate the block fees we charge designated professional bodies, to take account of the extension of our regulatory remit to cover their members' involvement in consumer credit activities.
- 1.17** *Chapter 10* sets out a number of adjustments to the consumer credit framework for FCA fees and the Money Advice Service levy.
- 1.18** *Chapter 11* proposes some drafting changes to clarify our definitions of income, and an amendment to bring the charging policy for newly recognised investment exchanges into line with other firms.

## Minimum fees

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- 1.19** We have reviewed the way minimum fees, for firms in the 'A' fee-block, are calculated. This followed on from our wider review of how we raise fees from these firms carried out in 2013/14.<sup>2</sup>
- 1.20** We have decided that we will use the current £1,000 minimum fee (including concessions for smaller credit unions and friendly societies) and that any future changes to these amounts would be consulted as part of our annual March fees rates consultation.

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<sup>1</sup> In CP14/11 we referred to the pensions guidance levy as the 'retirement guidance levy'.

<sup>2</sup> We reported on the outcome of this wider review in chapter 9 of CP14/6 *FCA Regulated fees and levies: Rates proposals 2014/15* (March 2014).

## Equality and diversity considerations

- 1.21** Our equality impact assessment (EIA) of fees policy has concluded that, since fees policy is intended to provide a neutral framework for cost recovery, it is not normally relevant to the equalities agenda and none of the proposals presented in this CP appears to us 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 you need to do next?

- 1.22** Please consider our proposals and send us your comments on the questions in this CP by 2 February 2015.

### How?

- 1.23** Use the online response form on our website or write to us at the address on page 2.

### What will we do?

- 1.24** We will consider your comments and publish our feedback along with our rules in March 2015.

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

Issue	Fee-payers likely to be affected	Chapter
Payment Systems Regulator - fees	Payment Systems Operators as participants in regulated payment systems.	2
Pensions Guidance Levy – feedback on chapter 3 of CP14/11	All firms in the 'A' fee-block.	3
Pensions Guidance Levy – proposals for further consultation	Firms in the following fee-blocks: <ul style="list-style-type: none"> <li>• A.1 deposit acceptors</li> <li>• A.4 insurers – life</li> <li>• A.7 portfolio managers</li> <li>• A.9 managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes</li> <li>• A.13 advisors, arrangers, dealers or brokers</li> </ul>	4
Options for application fees – responses to June 2014 discussion paper.	No action proposed at this stage but of interest to all fee-payers and firms considering applying for authorisation.	5
Fee arrangements for second charge mortgage lenders and intermediaries following implementation of the Mortgage Credit Directive.	Any firm involved in the provision of second charge mortgages.	6
Introducing an annual fee for approved reporting mechanisms (ARMs).	All firms and other entities submitting transaction reports to us, such as ARMs (approved reporting mechanisms).	7

Revised charges for inspecting the Mutuals Public Register.	Anyone considering gaining access to the Register.	8
Block fees for DPBs (designated professional bodies) to take account of consumer credit.	DPBs and their members.	9
Adjustments to the framework for consumer credit fees and levies.	All firms in the consumer credit market or considering entry.	10
Definition of income for managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes - clarification	All firms in fee-block A.9	11
Definition of income for intermediaries – clarifications	All advisers, arrangers, dealers or brokers in fee-blocks A12 and A13, and ombudsman service industry blocks 8 and 9, corporate finance advisers in fee-block A14, home finance providers, advisers and arrangers in fee-block A18, and general insurance mediators in fee-block A19.	11
First year fees for newly recognised investment exchanges	Any business considering applying for recognition as an investment exchange	11

## 2. Payment Systems Regulator – fees

### *(FEES 9 draft rules in Appendix 1)*

- 2.1** The Payment Systems Regulator Ltd was incorporated on 1 April 2014<sup>3</sup> as a subsidiary of the FCA, and will become fully operational in April 2015.
- 2.2** When money moves between individuals, businesses and government – for example, when buying goods and services, receiving income or paying taxes – the transfers of funds are made through payment systems. Last year, payment systems in the UK handled more than 21 billion transactions worth over £75 trillion.
- 2.3** We can raise fees from participants in regulated payment systems to fund the expenses of establishing and operating the PSR (including the cost of collecting fees on behalf of the PSR).<sup>4</sup>
- 2.4** On 14 October 2014, the Treasury published its consultation on the payment systems that it is proposing to designate for regulation by the PSR (with effect from April 2015).<sup>5</sup> It is proposing to designate Bacs, CHAPS, Cheque and Credit Clearing (C&CC), Faster Payments Service (FPS), LINK, Northern Ireland Cheque Clearing (NICC), MasterCard and Visa.
- 2.5** Our discussion of PSR fees is based on the assumption that this is the set of payment systems that the Treasury will designate, although the Treasury may decide to designate fewer or additional payment systems before 1 April 2015 or subsequently.
- 2.6** This chapter includes:
- an indication of the 2015/16 annual funding requirement (AFR) for the PSR
  - an indication of the set-up costs of the PSR and our proposals for the period over which they should be recovered
  - our proposals for how fees will be levied from the payment systems operators (PSOs) of the payment systems expected to be designated by the Treasury

### **Indicative costs**

- 2.7** The 2015/16 ongoing regulatory activities (ORA) cost for the PSR is expected to be around £13m to £16m. The actual amount will be set out in our annual fees rates consultation paper (CP), which we expect to publish in March 2015 in parallel with the PSR's 2015/16 Annual Plan and Budget. The Annual Plan will include the strategic priorities for the PSR in 2015/16.

<sup>3</sup> The Financial Services (Banking Reform) Act 2013 (FSBRA) required the FCA to establish a new regulator for payment systems in the UK.

<sup>4</sup> Schedule 4, paragraph 9 FSBR.

<sup>5</sup> *Designation of payment systems for regulation by the Payment Systems Regulator*, HM Treasury, 14 October 2014, <https://www.gov.uk/government/consultations/designation-of-payment-systems-for-regulation-by-the-payment-systems-regulator>

- 2.8** The set-up costs for the PSR (i.e. costs incurred up to 31 March 2015) are expected to be around £12m to £14m. The final amounts will also be set out in our March fees rates CP.

### Recovering set-up costs

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- 2.9** We are proposing two options for the period over which the PSR set-up costs should be recovered:
- *Option 1, full recovery in 2015/16* – the full set-up costs would be added to the 2015/16 ORA to form the 2015/16 annual funding requirement (AFR) for the PSR.
  - *Option 2, recovery over three years* – a third of the set-up costs would be added to ORA costs to form the PSR AFR in each of the years from 2015/16 to 2017/18. Under this option the deferred recovery of set-up costs will trigger additional costs due to the need to fund the longer recovery period. These additional costs will be added to the ORA costs, thereby increasing the AFR for each of the three years.
- 2.10** We prefer Option 1 as it does not result in us incurring additional, avoidable costs that would have to be recovered through increased fees to PSOs.

**Q1: Should the PSR set-up costs be recovered over one or three years?**

### Calculating PSR periodic fees

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- 2.11** The PSR has held meetings with the PSOs of the payment systems that were identified as the most likely candidates for designation by the Treasury. They discussed ways that the AFR for the PSR could be recovered. This included considering on whom fees should be levied (i.e. recovery at the PSO level rather than from members of payment systems) and the methodology to be used as the basis for calculating the fees for each PSO (the use of an equal allocation of the AFR across the PSOs versus other possible allocation methodologies).
- 2.12** There was broad agreement that it would be more appropriate to levy PSR fees at the PSO level, with each PSO recovering these fees from the direct participants in its payment system as each PSO saw appropriate (typically by using the volume of transactions to distribute the recovery of PSR fees across their direct participants/members), as opposed to levying fees on other industry participants.
- 2.13** The discussions touched on different possible methodologies for the allocation of the AFR across PSOs. There were differing views on the appropriateness of an equal allocation of the AFR across PSOs. Most PSOs agreed that an equal distribution was simple, transparent and predictable, and would be cost effective to administer. Others were of the view that account should be taken of the amount of resources the PSR would use in regulating the different PSOs, or the relative size of the payment systems, in terms of volume of transactions handled. We considered these differing views when developing our proposals.

**2.14** We are proposing that the 2015/16 PSR AFR is allocated equally across PSOs, but that adjustments are made to address certain 'outliers' (as explained below). This approach reflects that, as a new regulator, the PSR's initial regulatory focus will be relatively broad and will focus on understanding all designated payment systems and developing initial policy proposals and a regulatory framework for the industry as a whole. The adjustments made for 'outliers' are intended to ensure that the equal allocation approach does not result in outcomes that are disproportionately burdensome or unfair to certain individual payment systems.

**2.15** In developing our approach, we first considered on which industry participants fees should be levied. We considered that levying fees on direct participants in payment systems (rather than on PSOs) would result in significantly higher administrative costs. We were also aware that PSOs have existing mechanisms for allocating costs across their direct participants. We believe that the approach we have selected of levying fees on PSOs will make more efficient use of our resources than levying fees on direct (or indirect) participants.

**2.16** We then considered which methodology to use to allocate fees across PSOs. We considered that using either relative transaction values or volumes to allocate the AFR across PSOs would have resulted in highly skewed and disproportionate allocations. We also considered allocating the AFR proportionally to the respective operating costs of the PSOs, but concluded that this would also result in a disproportionate allocation (falling more heavily on the card PSOs). Finally, we considered that using an activity-based measure, such as timesheet data, to allocate the AFR across PSOs:

- would involve high administrative costs
- would not reflect our early focus on developing our initial policy proposals and a regulatory framework for the industry as a whole (rather than focusing on issues that are specific to individual payment systems)
- could disincentivise PSOs from actively engaging with the PSR (as time spent on engagement by each individual PSO would result in additional fees for that PSO)

**2.17** Our proposed adjustments to the equal allocation approach relate to:

- Geographic coverage: although C&CC and NICC undertake broadly similar activities (cheque and credit clearing), C&CC only covers Great Britain, while NICC only covers Northern Ireland. All other PSOs operate in the UK in its entirety. We have therefore proposed an adjustment in respect of C&CC and NICC.
- Significantly lower transaction volumes: CHAPS has significantly lower transaction volumes than the other PSOs (we are aware of the Treasury's focus in its designation consultation on CHAPS' retail and commercial transactions, as opposed to its wholesale transactions, eg short-term lending between financial institutions). We have therefore proposed an adjustment in respect of CHAPS.

#### **Adjustment for geographic coverage**

**2.18** Our first proposed adjustment reflects the fact that C&CC and NICC are both cheque and credit clearing systems, but they operate in distinct, complementary geographic areas.<sup>6</sup>

<sup>6</sup> It also reflects the fact that NICC is a very small payment system with more limited activities in comparison to the other payment systems likely to be designated.

**2.19** We are proposing that C&CC and NICC be treated as a single combined payment system for the purposes of allocating the PSR AFR, as it is only the combination of C&CC and NICC that covers the entire territory of the UK. The element of the AFR that is allocated to the combined C&CC/NICC payment systems would then be recovered from each of C&CC and NICC in proportion to their respective transaction volumes.

#### **Adjustment for significantly lower transaction volumes**

**2.20** Our second proposed adjustment is due to the fact that in transaction volume terms, CHAPS is significantly smaller than the other payment systems likely to be designated (see Table 2.1).<sup>7</sup> CHAPS is also used for both wholesale and retail payments. We understand that the Treasury's designation of CHAPS is driven by its consideration of the retail element of CHAPS only, which represents a subset of total CHAPS activity.<sup>8</sup> In 2013, the retail portion of CHAPS had transaction volumes of 28 million, out of total CHAPS transactions of 35 million. By comparison, the Bacs and FPS interbank systems, for example, had 5,695 million and 968 million transactions respectively.<sup>9</sup>

**2.21** We are proposing to make this adjustment, as using an unadjusted equal allocation approach results in a disproportionately high impact in implied fees per CHAPS transaction compared to other PSOs. As the PSR fees are likely to ultimately be passed on to end users of these systems, we consider that users of the CHAPS payment system would be unfairly burdened if an adjustment was not made for CHAPS.

**2.22** The approach to this adjustment is based on the premise that the implied PSR fee per transaction for the 'outlier' payment system(s) (in terms of significantly lower transaction volumes) – in this case CHAPS – should be no higher than the highest level that results from the equal allocation approach for other payment systems.

**2.23** Our proposed adjustment involves the following steps:

- i. The PSR AFR is allocated equally to the seven PSOs (i.e. the eight payment systems the Treasury is proposing to designate less one for the proposed treatment of C&CC/NICC as a single payment systems for PSR fee allocation purposes).
- ii. Using an iterative process, the CHAPS allocation is adjusted downwards so that the CHAPS implied PSR fee per transaction (based on CHAPS retail transaction volumes only) is aligned to the highest PSR fee per transaction in the wider group (as part of this iterative process, the amounts allocated to other PSOs are increased to maintain the same total PSR AFR and the equal allocation across other PSOs).

**2.24** Table 2.1 presents an illustrative example of our proposals for calculating PSR periodic fees. For this example, we have used:

- a PSR AFR amount of £30m, which is a combination of the top of the range for estimated ORA costs and set-up costs (assuming full recovery of set-up costs in 2015/16)

<sup>7</sup> Excluding NICC. We adjust separately for the relatively small size of NICC as part of the adjustment for the complementary geographic nature of C&CC and NICC.

<sup>8</sup> In its consultation paper, the Treasury's discussion of the proposed designation of CHAPS focusses on the retail element of the system.

<sup>9</sup> While the retail portion of CHAPS has small transaction volumes, it has high transaction values. The value of retail CHAPS payments in 2013 was £15,510 billion, which is greater than the combined transaction value of all the other potential designated payment systems (approximately £6,210 billion in 2013). This reflects the function of CHAPS as a high-value payment system. While large in value terms, we are of the view it is still appropriate to treat CHAPS as an outlier for the purposes of the PSR fee calculation. Without such an adjustment, using an equal allocation approach would result in an allocation of the PSR's fees to CHAPS that on a per transaction basis would be disproportionately large relative to other designated payment systems.

- 2013 transaction data from the Payment Council's publication UK Payment Statistics 2014<sup>10</sup>

**Table 2.1: Illustrative example of the proposed approach to PSR AFR allocation, based on equal allocations subject to the proposed adjustments (for geographic coverage and significantly lower transaction volumes) and maximum indicative PSR AFR**

	Transaction volumes (2013) m	Allocation of PSR AFR %	Allocation of PSR AFR £m	Implied PSR AFR per transaction pence
BACS	5,695	16.54%	4.96	0.087
C&CC/NICC	581	16.54%	4.96	0.854
C&CC	566	16.10%	4.83	0.854
NICC	15	0.43%	0.13	0.854
CHAPS (retail only)	28	0.78%	0.24	0.854
FPS	968	16.54%	4.96	0.513
LINK	2,145	16.54%	4.96	0.231
MasterCard	1,686	16.54%	4.96	0.294
Visa	8,772	16.54%	4.96	0.057
Total		100.0%	30.00	

Notes:

Transaction data is sourced from the Payments Council 'UK Payment Statistics 2014', except for LINK which is sourced from the 'LINK ATM Market Report'. Transactions for MasterCard and Visa are for purchases in the UK only. Transactions for LINK are 'not-on-us' withdrawal transactions only, i.e. excluding withdrawals made from bank-owned ATMs by customers of that same bank, and non-withdrawal transactions (balance enquiries, etc). Figures rounded for presentation.

**Q2: Do you agree with the outliers for PSR fees we have identified and the proposed adjustments to address them? If you do not agree, please give your reasons.**

**Q3: Do you believe there should be other outliers for PSR fees? If you do, please give your reasons and the adjustments you consider should be made to address them and the justification for those adjustments.**

**2.25** The Bank of England is currently a direct participant in Bacs, CHAPS and C&CC. However, for the purposes of the PSR's regulatory remit, the Bank of England is explicitly excluded from any consideration as a participant in payment systems under FSBRA.<sup>11</sup> As a result, we do not think it is appropriate for the PSOs in which the Bank of England is a direct participant to recover any element of the PSR's allocated AFR from the Bank of England.

**2.26** We consult industry in October/November every year on any changes to the methodology to calculate FCA fees, and in March every year on the amount of FCA fees to be levied. We would normally expect to follow this approach for the PSR fees, which would enable us to consider on an ongoing basis whether the proposed approach is still appropriate and proportionate.

<sup>10</sup> Except for transaction data for LINK, which is sourced from the 'LINK ATM Market Report'.

<sup>11</sup> FSBRA, s.42(8) states that "[t]he Bank of England is not to be regarded as a participant of any kind in any payment system."

### Approach to the designation of additional payment systems

- 2.27** If the Treasury designates any payment systems additional to those listed in Table 2.1 with effect from 1 April 2015, we will calculate the fee for the designated payment systems using the same methodology as set out above.
- 2.28** This means that in principle, our approach would be that we will apply an equal allocation to each designated system, but we will consider whether an adjustment is appropriate if any systems have complementary geographic coverage or any additional system has significantly lower transaction volumes than other designated payment systems. Fees for the group of payment systems currently proposed for designation would be reduced to reflect the inclusion of additional designated payment systems.
- 2.29** If the Treasury designates additional payment systems with effect after 1 April 2015, we plan to apply a notional PSR fee equal to that levied on non-outlier payment systems designated before 1 April 2015. We will consider adjusting this notional fee if the payment system has significantly lower transaction volumes (or limited geographic coverage) compared to other designated payment systems. We will then make a pro-rata adjustment to this fee dependent on the timing of the designation. The full notional PSR fee would be applied if a system is designated before 30 April. This would be reduced by one twelfth per month if a system is designated by the end of each month thereafter. The notional PSR fee would include an appropriate contribution to the recovery of set-up costs, as the notional PSR fee is based on the PSR AFR, which reflects the recovery of set-up costs.
- 2.30** 2015/16 fees for the group of payment systems designated by 1 April 2015 would not be reduced to reflect the inclusion of any additional payment systems designated with effect after 1 April 2015. However, any 2015/16 fee income collected from the designation of additional payment systems with effect after 1 April 2015 would be used to reduce the PSR's 2016/17 AFR.
- 2.31** We are asking for views on our proposed approach to the designation of additional payment systems, so we are not including related draft rules in Appendix 1 at this time. Taking into account responses received we will consult on draft rules in our March 2015 fees rates CP.

#### **Q4: Do you have any comments on our proposals for calculating fees if additional payment systems are designated?**

### Tariff data – volume of transactions

- 2.32** 'Tariff data' is any data we need from fee-payers to calculate fees. The tariff data we are proposing for PSR fees is the total volume of transactions for the 12 months ending 31 December in the calendar year before a fee-period (1 April to 31 March). This tariff data should normally be reported to the PSR by each PSO by the 31 January before the start of a fee-period. This will enable the tariff data for all PSOs to be collected on a consistent basis and also for draft fees to be calculated in time for inclusion in our annual fees rates CP in March every year.
- 2.33** The PSR will issue formal information requests to the PSOs to collect the necessary tariff data on a timely basis.

#### **Q5: Do you have any comments on our proposals for collecting and using the volume of transactions as the tariff data for the purpose of calculating PSR fees?**

### Applying certain existing FCA fees rules to PSR fees

**2.34** We are proposing to apply existing fees rules and guidance to PSR fees covering:

- **On account fees:** For the 2015/16 fee year, we will issue a single invoice to each PSO in July 2015 for the payment of the required fees in full within 30 days. For the 2016/17 fee-year and onwards, we are proposing to introduce 'on account' fees. This means that from 2016/17, where PSOs have paid periodic fees of at least £50,000 in the previous fee-year, they will be required to pay 50% of the amount paid in the previous fee-year 'on-account' for their fee in the following year by 30 April. Their fees for the following year will be finalised in June. By 1 September they would need to pay the balance of their fees for that fee-year. This requirement will provide the PSR with cash-flow for the first part of the fee-year and therefore avoid the need to borrow and incur additional costs through interest charges.
- **Method of payment:** Our expectation is that PSOs will generally pay their fees by electronic credit transfer.
- **Late payments:** Where a PSO does not pay its PSR fee by the due date, we will levy a £250 administrative fee and, from the due date, we will start to charge interest on any unpaid fee amount at 5% per year above the Bank of England's Official Bank Rate.
- **Relieving provisions:** Where it appears to the FCA, in consultation with the PSR, that in the exceptional circumstances of a particular case the payment of a PSR fee would be inequitable, the FCA may reduce/refund the fee that would be payable/has been paid.

**2.35** These applied and related FCA fees rules and guidance are set out in Appendix 1.

**Q6: Do you have any comments on the proposed application of certain existing FCA fees rules and guidance to PSR fees?**

### 3.

## Pensions Guidance Levy – feedback on Chapter 3 CP14/11

- 3.1** We consulted on how we should raise the pensions guidance levy in chapter 3 of CP14/11 *Retirement reforms and the Guidance Guarantee* (July 2014).<sup>12</sup> The proposals for further consultation together with draft levy rules are set out in chapter 4 of this CP.

#### **Provisional proposals unchanged by the responses to CP14/11**

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- 3.2** We received 117 responses to our provisional levy proposals from:
- sixteen trade/professional bodies covering building societies, insurers, portfolio investment managers, wealth managers, depositaries and trustees of UK-based authorised funds, financial advisers, mortgage lenders and pension professionals
  - individual firms – one deposit acceptor, 15 life insurers, six portfolio managers and 62 financial advisers including two Networks, and
  - twelve other respondents including pension consultancy and other companies providing support services to the pensions industry
- 3.3** The non-confidential respondents are listed in in Annex 3.

#### **Responses on using FCA's existing fees framework and the five pensions guidance levy fee-blocks**

- 3.4** Our provisional proposals were to:
- to use the FCA's 'A' fee-block framework for raising the levy to fund the pensions guidance, and
  - to raise the levy from firms in five fee-blocks covering firms accepting deposits (A.1 fee-block), life insurers (fee-block A.4), portfolio managers (fee-block A.7), managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes (fee-block A.9), and advisors, arrangers, dealers or brokers (fee-block A.13). These five fee-blocks, out of 16, broadly include firms that we provisionally proposed could benefit from the provision of the pensions guidance.
- 3.5** We acknowledged that there will be firms in these fee-blocks that will not provide retirement financial products and services. To exclude such firms we would have to identify them, change our systems to keep a record of those excluded firms, and introduce new processes for keeping

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<sup>12</sup> In CP14/11 we referred to the pensions guidance levy as the 'retirement guidance levy'.

that record up-to-date as firms change their business models. However we invited firms to propose ways of identifying such firms through existing provisions in our Handbook.

**3.6** We asked:

**Q1:** *Do you agree with the proposed use of the FCA periodic fees framework to collect the pensions guidance levy? If no, please provide alternatives and set out how they would be implemented.*

**Q2:** *Do you agree that only firms in the proposed five pensions guidance fee-blocks (Table 3.1) should contribute to the pensions guidance levy? If no, please provide your reasons.*

**3.7** We reproduce table 3.1 from CP14/11 at the end of this chapter.

**3.8** Excluding individual financial adviser firms, all other 39 respondents who commented agreed that this would be using our resources in the most efficient and economical way and that the five pensions guidance fee-blocks were appropriate.

**3.9** The trade body representing financial advisers and the two Networks also agreed but expressed strong concerns that the proportion of the pensions guidance costs that was proposed to be allocated to the fee-block covering financial advisers (A.13) was disproportionate to the benefit that they are likely to receive. The majority of the 60 individual financial advisers firms also disagreed and mainly because of the same concerns. These concerns are discussed under paragraphs 3.21 to 3.27 below.

**3.10** Respondents also highlighted that the following exclusions/adjustments should be made:

**A.4 fee-block (life insurers) – exclude certain product types**

- Two insurers and a professional body proposed that the tariff base (measure of size) for insurers should be adjusted so it only picks up UK pensions business and excludes life and other business. This would prevent life insurers that only do product lines such as protection and non-pension investment business from over-contributing to the costs of the pensions guidance. Such information is available from financial returns already submitted by firms.

**A.9 fee-block managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes) – three exclusions**

- *Authorised depositaries:* A trade body representing authorised depositaries proposed that they should be excluded. This was on the basis that the appointment of depositaries is a regulatory requirement for Collective Investment Schemes (CIS) and Alternative Investment Funds (AIFs) and they do not initiate advice on or otherwise market or promote financial products. However, they acknowledged that authorised depositaries might derive some benefits from an increase in inflows into the funds for which they act as depositaries, or from the creation of new financial products requiring the services of a depositary that might be created in light of the Government's pension reforms. Failing such exclusion, the tariff base data reported by depositaries should be limited to its services in relation to CIS that are available to retail investors for investment, namely UCITS<sup>13</sup> and non-UCITS retail funds, since any benefit to depositaries from the Government's retirement reforms is unlikely to extend beyond these schemes.

<sup>13</sup> undertakings for collective investment in transferable securities

- *Internally managed AIFs:* A trade body representing investment companies proposed that managers of AIFs, where the portfolio management is carried out in-house, should only pay the levy in one of the two fee-blocks they come under (A7 and A9).
- *Operators of personal pension schemes:* A trade body representing pension scheme operators highlighted that these operators typically carry out an administration service rather than provide regulated advice. It is therefore inappropriate for personal pension scheme operators to contribute to any form of levy. Their understanding of the fee-block structure is that fees are levied against firms that would benefit from the pensions guidance that is being provided. However, as specific products cannot be referred to self-invested personal pension schemes (SIPPS) and are predominantly selected by high net worth individuals who will usually seek advice, they found it difficult to see how pensions guidance will benefit operators of SIPPS in any way.

### Our response

In chapter 4 of this CP, we continue to propose to use the FCA's 'A' fee-block framework for raising the levy to fund the pensions guidance from the five pensions guidance fee-blocks A.1, A.4, A.7, A.9 and A.13. The reasons why we do not accept the exclusions proposed by these respondents are as follows:

#### **A.4 fee-block (life insurers) – exclude certain product types**

- We acknowledge that using the A.4 fee-block will result in firms contributing to the levy that will not benefit them to the same extent as other firms given their individual product lines. This applies to other fee-blocks given they all represent a broad grouping of individually different firms. Further, such firms may change their product lines as other income-generating guaranteed products emerge as the market develops following the implementation of the pension reforms. The tariff base for A.4 is already limited to UK business.

#### **A.9 fee-block (managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes) – three exclusions**

- *Authorised depositaries:* While we accept that depositaries will not initiate additional retirement products that may arise from the Government's pension reforms, they will, as the respondent acknowledges, benefit from the resulting increased inflows of funds. The tariff base for depositaries includes the annual charge on the investments in the fund for which they act as depositary. We do not collect data that distinguishes retail funds from other funds.
- *Internally managed AIFs:* The tariff base for A.9 is gross income and part of that measure of size is the annual charge on investments in the fund made by managers. Alternative Investment Fund Managers (AIFs) who manage their funds internally are not required to include the income from these charges when they report their tariff data under A.9. Under A.7 (portfolio management) they will pay the levy based on the size of funds under management.

- *Operators of personal pension schemes:* The A.9 fee-block includes the regulated activities of '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 – deposit acceptors or A4 – life insurers)'. These A.9 firms will receive an income for operating these pension schemes. Under the pensions reforms the greater flexibility for using drawdown or taking cash lump sums will mean that potentially these firms will retain these customers longer.

### Responses on whether other fee-blocks/firms should be included and contribute to the pensions guidance levy

**3.11** We proposed that the 11 other 'A' fee-blocks should not contribute to the pensions guidance levy. We also proposed that firms that fall below the minimum size thresholds of the pensions guidance fee-blocks should not pay any pensions guidance levy under the A.0 fee-block – minimum levy.

**3.12** We asked:

**Q3:** *Do you agree that firms in the remaining fee-blocks set out in Table 3.2 should not contribute to the pensions guidance levy? If no, please provide your reasons.*

**3.13** We reproduce table 3.2 from CP14/11 at the end of this chapter.

### FCA-regulated business/firms

**3.14** Respondents made the following comments:

- *No pensions guidance minimum levy:* Five respondents commented. Two agreed and three individual financial adviser firms did not agree.
- *A.2 (mortgage providers) and A.18 (mortgage advisers) should be included:* Five respondents commented that firms in these fee-blocks would benefit from the provision of pensions guidance for the following reasons:
  - A.2 mortgage providers offer equity release schemes and life time mortgages, which may benefit from retirement decisions in the future.
  - Although firms in the A.18 fee-block are not providing retirement financial products and services, generally more money can be expected to be available for investment in the residential housing market to provide a retirement income. Firms in the A.18 may benefit from the pension reforms through re-mortgaging administration and broking fees. It was acknowledged that the FCA does not regulate buy-to-let agreements.

### Our response

- *No pensions guidance minimum levy:* In chapter 4 of this CP we continue to propose not charging a minimum pensions guidance levy. We do not believe that there is a clear basis for setting the amount of a fixed minimum pensions guidance levy that would be proportionate to the benefit such small firms may receive from the provision of pensions guidance.

- Small firms will be those where the amount of regulated business they undertake is below the minimum thresholds in all the pensions guidance fee-blocks they come under. However, the extent that the amount of regulated business (as the proposed measure of potential benefit) falls below the minimum thresholds will vary across firms. A fixed minimum levy would not take account of this variance in potential benefit.
- *A.2 (mortgage providers) and A.18 (mortgage advisers) should be included:* We do not agree that the provision of pensions guidance will be a driver for the use of equity release schemes or lifetime mortgages. These products are available now to consumers to help boost their income in retirement and not as a result of the pension reforms. As acknowledged by the respondent, the FCA does not regulate buy-to-let arrangements.

### **Responses that called for non-FCA regulated pension businesses to contribute to the levy**

- 3.15** Twelve respondents commented that trust and contract-based schemes, including occupational schemes, master trusts (run on a commercial basis)<sup>14</sup> and NEST<sup>15</sup> should contribute to the levy as they will benefit from the pensions guidance service. Occupational and personal pension schemes could contribute from a general levy raised by The Pensions Regulator<sup>16</sup> and through the Department for Work and Pensions (DWP). This will ensure all consumers who have an opportunity to benefit from the pensions guidance service contribute towards its cost.
- 3.16** These matters are for the Government to consider and we have passed on these responses to Treasury.

### **Provisional proposals revised by the responses to CP14/11**

#### **Responses to options for allocation of costs across the five pensions guidance fee-blocks**

- 3.17** We set out three options for allocating the overall pensions guidance costs across the five pensions guidance fee-blocks:
- Option 1 – Based on FCA annual funding requirement (AFR) allocations. The proportions were set out in table 3.3. in CP14/11, which is reproduced at the end of this chapter.
  - Option 2 – Equal split of allocation, 20% across each of the five pensions guidance fee-blocks.
  - Option 3 – Allocation in line with the consumer's retirement choices. We asked for views on whether there is information available now or in the future that would indicate what retirement financial products and services consumers are choosing. This would inform what proportion of the overall levy should be allocated to each of the five pensions guidance fee-blocks.

<sup>14</sup> An occupational trust-based pension scheme established by declaration of trust which is or has been promoted to provide benefits to employers which are not connected and where each employer group is not included in a separate section with its own trustees. For this purpose, employers are connected if they are part of the same group of companies (including partially owned subsidiaries and joint ventures). [Pensions Regulator definition]

<sup>15</sup> NEST Corporation is the trustee body that runs NEST. It's a non-departmental public body (NDPB) that operates at arm's length from Government and is accountable to Parliament through the Department for Work and Pensions (DWP). It was created as part of the Government's pension reforms (Pensions Act 2008) to help employers meet their new duties.

<sup>16</sup> UK regulator of work-based pension schemes.

3.18 We asked:

**Q4:** *Do you have any comments on the three options for allocating the overall levy across the five pensions guidance fee-blocks? If you do not agree with any of these options please advise us of your proposed alternative allocation options.*

3.19 The following table summarises the responses received.

<b>Responses:</b>	<b>Option 1</b>	<b>Option 2</b>	<b>Option 3</b>	<b>Total</b>
Excluding financial adviser respondents	6	4	14	24
	25%	17%	58%	100%
Financial adviser respondents	2	5	12	19
	11%	26%	63%	100%

3.20 Although Option 3 was the preferred option, no respondents identified a current source of data that could support this option. Most recognised that it would be difficult to gather such data. Some called upon us and the Government and its delivery partners for the guidance service to work with the industry in ensuring the availability of such data in the future.

***Financial Advisers – allocation to A.13 fee-block (Advisors, arrangers, dealers or brokers)***

3.21 Under Option 1, 30% of pensions guidance costs would be allocated to the A.13 fee-block and 20% under Option 2. As highlighted in paragraph 3.9, the majority of individual financial adviser firms did not agree with using the existing FCA fees framework or the proposed pensions guidance fee-blocks – compared to 100% of other respondents who did agree.

3.22 The trade body representing financial advisers and the two Networks did agree in principle but expressed strong concerns that the proportion of the pensions guidance levy that was currently proposed to be allocated to the A.13 fee-block covering financial advisers was disproportionate to the benefit that they are likely to receive, in particular, compared to firms in the other fee-blocks such as deposit acceptors, life insurers and portfolio managers.

3.23 In our view, the key reason put forward for allocating less to A.13 was that, whilst it is clear that banks/building societies (A.1), life insurers (A.4) and portfolio managers (A.7) can benefit as the monies released through pensions flexibility (if used for investment) will be distributed amongst them, the benefit was less clear in the case of financial advisers. Financial advisers will only benefit if, following using the pensions guidance service, consumers seek advice from regulated financial advisers.

***Other responses on the allocation across pensions guidance fee-blocks***

3.24 Allocating a proportionate amount to A.13 was also supported by five other respondents: three life insurers, a trade body representing pension trustees, and a professional body. The main reason being that the pensions guidance levy should not disproportionately affect smaller financial advisers as more regulated advice needs to be available as the provision of pensions guidance is likely to increase numbers of consumers seeking advice.

3.25 Another respondent highlighted that financial advisers receive their 'benefit' on a one-off basis. However, product providers, in particular life insurers and portfolio managers, will receive their benefit on an on-going basis through annual charges on the funds invested.

- 3.26** The trade body representing building societies acknowledged that people, using their new freedoms, could choose to allocate a proportion of their pension pot to cash in a building society. However, their expectation was that building societies would only be modest beneficiaries compared to life insurers (A.4) and financial advisers (A.13).
- 3.27** The trade body representing financial advisers additionally proposed that the allocation of the pensions guidance costs across the five fee-blocks should be in proportion to turnover/income.

### Our response

The A.13 fee-block covers a wide range of firms, which include financial advisers, whose main business is providing advice on retail investment products. Some will also give mortgage advice (covered by fee-block A.18) and/or with general insurance advice (covered by fee-block A.19). We estimate that there are 2,778 such financial advisers which, although they account for 55% of firms, they will contribute to only 8.5% of whatever proportion of pensions guidance costs is allocated to A.13.

Financial advice is also provided by banks and life insurance firms in A.13. Other firms in A.13 include security dealers, non-discretionary investment managers and wholesale market brokers.

We accept the point made by respondents that financial advisers will only benefit if, following using the pensions guidance service, consumers seek advice from regulated financial advisers. We also accept that it is clearer that 'product providers' in the other fee-blocks are more likely to benefit as the monies (if used for investment) released through greater pension flexibility will be distributed amongst them.

We acknowledge that the majority of respondents favour an allocation basis that would reflect what retirement financial products and services consumers are choosing but also that such data is not available at this time and is likely to be challenging to obtain in the future.

There was no clear overall preference for using the FCA's allocation basis (Option 1) and some who did opt for it highlighted that the resulting allocation would not be relevant to the potential benefit from the pensions guidance. Similarly, there was no clear overall preference for an equal allocation (Option 2). We also noted that respondent's choice between Option 1 and 2 tended to match where their fee-block received the lowest allocation.

In chapter 4 we are therefore proposing to consult on an equal allocation across the five pensions guidance fee-blocks with a 50% reduction for A.13 to reflect that financial advisers have less potential to benefit than the product providers in the other four.

In 2013/14 we carried out a strategic review of how we raise our fees from the 'A' fee-block. One of the options we considered was consolidating the 16 sub-set fee-blocks and recovering our total annual funding requirement allocated to the 'A' fee-block from all these firms using a common metric. We engaged BDO to assess whether we could develop a single measure of size of firms' overall

UK-regulated activity based on income, across such a diverse range of firms. BDO's report highlighted significant issues that would need to be addressed in developing such a measure. This was part of the reason why we did not proceed with this fundamental alternative. We published BDO's report when we reported on the outcome of the whole review in chapter 9 of CP14/6 (31 March 2014).

We believe that using turnover/income as a basis for allocating pensions guidance costs across the five fee-blocks raises additional challenges as firms would have to identify income/turnover from the discrete regulated activities covered by each fee-block they come under.

### **Responses on further exclusions within the five pensions guidance fee-blocks**

**3.28** As discussed above, we did not agree with some respondents' calls for us to exclude certain firms/types of business from contributing to the levy in the pensions guidance fee-blocks. Other respondents also made the following exclusion proposals:

#### **A.4 fee-block (life insurers) – closed book companies**

- A life insurer commented that, unlike firms that are open to new business, closed book companies will not benefit from the development and marketing of new products or services to consumers looking to invest their pension pots at retirement. Basing the tariff base (measure of size) on both adjusted gross premium income (AGPI) and mathematical reserves does not appropriately reflect the fact that the financial benefit to companies closed to new business from the provision of the pensions guidance service will be limited. Consideration should be given to taking this into account for all firms closed to new business and that the levy charged to such firms is reduced accordingly.

#### **A.7 fee-block (portfolio managers) – in-house managed Occupational Pension Schemes (OPS)**

**3.29** The trade bodies for the investment managers and pension funds and individual OPS proposed that an OPS that manages the scheme's assets in-house should be excluded from the A.7 fee-block because they will derive no benefit from pensions guidance. OPS firms are generally operated by large corporate pension schemes and are typically Defined Benefit-based. They are not behaving as product providers in the retirement financial products market and will not be competing for or receiving any external business (they are not allowed to take on third-party customers).

### **Our response**

#### **A.4 fee-block (life insurers) – closed book companies**

- Closed book companies will receive premiums only from existing policies but will be included in the AGPI part of the tariff base which also captures 'new' premiums in the case of other life insurers. However, the mathematical reserves part will reflect all their liabilities. In chapter 4 of this CP, we are proposing that only the AGPI is used as the tariff base for the allocation of pensions guidance costs to the A.4 fee-block. We believe this will result in reducing the proportion of the levy recovered from closed book companies and more generally, will focus the recovery of the levy within A.4 on a measure of 'new' business.

### A.7 fee-block (portfolio managers) – in-house managed Occupational Pension Schemes (OPS)

- We agree with the respondents. We already identify these firms for FCA fees purposes within the A.7 fee-block as they are subject to a 50% discount to reflect that they require less supervision resources compared to the other portfolio managers in this fee-block. In chapter 4 of this CP we are proposing that they should not pay the pensions guidance levy.

**Table 3.1 from CP14/11 proposed fee-blocks that will contribute to collection of the levy (pensions guidance fee-blocks)**

Fee-block		Tariff base	Minimum threshold
A.1	deposit acceptors	Modified Eligible Liabilities (MELs)	>£10m
A.4	insurers – life	Adjusted gross premium income	>£1m
		Mathematical reserves	>£1m
A.7	portfolio managers	Funds under management	>£10m
A.9	managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes	Gross income	>£1m
A.13	advisory arrangers, dealers or brokers	Annual income	>£100,000

Notes:

A firm will be in the above fee-blocks if it has permission to undertake the regulated activities grouped together under the fee-block as set out in Part 1 of FEES 4 Annex 1A:

<http://fshandbook.info/FS/html/FCA/FEES/4/Annex1A>

Part 3 of FEES 4 Annex 1A details the tariff base for each fee-block. The tariff base represents the measure of the amount of business conducted by a firm for the purposes of calculating annual periodic fees payable to the FCA in these fee-blocks.

If a firm reports tariff data that is less than the minimum threshold the firm does not pay FCA fees in that fee-block.

**Table 3.2 from CP14/11 proposed fee-blocks that would not contribute to the pensions guidance levy****Fee-block**

A.0 FCA minimum fee
AP.0 FCA prudential fee
A.2 home finance providers and administrators
A.3 insurers – general
A.5 managing agents at Lloyd's
A.6 the Society of Lloyd's
A.10 firms dealing as principal
A.14 corporate finance advisors
A.18 home finance providers, advisers and arrangers
A.19 general insurance mediation
A.21 firms holding client money or assets or both

**Table 3.3 from CP14/11 pensions guidance costs allocation Option 1 – based on FCA annual funding requirement (AFR) allocations**

<b>Fee-block</b>	<b>Proportion</b>
A.1 deposit acceptors	28%
A.4 insurers – life	17%
A.7 portfolio managers	19%
A.9 managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes	6%
A.13 advisors, arrangers, dealers or brokers	30%
<b>Total</b>	<b>100%</b>

Note: The 2014/15 FCA AFR allocated to these fee-blocks was: A.1 £62.3m; A.4 £38.5m; A.7 £43.4m; A.9 £13.4m and A.13 £68m. Total £225.6m.

## 4. Pensions Guidance Levy – proposals for further consultation

### **(FEES 10 draft rules in Appendix 2)**

- 4.1** In this chapter we set out our further proposals for how we should raise the pensions guidance levy. These have been informed by the responses to our provisional proposals consulted on in chapter 3 of CP14/11 *Retirement reforms and the Guidance Guarantee* (July 2014).
- 4.2** In chapter 3 of this CP we provide feedback on the responses received to CP14/11.

### **Introduction**

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- 4.3** Under the Pensions Schemes Bill (the Bill) we will be required to recover from authorised firms, and remit to Treasury, the costs of providing pensions guidance – the pensions guidance levy. The provision of pensions guidance is part of the Government's pension reforms under which all consumers with Defined Contribution pensions will be entitled to free impartial guidance at retirement to make the most of the increased choice that they will have over how they use their pension savings.
- 4.4** The Bill sets out that the Pensions Advisory Service and Citizens Advice are to provide pensions guidance and that they are designated as guidance providers. The Treasury has a power to designate other bodies as guidance providers but we understand that there is no immediate intention to exercise this power.
- 4.5** The Bill further requires us to raise a separate levy on these providers of the pensions guidance to recover our costs of monitoring them and the costs of meeting our other obligations under the Bill – the FCA monitoring levy.
- 4.6** In chapter 3 of CP14/11 *Retirement reforms and the Guidance Guarantee* (July 2014), we asked for views on our provisional proposals to recover the levy from firms that will potentially benefit from the provision of pensions guidance. This consultation closed on 22 September and the responses have informed our proposals. We consult on these in this chapter together with the draft rules in Appendix 2.
- 4.7** In our March 2015 fees rates CP we plan to:
- Publish feedback on the responses to this second consultation on how we will raise the pensions guidance levy. Having taken into account those responses, we will also publish the final rules.
  - Consult on the pensions guidance levy rates to recover the overall amount required by Treasury for 2015/16.

- Consult on the amount of the FCA monitoring levy to be recovered from the designated pensions guidance providers for 2015/16.

## How we propose to raise the pensions guidance levy

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### The five pensions guidance levy fee-blocks

- 4.8** We are proposing that the pensions guidance levy is raised from authorised firms in the following five out of the 16 'A' fee-blocks under our existing fees framework:
- A.1 deposit acceptors
  - A.4 insurers – life
  - A.7 portfolio managers
  - A.9 managers and depositaries of investment funds, and operators of collective investment schemes or pensions schemes
  - A.13 advisory arrangers, dealers or brokers
- 4.9** Overall, using our existing periodic fees framework will be the most efficient and economical way of administering the collection of the levy. We believe alternative ways would include the need to collect additional data from firms, requiring us to change our operational systems to accommodate the new data. This will also be more proportionate for firms as it avoids the additional burden that will arise from them having to change their systems and processes to provide us with the new data.
- 4.10** The pensions guidance service will help consumers understand the options they will have for accessing their Defined Contribution pension savings at retirement. From the age of 55, individuals will broadly have the following options for accessing their savings:
- take their pension savings as cash
  - buy an annuity (or other income generating guaranteed products that may emerge)
  - use drawdown but without any limits applied
- 4.11** The range of retirement financial products and services that consumers could purchase following using pensions guidance is wide and includes cash savings accounts, annuities, other income-generating guaranteed products that may emerge and investment funds/schemes, as well as the services of financial advisers and managers of investments.
- 4.12** We believe that the firms that contribute to the pensions guidance levy should, as far as possible, be those that could benefit if these consumers go on to purchase the financial products and services supplied by them.
- 4.13** The 18,000 firms in the 'A' fee-block, as a whole, undertake a very wide range of financial services business. We believe that by using the five pensions guidance fee-blocks and not the other 11 we are recognising these differences. This enables the burden of the levy on firms to be more proportionate to the benefit generally expected to result from the provision of pensions guidance.

**4.14** However, we acknowledge that there will be some firms in the five pensions guidance fee-blocks that will not currently provide retirement financial products and services. This reflects that the fee-blocks themselves represent broad groupings of individually different firms. We also acknowledge that some of these firms may change from this position in future.

#### **Adjustments within the five pensions guidance levy fee-blocks**

**4.15** Following on from our provisional consultation in CP14/11 we are proposing to:

##### **A.4 fee-block (life insurers)**

- Only use the adjusted gross premium income (AGPI) part of the tariff base for recovering from these firms the proportion of the pensions guidance costs allocated to it. This will focus the recovery on a measure of new business.

##### **A.7 fee-block (portfolio managers)**

- Exclude in-house managed Occupational Pension Schemes. Such schemes are not behaving as product providers in the retirement financial products market and will not be competing for or receiving any external business – they are not allowed to take on third-party customers.

**4.16** We can accommodate these adjustments within our existing fee collection operational systems and processes with only marginal additional cost.

**4.17** As proposed in CP14/11, we are not including fee-block A.21 (firms holding client money or both) for the purposes of the pensions guidance levy. This was because firms in A.21 are also in fee-block A.13 as they carry out the A.21 activity in conjunction with the activity covered by A.13. We do not believe the potential benefit that firms in A.13 could receive from pensions guidance would be greater if they are also handling client money and assets.

**4.18** Some firms in A.7 (portfolio managers) also hold and control client money and some do not. Those that do not (class (1) B firms) receive a 15% discount to reflect the lower risk they represent. The tariff base for A.7 is funds under management (FuM) and, for the purposes of the pensions levy, should be the measure used for all firms in A.7. Therefore, we are proposing not to apply the 15% discount for class (1) B firms.

##### **No minimum pensions guidance levy**

**4.19** Firms that undertake regulated business that falls below the minimum thresholds in all the pensions guidance fee-blocks will not pay the levy. We do not believe that there is a clear basis for setting the amount of a fixed minimum pensions guidance levy that would be proportionate to the benefit that such small firms may receive from the provision of pensions guidance.

##### **Allocation of costs across the five pensions guidance fee-blocks**

**4.20** Following on from our provisional consultation in CP14/11, we are proposing an equal allocation of the pensions guidance costs across the five fee-blocks with a 50% reduction for A.13. The resulting proportions are set out in Table 4.1.

**4.21** We are proposing this basis because:

- There is no current data available on what retirement financial products and services consumers will be choosing as a result of the pensions reforms. Such data could enable the allocation to better reflect the potential benefit of pensions guidance to the firms within the five fee-blocks.

- An allocation in line with the proportion of our annual funding requirement represents the proportion of our resources applied to meet our statutory objectives in relation to the regulated activities covered by these fee-blocks. We therefore do not believe it is a reasonable proxy for the potential benefit of pensions guidance to the firms within the five fee-blocks.
- In the absence of the appropriate data on consumer outcomes from the pensions reforms and pensions guidance, we believe an equal allocation across the four product provider fee-blocks is a reasonable starting position.
- Firms in A.13 that provide financial advice will only benefit if, following using pensions guidance, consumers seek advice from regulated financial advisers. However, the firms in the other four product provider fee-blocks will more likely benefit as the monies released through greater pension flexibility, if used for investment, will be distributed amongst them. The 50% reduction in the allocation for A.13 is intended to make an initial allowance for this difference. This level will be reviewed when the above data on consumer outcomes is available.

**Table 4.1: Proposed allocation basis**

<b>Pensions guidance fee-block</b>		<b>Allocation proportion</b>
A.1	deposit acceptors	22%
A.4	insurers – life	22%
A.7	portfolio managers	22%
A.9	managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes	22%
A.13	advisory arrangers, dealers or brokers	12%
Total		100%

#### **European Economic Area (EEA) branches in the UK – fees discount**

- 4.22** For our fees purposes, these firms receive a 10% discount to reflect that the our conduct regulatory responsibilities, as the Host State, are less than those of UK-based firms as their regulation is shared with the Home State. We are proposing not to apply this discount to the pensions guidance levy as the level of potential benefit that such firms may gain from pensions guidance will not be less than for UK-based firms.

#### **Other proposals**

- 4.23** In line with the overall approach of using the our existing ‘A’ fee-block framework for collecting the pensions guidance levy, the draft rules in Appendix 2 apply the existing rules that relate to the collection of tariff data, payment time/methods, provisions for newly authorised firms/ firms varying their permission and firms cancelling their permissions, non-payment of fees and relieving provisions.

**Q7: Do you agree with our proposals for how the pensions guidance levy should be raised? If you do not agree please give your reasons.**

## 5. Recovering the costs of administering the regulatory gateway through application fees: responses to discussion paper

- 5.1** This chapter summarises the responses we received to the discussion paper (DP) we issued in June 2014 on *Recovering the costs of administering the regulatory gateway through application fees* (DP14/1).

### Background

- 5.2** Our application fees have not changed since they were first set by the Financial Services Authority (FSA) in 2001, except to reduce the straightforward fee from £2,000 to £1,500 in 2004 to reflect system improvements. Since 1 April 2013, the FSA's functions have been distributed between the FCA and the Prudential Regulation Authority (PRA). All authorised firms are regulated on conduct matters by the FCA but the PRA is responsible for the prudential regulation of banks, building societies, credit unions, insurers and major investment firms. Firms applying to be regulated by both bodies, known as 'dual-regulated' firms, pay a single application fee, which is split equally between the FCA and the PRA. Fees are also charged for Variations of Permission, permissions under the Capital Requirements Regulation and for changes in control through special project fees. The DP asked for views on how we should recover the costs of processing applications for authorisation. While this was not a joint DP, the PRA is represented on our internal working group and is fully engaged in the debate.
- 5.3** The current application fees that are payable by a person applying for their first Part 4A permission (other than for a credit-related regulated activity) are:

Straightforward cases (eg, advisers, brokers and other intermediaries)	£1,500
Moderately complex cases (eg, home finance providers, investment managers)	£5,000
Complex cases (eg, deposit acceptors, insurers)	£25,000

The definitions of these categories are set out in the fees manual (FEES 3 Annex 1AR) and summarised in chapter 2 of the DP.

- 5.4** The first FSA consultation on fees in 2001 established the principle that the costs of processing application fees should be shared between applicants (through application fees) and the existing body of fee-payers (through periodic fees). Sharing the costs enabled the FSA and now enables us to keep down application fees. Lower application fees might encourage market entry, especially by smaller businesses and start-ups, while the case for sharing is that all firms benefit from the credibility the market gains through effective policing of the gateway. Originally, application fees covered between 50% of the FSA's costs for straightforward cases and 90% for complex cases. Because they have not kept pace with inflation, revenue from application fees now covers only around 35% of the FCA's processing costs.
- 5.5** The implications for periodic fees are marginal. About 40% of firms would be unaffected whatever decision we make because they pay only the flat-rate minimum fee of £1,000, which is split between the FCA and PRA for dual-regulated firms. If we charged no application fees, FCA periodic fees would rise by about 0.4% for the larger firms above the minimum fee thresholds that pay variable annual fees. If we recovered full FCA costs through application fees, the saving for periodic fees would amount to around 0.8% per year.
- 5.6** The main topics we discussed in the DP were:
- How cost recovery should be balanced between individual applicants through application fees and the wider population of fee-payers through periodic fees. We presented scenarios illustrating a range of possibilities, from charging no application fees to full-cost recovery through application fees.
  - Whether application charges should be weighted away from the smaller firms, for whom our fees are likely to be more material, towards larger firms. Again, we presented a range of illustrative scenarios.
  - We considered the introduction of a 'very straightforward' fee from the smallest firms.
- 5.7** The questions we put forward for discussion were:
- Q5:** *What are your views on the principle that the costs of processing applications should be shared between applicants and existing firms, rather than recovering all the costs from applicants?*
- Q6:** *Do you have any views on the advantages and disadvantages of charging no application fees? For example, might it encourage innovation and wider participation in markets? Alternatively, might it encourage unrealistic applications from firms with little prospect in practice of meeting our threshold conditions?*
- Q7:** *Are you able to offer us any evidence about the significance of our application fees in comparison with the overall cost of setting up a new business and the other costs involved in preparing a firm for authorisation?*
- Q8:** *Are you able to give us any insights into the significance of our application fees in relation to the costs of meeting our threshold conditions and complying with our ongoing regulatory and reporting requirements?*

**Q9:** *Do you have any views on whether we should weight cost recovery more heavily towards the more complex applications, holding down or even reducing the fees for straightforward applications?*

**Q10:** *Do you have any other comments arising out of the illustrations presented through the scenarios in Table 3.1?*

**Q11:** *Do you have any comments on the issues we present in chapter 4 and/or any other suggestions for recovering the costs of authorisation?*

**Q12:** *Do you have any comments arising out of the illustrations presented through the scenarios in Table 4.1?*

**Q13:** *Do you have any views on the appropriateness and practicality of charging for changes in control?*

### Responses to the discussion paper

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**5.8** We received six responses to the DP. The respondents were:

- Association of Mortgage Intermediaries
- Association of Professional Financial Advisers (APFA)
- Council of Mortgage Lenders
- Lloyd's
- Lloyd's Market Association
- Wealth Management Association

**5.9** All of the responses were thoughtful and well considered. APFA directed us to the results of a survey of its members it had carried out earlier last year, which is available on their website (*The cost of regulation – 2013 report*, June 2014).

**5.10** The main arguments presented to us were:

- There was no support for removing application fees. As one respondent put it, charges discourage 'poorly constructed and/or frivolous applications which would increase the FCA's workload and the associated cost burden for authorised firms.'
- The consensus was that we should seek to recover more of our direct processing costs from applicants than the current 35%. Some wanted to remove cost-sharing and recover all the processing costs from applicants on the principle that the user pays. Others supported the maintenance of cost-sharing (though with a higher contribution from applicants) because:

- As one respondent put it, 'Existing industry firms benefit from FCA having a robust authorisation process which ensures that only quality applicants achieve full authorisation.'
- Keeping application fees down encourages competition by reducing the risk of small firms being inhibited from entering the market.
- The impact on periodic fees is marginal.
- In general terms, respondents agreed that FCA fees are unlikely in themselves to be potential barriers to market entry – 'the costs associated with compiling and completing an application and the ongoing costs that must be incurred in order to be regulated will be much higher barriers.' For larger firms, our fees will often be considerably outweighed by the costs of the legal and professional expenses associated with preparing an application, along with the capital and liquidity requirements they may have to meet.
- APFA's *Cost of regulation* survey found that direct regulatory fees and levies represented 3% to 4% of revenue for all firms, but the indirect costs of compliance represented 16% of revenue for firms with revenue up to £250,000, compared with only 5% for the largest firms with revenue up to £1 m. The survey covered firms that were already authorised so did not look at application fees, but it confirmed a pattern in which indirect compliance costs are more significant than direct regulatory fees.
- On the understanding that application fees would be more significant for smaller firms, the introduction of a very straightforward fee was welcomed by some, though others felt the discounted rate was insufficient to make a real difference and would unnecessarily complicate the structure.
- There was some support for holding down the straightforward fees paid by smaller firms by weighting them more heavily towards the more complex categories of cases. The more complex cases involved greater regulatory risk and some respondents commented that the total cost of FCA resources required to assess a highly complex applicant like a deposit acceptor must greatly exceed the value of the fee.
- Against that, one respondent urged us to be wary about introducing substantial rises in moderately complex and complex fees that might deter overseas firms. Sudden large increases in fees might 'send signals about the openness of UK financial markets to new entrants, such as international capital providers.'
- All respondents agreed that an increase in fees was reasonable after such a long freeze. One pointed out that, if we leave fees as they are, erosion by inflation will in practice result in a no-application fee regime. Several supported the scenario of a rise in line with inflation over the full period.
- Several respondents commented on the importance of controlling the FCA's costs and ensuring that the paperwork we require from firms is proportionate and our procedures are not unnecessarily bureaucratic. The costs of compiling and submitting regulatory data can be significant for small firms in particular.
- There was general support for maintaining stability in application fees by fixing them for a specified period.

- It was agreed that the costs of changes in control should as far as possible be charged to the firms concerned, and support for the current model under which the FCA bears the costs up to a threshold (currently £50,000), above which we charge the firm a special project fee.

### **Conclusion**

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- 5.11** The responses were extremely helpful and we appreciate the time and effort that went into preparing them. We are not putting forward proposals for consultation at this stage.

## 6. Fees for second charge mortgage lenders and intermediaries

### ***(FEES 4, Annex 1A – draft rules in Appendix 3)***

- 6.1** This chapter describes how we propose to recover the costs of regulating second charge mortgage lenders and intermediaries when they move into our mortgage regime in March 2016 when the UK implements the Mortgage Credit Directive (MCD). At present, second charge mortgage activities fall under the consumer credit regime. We are already consulting on our proposed regulatory approach to regulating second charge mortgages in a consultation paper (CP) we published in September 2014.<sup>17</sup> We explained in chapter 1 of the September CP that we were not considering regulatory fees at that time, but would address them in this fees CP.

### **Background**

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- 6.2** Second charge mortgages are currently regulated as consumer credit, but the MCD will bring them into the mortgage regime. A single set of permissions is proposed to cover both first charge and second charge mortgages. That is to say, a second charge mortgage will be a regulated mortgage contract. At present, second charge mortgage firms have interim consumer credit permissions and so in future, instead of going into a consumer credit fee-block, the firms concerned will go into a home finance fee block – either A2 (home finance providers and administrators) or A18 (home finance providers, advisers or arrangers), or both.

### **Changes to fees rules**

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- 6.3** The amendments we are proposing to the fees rules are set out in Appendix 3.
- 6.4** They are minor since the fee-blocks are determined by the glossary definition of a regulated mortgage contract and this will be updated to include second charge mortgages. In FEES 4 Annex 1A Part 3, there is one reference restricting the definition to first charge mortgages and this needs to be removed.
- 6.5** We are at the same time taking the opportunity to propose some technical adjustments to the definitions of the transactions in FEES 4 Annex 1A Part 3 which are used as the basis for calculating the fees for fee-block A2. These include a number of terms, such as ‘mortgage contracts’ (as opposed to ‘regulated’ mortgage contracts), ‘home purchase plans’ and ‘home reversion plans’ which are not defined in the glossary. These are all terms in common use and firms have had no difficulty interpreting them but, going forward, we believe it would be less ambiguous to tie the rule more closely to the glossary-defined term ‘home finance transactions.’ This will have no impact on the data firms report to us or the fees they pay, but

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<sup>17</sup> *Implementing the Mortgage Credit Directive and the new regime for second charge mortgages* (CP14/20, September 2014).

it will ensure that the definition always keeps in line with developments in regulatory policy, avoiding the risk that elements may become obsolete over time.

6.6 Our consultation question is:

**Q8: Do you agree with our proposed adjustments to the rules affecting fee-block A2 (home finance providers and administrators)?**

### Fees implications for firms dealing with second charge mortgages

- 6.7 Although no further rule changes are required, we believe we should flag up the fees implications of the proposed changes to the regulation of second charge mortgages for firms that undertake second charge mortgage activity. Since this is currently regulated as consumer credit, and the firms concerned will have interim consumer credit permissions, they should be aware that the basis on which their fees are calculated will change. Some firms may therefore face higher fees, especially if they also need to retain consumer credit permissions for other activities such as broking unsecured credit or dealing with 'exempt' mortgages (such as buy to let or business loans over £25K). In such cases, they will need to pay two sets of periodic fees.
- 6.8 We discuss below the application fees and periodic fees firms will have to pay in fee-blocks A2 and A18, comparing them with consumer credit fees.

### Application fees

- 6.9 Applications for both home finance and consumer credit are classed as 'moderately complex' for lenders, and 'straightforward' for intermediaries, but whereas consumer credit application fees are calibrated by size of firm, home finance firms pay a flat fee. Firms pay only one fee, the highest, however many permissions they apply for, and those already authorised by us pay half the fee as a variation of permission.
- 6.10 Table 6.1 compares the 'A' block application fees with the 'CC' block consumer credit application fees. Many second charge lenders and intermediaries will face a higher application fee than they might have anticipated under the consumer credit regime. The straightforward consumer credit fee ranges from £600 for a firm with projected income up to £50,000 to £5,000 for a firm with income over £1m. The moderately complex fee ranges from £800 to £10,000. The 'A' block straightforward fee is £1,500 while the moderately complex fee is £5,000.

**Table 6.1: Comparison of home finance and consumer credit application fees**

Size band (income from regulated activity)	Provider / lender (‘moderately complex’)		Intermediary (‘straightforward’)	
	Home finance ‘A2’ block	Consumer credit ‘CC’ block	Home finance ‘A18’ block	Consumer credit ‘CC’ block
£				
Up to 50k	£5,000	£800	£1,500	£600
Up to 100k		£1,000		£750
Up to 250k		£1,500		£1,000
Up to 1m		£5,000		£1,500
Over 1m		£10,000		£5,000

### Periodic fees

- 6.11** Periodic fees tend to be higher for home finance activities than for consumer credit. This is because the costs of consumer credit are spread among some 30,000 firms, the great majority of whom will not be relationship managed.
- 6.12** It is possible to make a direct comparison between consumer credit fees and the fees for mortgage intermediaries because they are based on income. In 2014/15, the rates for mortgage brokers are £17.40 per £100,000 and for consumer credit firms £0.78 per £100,000. Table 6.2 sets out the comparison.

**Table 6.2: Comparison of periodic fees for home finance intermediaries (A18) and credit brokers and lenders (CC02), 2014/15**

	A18	CC02
<b>Size band (£)</b>		
Up to 50k	£1,000	£300
Up to 100k		£500
Up to 250k	£1,000 + variable rate per £k	£1,000
Over 250k		£1,000 + variable rate per £k
<b>Variable rate payable per £k of income above the minimum fee threshold</b>		
£1,000 plus the variable rate:	£17.40	£0.78

- 6.13** Comparing the rates for lenders is less straightforward. As consumer credit firms, second charge lenders and intermediaries would both have been in fee-block CC02, paying fees based on income at the same rate, but the fees for lenders in fee-block A2 are based on each mortgage entered into and administered. The rate is £2.18 per mortgage. The rate applies to new mortgage contracts entered into during the year, but existing contracts being administered count as half units, while mortgage outsourcing firms apply a multiplier of 0.05. We do not have sufficient information on second-charge mortgage firms to compare the fees they would have paid on income with those they would have paid on the number of mortgages.

### Conclusion

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- 6.14** We are formally consulting on relatively minor rule changes, but we believe it is important that firms are aware that bringing second charge mortgages into the mortgage regime may have implications for the fees they are charged from 2016/17. To help with their business planning, firms may find it helpful to use the fee calculator on our website to assess how the changes might affect them – [www.fca.org.uk/firms/being-regulated/fees/calculator](http://www.fca.org.uk/firms/being-regulated/fees/calculator).

## 7. IT gateway maintenance fees for entities that provide transaction reports directly to the FCA

### ***(FEES 4.2.11R, FEES 4 Annex 3AR draft rules in Appendix 3)***

- 7.1** We initially consulted in October 2013 (CP13/14) on introducing an annual fee (and removing the ad-hoc hourly testing charge set out in FEES 3 Annex 7) for Approved Reporting Mechanisms (ARMS) to cover the ongoing maintenance and administration costs of our Manage File Transfer (MFT) IT system. These costs are currently being cross-subsidised by the general FCA firm population. In March 2014 (CP14/6) we decided to delay implementation following industry feedback and further review the proposed charging methodology.
- 7.2** To ensure that we maintain a level playing field, we have decided to extend the proposals to cover not just ARMS, but all entities<sup>18</sup> that may provide transaction reports directly to the FCA via the MFT. We therefore propose that from 1 April 2015 firms, third parties acting on a firm's behalf, ARMs, regulated markets and operators of Multilateral Trading Facilities (MTFs) who directly report to the FCA ("Direct Reporting Entities") via the MFT should, contribute towards the maintenance and administration costs of the part of the MFT used for transaction reporting, and the ongoing cost of providing a dedicated Industry Testing Environment (ITE) for this data. We continue to propose, having taken into account the regulatory principles in section 3B of FSMA – including the principle that a burden or restriction imposed on a person should be proportionate to the benefits which are expected to result from the imposition of that burden - that the costs should be largely apportioned amongst the Direct Reporting Entities on a proportional basis in line with their share of reports submitted. This would be measured by the number of transaction reports they have submitted during the previous calendar year and adjusted annually thereafter. There are currently seven entities to which this would apply.
- 7.3** The MFT is the IT system used by the FCA for secure data transmission between industry and the FCA. It, therefore, handles data submitted by firms for transaction reporting as well as other regulatory purposes. The ITE is an environment that enables entities submitting transaction reports via the MFT to send such data into a test environment. We propose that only the costs attributable to the provision of transaction reports via the MFT and ITE be included in the fees proposed to be charged to the Direct Reporting Entities.
- 7.4** Direct Reporting Entities have to make an application to connect to our systems and undergo due diligence to ensure compatibility with our systems. There is currently a £100,000 fee associated with this under FEES 3.2.7R (1)(r) and (t). These proposals do not make any changes to that, but we may, in the future, review this fee and our current proposals in preparation for the implementation of Directive 2014/65/EU (Markets in Financial Instruments Directive II) and Regulation EU 600/2014 (MiFIR).

<sup>18</sup> For scope of entities see Article 25(5) of Directive 2004/39/EC (MiFID)

- 7.5** The total annual costs we are proposing to recover from Direct Reporting Entities are made up of (a) a variable component for maintenance of the part of the MFT used for transaction reporting, (b) a fixed component for technical support of the part of the MFT used for transaction reporting, and (c) a fixed component for the provision of the ITE. The two fixed components are calculated from our contract with the suppliers and are dependent on the total number of bodies among which the costs are distributed, so may vary from year to year. Please note that this excludes the set-up costs of the MFT, which have already been incurred and which we will not seek to recover. Please also note that this excludes any costs associated with the FCA's ongoing supervision of firms' transaction reporting obligations.
- a. MFT maintenance (variable cost).** The maintenance of the MFT enables the proper functioning of the IT infrastructure, allowing the FCA to carry out its regulatory function of supervising transaction reporting obligations, and upholding integrity of the markets. This element of the total annual fees we are proposing will vary for each Direct Reporting Entity from year to year. The aggregate cost for this element each year will be calculated based on the share of the gross data flow through the MFT attributable to transaction reporting in the previous year. We believe that the Direct Reporting Entity's share of the MFT's gross data flow attributable to transaction reporting fairly reflects its share of the MFT's overall costs attributable to transaction reporting. That is, transaction reports received into the FCA and transmitted through the Transaction Reporting European Mechanism (TREM) to Europe. The fees attributable to a particular Direct Reporting Entity out of the aggregate cost for each year will be apportioned between each entity based on the gross volume of transaction reports submitted by that particular entity in the previous year. If the charging structure had been in place this year, the rate would have been £6.57 per 100,000 transaction reports (or part-100,000 reports submitted).
- b. MFT technical support (£40,000 fixed cost based on 2014/15 data).** This entails activity undertaken by third party suppliers to ensure the operational integrity of the MFT for timely submission of transaction reports as per SUP 17 requirements, allowing the FCA to carry out its regulatory functions as described above. We propose to divide this technical support cost equally among the Direct Reporting Entities as we foresee a similar amount of time spent on each entity for technical support. This equates to approximately £5,700 per entity based on the current number of Direct Reporting Entities.
- c. ITE (£30,000 fixed cost based on 2014/15 data).** Having a test environment available for entities provides a safeguard against unsuitable data being transmitted and allows the Direct Reporting Entities to fulfil their obligation to submit accurate and complete transaction reports, and the FCA to carry out our regulatory functions as described above. The gross annual fee for the ITE is a fixed annual charge, not dependent upon the amount of testing undertaken, and the ITE is available for use by all Direct Reporting Entities. We therefore propose to divide this cost equally among the Direct Reporting Entities. This equates to approximately £4,200 per entity based on the current number of Direct Reporting Entities. Please note that although the ITE is also used for on-boarding new entities wishing to submit transaction reports directly to the FCA, only the cost attributable to ongoing usage of ITE by Direct Reporting Entities is included in the current proposal.

**7.6** Direct Reporting Entities' usage share will be recalculated annually to account for changes in submitted volumes, as well as any new Direct Reporting Entities connecting during the year, and will be communicated to all Direct Reporting Entities every March. The fees will be charged in July and will be based on the transaction reporting volumes submitted in the period of January-December of the year prior. We intend to consult on the 2015/16 rates in our March 2015 fees consultation paper.

**7.7** The question on which we are consulting is:

**Q9: Do you agree with our proposals for introducing an annual fee for ARMs (approved reporting mechanisms) and other entities submitting transaction reports directly to us?**

## 8.

# Charges for inspecting documents on the Mutuals Register

- 8.1** This chapter sets out proposals to revise the charges we make for access to information about mutual societies.
- 8.2** These proposals will affect people who request information on mutual societies, whether online through the Mutuals Public Register (<https://mutuals.fsa.gov.uk>), by paper copy, or through inspecting files at our office.

### Background

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- 8.3** The FCA is the registering authority for mutual societies.<sup>19</sup> These include:
- Co-operatives and community benefit societies (prior to 1 August 2014, Industrial and provident societies).
  - Credit unions.
  - Building societies.
  - Friendly societies (including working men's clubs and benevolent societies).
- 8.4** As part of our registration function we provide a public records service. This involves making documents such as annual returns, governing documents, charges, and society rule changes available to the public for a fee.<sup>20</sup> The fees are intended to recover our costs. We make information available through the Mutuals Public Register.
- 8.5** The costs we incur include offsite storage, document transportation, internal staff time spent on filing and scanning information, maintaining the files, and providing a service for the inspection of documents in person at our offices.
- 8.6** In February 2011 (CP11/2: *Regulatory fees and levies – Rates proposals 2011/12*), we set out our proposals for charges under the new enhanced Mutuals Public Register service we were introducing. This included for the first time the opportunity to obtain documents online.

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<sup>19</sup> We are taking the opportunity to correct an obsolete reference in Appendix 1 of the Fees Manual, which sets out the fees rules for mutual societies. Paragraph 1.1.2G cites functions exercised by us under Part XXI of FSMA, but this has been superseded by section 50 of the Financial Services Act 2012.

<sup>20</sup> The FCA charges fees for inspection of documents held in relation to Credit Unions and Cooperatives and Community benefit societies in accordance with section 145 of the Co-operative and Community Benefit Societies Act 2014. Fees for inspection of documents relating to building societies and friendly societies are charged in accordance with sections 106(3) Building Societies Act 1986 and section 104A Friendly Societies Act 1974 respectively.

- 8.7** Following consultation, we established our current fees structure for the provision of information from April 2011 (Handbook Notice 108, March 2011):
- *Online* through the Mutuels Public Register – £12 per document
  - *Paper copies* – £27 for the first 20 sheets, plus 60p per page thereafter, plus £5 for post and packaging.
  - *Personal visit* to our office to view files – £26.50 per file.
- 8.8** Building on our previous enhancements, we have further modernised our processes. Most of our documents are stored in paper files in an offsite repository. Since last year, we store all new documents electronically. Our aim is for the great majority – and eventually all – documents to be stored electronically. This will save our storage costs and allow inspections to be conducted online instead of coming into our office, creating more cost-effective procedures both for users and ourselves.

### Proposal

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- 8.9** Our aim is to move to a fully online system, which will be more cost-efficient both for ourselves and clients, and will improve the deployment, effectiveness and job quality of our own staff. To encourage more online searches, we need to revise our prices.

#### Fee for documents purchased online

- 8.10** The current charge of £12 to inspect a document does not encourage online purchases through the Mutuels Public Register. To create an incentive for online inspection, we propose to reduce the fee to £1 per document inspected.

#### Photocopying

- 8.11** If the client asks us instead to send out paper copies, we currently charge £27 for the first 20 pages, plus 60p per page thereafter, plus £5 postage. This does not reflect the work involved in copying different documents. Under the new model, the charge will be on a 'per document basis' irrespective of how many documents are inspected. Therefore we are proposing to charge £27 per document up to the first 20 pages of that document, and 60p per page after that. Since 2011, the cost of postage has increased. We are therefore also proposing to increase the cost of postage from £5 to £8.

#### Personal inspection

- 8.12** If a client opts to view the documents at our office, then we will raise the charge from £26.50 per file to £100 per file. This is closer to the actual cost to us of making staff and accommodation available and will ensure that online viewing is more financially attractive.

### Summary

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- 8.13** The result of these changes to our charges, in addition to our efforts to reduce costs further by placing greater emphasis on our online systems, will deliver the following pricing structure:
- £1 per electronic document, purchased through the Mutuels Public Register

- £27 for a paper copy up to the first 20 pages of any document, 60p for each page thereafter, and £8 for postage
- £100 per file inspected at our office

**8.14** We will of course keep these charges under review and consult again if we believe any changes are necessary.

**8.15** We are aware that some individuals may have disabilities which limit their capacity to take full advantage of our online services. Under those circumstances, we will explore a range of options with them as a basis for agreeing satisfactory alternative arrangements that suit their particular needs, such as arranging for them to view documents onsite, posting paper copies and if appropriate discounting or rebating fees to ensure they are not financially disadvantaged.

**Q10: Do you have any comments on the proposed changes to the charges for inspecting the Mutuels Public Register?**

## 9.

# Fees for designated professional bodies

- 9.1** This chapter presents our proposals for adjusting our methodology for calculating the fees of designated public bodies (DPBs), to take account of the extension of our regulatory remit to consumer credit.
- 9.2** Many professional firms, such as solicitors and accountants, undertake authorised activities on a relatively small scale as part of their wider service to their clients. To save firms in this position from taking up permissions on their own account, we have agreed that their professional bodies should oversee their conduct as part of their core function of maintaining professional standards. We charge a block fee to these bodies (known as DPBs) to cover our costs in liaising with them. Firms covered by these arrangements are known as 'exempt professional firms' (EPFs). Some professional firms, which are more extensively engaged in financial services, are also directly authorised by us and are not included in the DPB regime.
- 9.3** The Office of Fair Trading (OFT) maintained a similar arrangement where consumer credit was ancillary to professional firms' main business. Now that we have taken over responsibility for regulating consumer credit, large numbers of professional firms included in the OFT group licences may be brought into our existing DPB regime as EPFs. Some may already be in our existing DPB regime because they carry out other financial services. Others may be completely new to our regime.
- 9.4** We do not expect our overall costs in administering the DPB regime to increase materially in the near future but, with the increase in EPFs as a result of the transfer of consumer credit, we need to restructure our cost recovery.. The effect of our proposals, therefore, is to redistribute the fees between the ten DPBs.
- 9.5** Our fee rules do not prescribe the methodology but simply set the final figure to be paid by each DPB. We will consult on the rates for 2015/16 in March 2015, so we are not consulting on a rule change in this CP, but on the methodology that lies behind the fee-rate.
- 9.6** The fees paid by DPBs are currently calculated by setting a base charge of £10,000, then adding an amount determined by dividing our total cost requirement by the number of EPFs they have reported. Additionally, the largest DPBs used to pay the OFT £30,000 for a five-year licence, equivalent to £6,000 per year, based on the number of firms they reported. Following the transfer of consumer credit to the FCA, the DPBs are reporting approximately 17,000 additional exempt firms that will enter the DPB regime. This is a best estimate based on current information held both by the DPBs and ourselves to try and accurately estimate the number of firms affected.
- 9.7** At a workshop earlier this year, representatives of the DPBs explained that it would be disproportionately complicated and expensive to attempt to report separately the number of exempt firms engaged in consumer credit work from those engaged in other work on financial services, not least because many would be engaged in both. They preferred to continue

reporting the total number of exempt firms without distinguishing the activities they might be engaged in.

**9.8** At present, while all ten of the DPBs have members who are engaged in wider financial services activities, three of them have no involvement with consumer credit. We should not assume that this will always be the pattern. In the future, a body might register with us as a DPB whose members were involved with consumer credit only. Having explored several options, we believe our charges should reflect that there is an initial cost in engaging with us as a DPB, whatever activities its members are involved with. There is then a cost to engaging with us over any particular regulatory regime. Our proposals are:

- a. Maintain the £10,000 basic fee for maintaining designated status. This would be paid by all DPBs whatever their size and whatever activities their members undertake.
- b. Introduce separate additional fixed fees for consumer credit and non-consumer credit activity, based on size:
- c. Small (up to 1,500 exempt firms) £1,200
- d. Medium (over 1,500 to 3,000 exempt firms) £3,000
- e. Large (over 3,000 exempt firms) £6,000
- f. Recover the balance as now through a variable rate based on the number of firms reported by each DPB.

**9.9** Table 9.1 models the impact of these proposals, using 2014/15 data. The most significant effect is to reduce by about half the fees of the Law Society of England and Wales, which until last year was the largest of the DPBs. The Institute of Chartered Accountants of England and Wales is now the largest DPB, and the fees of the two bodies would on these figures be roughly level, reflecting their share of the population of firms.

**9.10** Our consultation question is:

**Q11: Do you agree with our proposals for restructuring the fees of designated professional bodies?**

**Table 9.1: Impact of proposals to restructure fees for designated professional bodies, using 2014/15 data**

Designated professional body	No of exempt firms		Total modelled fee	Actual fee, 2014/15
	2013/14	2014/15	£	£
Law Society of England & Wales	10,810	10,014	40,989	85,910
Law Society of Scotland	679	690	13,708	14,690
Law Society of Northern Ireland	530	519	13,384	13,690
Institute of Chartered Accountants in England & Wales	2,548	12,528	45,756	27,490
Institute of Chartered Accountants of Scotland	206	987	14,272	11,410
Institute of Chartered Accountants in Ireland	131	1,800	19,413	10,750
Association of Chartered Certified Accountants	1,209	7,328	35,896	18,480
<b>Not involved in consumer credit</b>				
Institute of Actuaries	19	19	11,236	10,130
Council for Licensed Conveyancers	220	217	11,611	11,550
Royal Institute of Chartered Surveyors	661	661	12,453	14,620
<b>Total</b>	<b>17,013</b>	<b>34,763</b>	<b>218,720</b>	<b>218,720</b>

# 10.

## Consumer credit fees and levies

### *(Draft rules in Appendix 3)*

- 10.1** We propose making the following adjustments to our framework for consumer credit fees:
- Charging a fee for firms with limited permission seeking to change their legal status.
  - Charging an application fee for a new consumer credit activity.
  - Incorporating consumer credit into our financial penalty scheme.
  - Charging for the Money Advice Service through a single levy for consumer credit.
- 10.2** We are also clarifying the basis on which we will use projected income to calculate the second and third year fees of newly authorised consumer credit firms.

### Fee for firms with limited permission seeking to change their legal status

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#### *(FEES 3.2.7(a))*

- 10.3** When a firm seeks to make a simple change in its legal status that does not affect its permissions or the activities it undertakes, it only pays 50% of the relevant application fee if it has been categorised as a straightforward or moderately complex case.
- 10.4** It has come to our attention that this does not extend to firms with limited consumer credit permissions. It was not our intention to exclude them, and we believe that there is no reason for treating them less favourably than straightforward firms. So we are proposing to add limited permission cases into the definition.

**Q12: Do you agree that we should extend to consumer credit firms with limited permission the discount applicable to straightforward and moderate categories when firms apply for simple changes in legal status?**

### Application fee for a new consumer credit activity

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#### *(FEES 3 Annex 1 Part 3)*

- 10.5** We propose to add the new activity of 'Advising on regulated credit agreements the purpose of which is to acquire land' to the list of permissions requiring a straightforward consumer credit application fee.

- 10.6** This activity will be introduced by Article 3(1)(b) of the Mortgage Credit Directive. Agreements under Article 3(1)(b) are defined as having the purpose ‘to acquire or retain property rights in land or in an existing or projected building.’ This includes agreements that are not secured on residential property. They may be either unsecured, or secured on commercial property or other assets – for example, where a farmer secures a loan on agricultural machinery or buildings in order to purchase the family home.
- 10.7** As this is a new regulated activity, we have no direct experience of dealing with it, but we believe applications will be straightforward, comparable to credit broking. We will keep this under review.
- 10.8** No adjustment is needed in relation to periodic fees, as all new permissions are automatically covered by the generic definition of ‘credit-related regulated activities’.

**Q13: Do you agree that applicants for the new Mortgage Credit Directive permission of ‘Advising on regulated credit agreements the purpose of which is to acquire land’ should be charged a straightforward consumer credit application fee?**

#### **Incorporating consumer credit into the FCA financial penalty scheme**

- 10.9** We are required under FSMA (paragraph 21 of Schedule 1ZA) to prepare a financial penalty scheme that sets out how we propose to treat the revenue that we receive from the financial penalties that we impose on firms. After deducting enforcement costs incurred by us during the financial year in which the penalties were received, we pay the balance to the Treasury. The penalty revenues retained by us are allocated across a number of fee-blocks in proportion to the enforcement costs budgeted for the following financial year, as a rebate to the fees paid by the firms in those fee-blocks. The relevant fee-blocks are listed in the penalty scheme.
- 10.10** We have decided to incorporate consumer credit into the financial penalty scheme. This means that the revenue from any penalties imposed under the new regime will also be applied for the benefit of consumer credit firms on exactly the same basis as other FSMA penalties. This can be achieved by adding the two consumer credit fee-blocks (CC1 – limited permission; CC2 – full authorisation) to the list of relevant fee-blocks. We do not believe there is any good reason to exclude consumer credit firms from the financial penalty scheme.

**Q14: Do you agree that we should add the two consumer credit fee-blocks to the list of relevant fee-blocks covered by our financial penalty scheme?**

#### **Money Advice Service: single levy for consumer credit**

##### ***(FEES 7 Annex 1 Part 1)***

- 10.11** We propose to charge a single Money Advice Service levy for all consumer credit firms from 2015/16.
- 10.12** The Money Advice Service consumer credit levy matches the FCA fee, with two fee-blocks – CC1 for firms with limited permission and CC2 for firms that are fully authorised. CC1 firms pay

a flat rate of £10. CC2 firms pay £10 up to £250,000 of consumer credit income and then a variable rate on top of that.

- 10.13** It has become clear that the £10 flat rate would leave some firms carrying out large volumes of business paying nominal fees under limited permissions. The supervision of their substantial credit-broking activities would be paid for by other firms. It would be more appropriate for CC1 to be structured like CC2, with a variable rate above £250,000 of income. As CC1 and CC2 are distinguished only by regulatory criteria that are not relevant to an advice service, we originally considered merging them into a single fee-block for the Money Advice Service levy. However, the system development costs of creating a new fee-block for the Money Advice Service alone would have been disproportionately expensive, so we will leave the structure unchanged. It would be more straightforward, and less costly, for the two fee-blocks to mirror each other.
- 10.14** We propose to introduce a variable fee for limited permission firms with over £250,000 of consumer credit income, and charge the same rates to firms in both fee-blocks. We will consult on the rates in March 2015.

**Q15: Do you agree that we should introduce a variable Money Advice Service levy for firms with limited consumer credit permissions in fee-block CC1?**

**Clarification: projected income as basis for calculating second and subsequent-year fees**

**(FEES 4.2.7B)**

- 10.15** We will base the second and third-year fees of consumer credit firms on the projected income they reported when they applied for authorisation, unless they are in a position to provide the data through standard regulatory reporting.
- 10.16** The periodic fees for credit-related regulated activities are to be calculated from the annual income reported by firms for their financial year ending during the calendar year preceding the relevant fee-year. The regular reporting rule in SUP 16.12.29C requires firms to submit reports containing this data within 30 business days of the end of their financial year.
- 10.17** As this is a backward looking measure, many firms will not be in a position to report a full-year's annual income for several years. For example, a firm authorised in November 2014, with a financial year beginning in January 2015, will not be able to report this data until its fourth fee year. That is because its first financial year will end in January 2016, which falls after the calendar year ending 31 December 2015, which is the cut-off date for reporting data for the firm's third fee year of 1 April 2016 to 31 March 2017 (the first fee year being 1 April 2014 to 31 March 2015 and the second fee year being 1 April 2015 to 31 April 2016). The data for the year ending January 2016 will not be used to calculate its fees until the 2017/18 fee-year.
- 10.18** To accommodate this, several groups of firms, such as investment intermediaries, are required to estimate their annual income if they do not have a full-year's data to report.
- 10.19** To keep reporting as straightforward as possible for firms that are carrying out a credit related regulated activity and are not used to dealing with us, we do not ask consumer credit firms to annualise their incomes in this way.

- 10.20** Instead, as part of last October's consultation on consumer credit fees, we introduced a transitional provision in FEES TP 10, which allows us to calculate the relevant periodic fees on the basis of the data firms gave us when they applied for authorisation.
- 10.21** An alternative would have been to base the fees on annualised data as we do with other firms, but this would have required writing to each firm individually, which would have been a highly resource-intensive task given the number of firms we expect to apply for full Part 4A credit-related permissions over the next two years.
- 10.22** From 1 April 2016, the transitional period will expire and consumer credit firms will be treated as other firms whose fees are based on annual income data. This means that their first year of income will be based on projected data, but we will write to them if their financial years fall outside the appropriate fee reporting period.

# 11.

## Other fees and levies

### *(Draft rules in Appendix 3)*

- 11.1** We are proposing some drafting changes to clarify some of our definitions of income and an amendment to bring the method of calculating the first year's fees of recognised investment exchanges (RIEs) into line with other firms. The definitions of income affect:
- fee-block A9 (managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes).
  - fee-blocks A13 (advisers, arrangers, dealers or brokers), A14 (corporate finance advisers), A18 (home finance providers, advisers and arrangers), A19 (general insurance mediation), B (service companies), CC1 (consumer credit firms with limited permission), and CC2 (consumer credit firms with full authorisation).
- 11.2** We are also making two technical clarifications to guidance in FEES 5.8.2G.

### **Fee-block A9**

#### *(FEES 4 Annex 1A Part 3)*

- 11.3** The A.9 fee-block includes managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes. The tariff base (measure of size) is gross, rather than net, income. As such, income levied by firms should be reported by them, for our fees tariff data purposes, without deductions for discounts or any rebates they pass on to customers, including in relation to front end or exit charges.
- 11.4** In response to a query, we reviewed whether firms in this fee-block had reported their tariff data correctly. This covered firms that represent 85% of the total tariff data reported. While we found that the majority of these firms had reported their data correctly, we noted that a few firms had not, having made certain deductions from front end-charges and these firms were asked to resubmit data.
- 11.5** It is key that all firms in any fee-block calculate their reported tariff data in the same way so that they all pay fees on the same basis. We are therefore proposing to take this opportunity to clarify the wording of the relevant rule.
- 11.6** The definition of gross income for fee-block A.9 requires firms to include 'the front-end or exit charge levied on sales or redemptions of collective investment schemes (typically 4% to 5% of sales/redemptions) in that same accounting period'. We propose to add to that sentence: 'and any amount the firm would have levied as such a charge but for a business decision to waive, discount or rebate etc. that charge'.

**Q16: Do you have any comments on our proposed clarification of the income definition for fee-block A9?**

**Intermediaries and consumer credit firms**

**(FEES 4 Annex 11AR, Annex 11BR, Annex13G)**

- 11.7** This clarification affects the definitions of income for firms in fee-block A13 (advisers, arrangers, dealers or brokers), A14 (corporate finance advisers), A18 (home finance providers, advisers and arrangers), A19 (general insurance mediators), B (service companies), CC1 (consumer credit – limited permission) and CC2 (consumer credit – full authorisation).
- 11.8** One firm pointed out that paragraph (7) of our current guidance in Tables 1 and 2 of FEES 4 Annex 13G could be interpreted as allowing firms to ignore the incomes of their appointed representatives (ARs) because it refers to earnings from those who ‘will become’ its ARs ‘immediately after authorisation’ but does not mention those who are already ARs. There is no evidence that any firms have in practice interpreted the guidance in this way but, as with fee-block A9, we are keen to remove any potential ambiguities once we are alerted to them.
- 11.9** We have now made it clear that the guidance covers those who are now the firm’s ARs as well as those who will become its ARs. To avoid any risk of misinterpretation, we have also put an explanation into the definition of income in FEES 4 Annex 11A. This instructs the principal firm to include earnings from ARs conducting regulated business on its behalf, deducting only any income already reported in its own accounts to avoid double-counting.

**Q17: Do you agree with our clarification of the definition of income for intermediaries and consumer credit firms?**

**Recognised investment exchanges (RIEs)**

**(FEES 4.2.6R)**

- 11.10** When firms are authorised during the fee-year, they pay a pro-rata fee for the first year, based on the number of months remaining until the 31 March year-end. For example, a firm authorised in March will pay one-twelfth of the annual fee. However, FEES 4.2.6R(2) exempts RIEs from this provision, so an RIE recognised in March should pay the full-year’s fee of £300,000. This was drawn to our attention recently, when we agreed to pro-rata the fee of a newly recognised RIE to bring it into line with the standard rule. We see no reason for continuing to treat newly recognised RIEs differently from other newly authorised firms and so we propose to remove this provision.

**Q18: Do you agree that newly recognised investment exchanges should pay a pro rata fee based on the number of months remaining in the fee-year, on the same basis as other newly authorised firms?**

### Clarifications in drafting

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**11.11** We are making two clarifications to the drafting of our rules:

***Fee-block A7: Portfolio managers (FEES 4 Annex 1A, FEES 4 Annex 2A)***

- a.** We are making a technical amendment to ensure that firms identified in FEES 4 Annex 1AR as falling into category (4) of fee block A.7 (managers of alternative investment funds (AIFs) or undertakings for collective investments in transferable securities (UCITS)) are clearly sign-posted to the A.7 tariff rate in FEES 4 Annex 2AR.

***Financial ombudsman service levy (FEES 5.8.3G)***

- b.** We are correcting an out of date reference in FEES 5.8.3G to the calculation of the tariff base for 'advisory arrangers, dealers or brokers holding and controlling client money and/or assets'. In 2013/14, following consultation, we changed the tariff base for industry blocks 8 and 9 in FEES 5 Annex 1 from relevant approved persons to annual income, as defined in FEES 4 Annex 11A R. Since the current guidance is obsolete, we are not consulting on the change but drawing attention to it for information.

# Annex 1

## Compatibility with the general duties of the FCA

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). Under section 138I of FSMA, the FCA, the ombudsman service and the Money Advice Service are exempt from the requirement to carry out and publish a cost benefit analysis regarding such proposals. The FCA is also exempt from the obligation to carry out a cost benefit analysis in relation to PSR fees rules.<sup>21</sup>
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 on 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

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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 2015/16 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.

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<sup>21</sup> FSBRA Schedule 4, para 9(9).

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 enabling us to fund the 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 the case of the Money Advice Service, the proposal in this consultation aims to target cost recovery more fairly.
8. In the case of PSR, the proposals in this consultation aim to put in place a methodology for raising fees to fund the PSR to enable it to meet its statutory objectives:
  - to promote effective competition in the markets for payment systems and the services provided by payment systems, in the interests of service-users
  - to promote the development of and innovation in payment systems, including in infrastructure used for the purpose of operating payment systems, in the interests of service-users
  - to ensure payment systems are operated and developed in a way that takes account of and promotes the interests of service-users
9. In preparing the proposals set out in this consultation, we have had regard to 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**

##### **FCA**

- Almost all of our proposals are about the way we recover our costs rather than the way we carry out our business. Our revised framework of fees for inspecting the mutual register is intended to establish online access to our register as the norm, freeing up staff time, reducing our storage costs and increasing the efficiency of our service.
- Using our existing periodic fees framework will be the most efficient and economical way of administering the collection of the pensions guidance levy. We believe alternative ways would include the need to collect additional data from firms requiring us to change our operational systems to accommodate the new data. This will also be more proportionate for firms as it avoids the additional burden that will arise from them having to change their systems and processes to provide us with the new data.

##### **PSR**

- Our proposed approach to PSR fees, based on an equal allocation with certain adjustments, reflects an appropriate balance between an approach that is relatively simple, transparent and predictable (and, as a result, low-cost) and one that is not disproportionately burdensome or unfair to individual payment systems. This is consistent with the need to use our resources in an efficient and economical way.

#### **The principle that a burden or restriction should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction**

**FCA**

- Using the five pensions guidance fee-blocks overall enables the burden of the levy on 'A' fee-block firms to be more proportionate to the benefit generally expected to result from the provision of pensions guidance. Within the five pensions guidance fee-blocks the amounts allocated will be recovered in proportion to the size of the firms business as a proxy for the benefit that these firms may derive from pensions guidance.
- Introducing annual fees for approved reporting mechanisms (ARMs) and other bodies supplying transactional reports directly to us targets cost recovery on the businesses which use our services.
- Revising the methodology for calculating the fees of designated professional bodies redistributes cost recovery between them to take account of the changing pattern of deployment of our resources in dealing with them after the introduction of the consumer credit regime.
- Calculating some of our consumer credit fees on the basis of the projections submitted by firms when they applied for authorisation avoids asking them to provide us with additional data.

**PSR**

- Our proposed approach to PSR fees is fundamentally based on an equal allocation with certain adjustments to prevent our fees from disproportionately or unfairly affecting certain payment systems. This approach reflects the fact that, as a new regulator, the PSR's initial efforts are focused on understanding all designated payment systems and adopting initial policies and a regulatory framework applicable across the industry. Adjustments are proposed to reflect the particular situation of payment systems which have limited, complementary geographic coverage and/or significantly lower transaction volumes. As a result, we consider that the burden of our PSR fee proposals are proportionate to the benefits, considered in general terms, that are expected to result from the imposition of the fees.

**Money Advice Service**

- Introducing a variable rate levy for firms with limited consumer credit permissions ensures that larger firms will make a proportionate contribution towards cost recovery.

**The desirability of exercising our functions in a way that recognises differences in the nature of the businesses carried on by different persons we regulate****FCA**

- The 18,000 firms in the 'A' fee-block, as a whole, undertake a very wide range of financial services business. We believe that by using the five pensions guidance fee-blocks and not the other 11 we are recognising these differences.
- Our proposals to recover IT gateway maintenance fees from bodies submitting transaction reports to us are designed to reflect their usage of our systems.

**PSR**

- By making certain adjustments to reflect circumstances unique to different payment systems, our proposed approach is consistent with the exercising of our functions in a way that recognises differences in the nature of the businesses carried on by different persons we regulate.

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

- This is the second consultation on how we should raise the pensions guidance levy which

includes revised proposals that take account of some initial responses and explains why we have not revised proposals in respect of other initial responses.

- Integrating second charge mortgages into our mortgage regime as required by the Mortgage Credit Directive requires only minor rule changes and will not take effect until 2016, but we have set out the issues to make firms aware of the potential implications for their fees to help them with their business planning.
- Although we are not at this stage proposing any changes to application fees, we are sharing the responses we received to our discussion paper in order to maintain the public debate.

#### **PSR**

- We believe this consultation clearly explains the way we propose to raise fees to fund the PSR. Our proposed approach to PSR fees is fundamentally based on an equal allocation with certain adjustments to prevent our fees from disproportionately or unfairly impacting certain payment systems, which is a simple and transparent approach.

#### **Expected effect on mutual societies**

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10. We do not expect the pensions guidance levy proposals to have a significantly different impact on authorised firms that are mutual societies from the impact on other authorised firms. Our revised charging structure for inspecting the mutuals register does not directly affect mutual societies. It applies only to members of the public using the register, though these will include solicitors acting on behalf of mutual societies. None of the other FCA or Money Advice Service proposals, or proposed PSR fees rules, apply to mutual societies.

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

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##### **FCA**

11. 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. We do not expect any of them to have a material impact on competition.
12. We are proposing that the pensions guidance levy is raised from a subset of our 'A' fee-blocks. We are proposing this approach as we consider that this incorporates the wider range of products and services that consumers could purchase following using the pension guidance (and, therefore, the range of firms that could compete for those consumers' business). We consider that our proposals on allocation of costs across the fee-blocks are a reasonable starting position particularly given that there is no current data available on the financial products and services consumers will choose following using the pension guidance service. If future data indicates that the competition between firms for these consumers means this starting position is no longer reasonable or proportionate, then we are able to review our position accordingly.
13. The Mortgage Credit Directive will bring firms involved with second charge mortgages out of consumer credit regulation and into a different regulatory regime. Our proposal following this change in legislation is to treat them on exactly the same basis as the other mortgage providers and intermediaries we already regulate under the Mortgage Conduct of Business Rules (MCOB).

14. Introducing new charges to recover the costs of maintaining the IT systems that enable entities to submit transaction reports directly to us addresses a distortion in the market. These costs are currently paid by all firms, even if they make no use of the system. Our proposals will ensure that the users pay, taking into account their scale of usage.
15. We have restructured cost recovery from designated public bodies to take better account of their pattern of interaction with us. The main changes in the amounts they will pay us are determined by the numbers of members they report. They recover their fees from their members and any variations up or down should be marginal to their broader membership fees.
16. Our proposals relating to consumer credit are mostly about maintaining fairness in cost recovery where we have identified the potential for unequal treatment for particular types of firms – for example, we are bringing consumer credit firms into our financial penalty scheme so that they benefit from penalty revenues on the same basis as other firms, and we are ensuring that firms with limited permissions receive the same discount as other firms when they wish to make a simple change of legal status. We are introducing an application fee for a new activity, and our proposals for calculating second-year fees will avoid the need for firms to send us additional data.

#### ***Money Advice Service***

17. Restructuring the Money Advice Service levy for limited consumer credit permissions will ensure that large firms in this fee-block pay their fair share of the costs.

#### ***PSR***

18. The PSR has an objective to promote effective competition in the markets for payment systems and services provided by payment systems. As a result, by raising fees to fund the PSR, the FCA is acting consistently with its duty to promote effective competition in the interests of consumers.
19. By making certain adjustments to reflect circumstances unique to different payment systems, our proposed approach does not burden different PSOs disproportionately or unfairly.
20. Further our proposed approach has demonstrated flexibility in dealing with circumstances unique to different payment systems. We are the view that such flexibility will reduce concerns of other, non-designated payment systems regarding the potential direct financial cost if they were to be designated in future.

#### **Equality and diversity**

21. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment (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.
22. PSR fees will have no effect on equalities. Where the PSR proposes to impose general directions or generally-applicable requirements under FSBRA, it carries out an EIA with respect to those proposals.<sup>22</sup>

<sup>22</sup> The PSR is currently consulting on its consultation PSR CP14/1 'A new regulatory framework for payment systems in the UK'. An EIA is included as Annex 2 to Supporting Paper 1 (PSR CP14/1.1) of that consultation. It concludes that "...we do not expect that our policy proposals will have a particular effect on one group of individuals over another, or be detrimental to any protected characteristic, and we consider that our proposals do not give rise to discrimination and are of low impact to the equality agenda". See <http://www.fca.org.uk/your-fca/psr/supporting-paper-1-the-psr-and-uk-payments-industry->

## Annex 2

# List of questions

- Q1:** Should the PSR set-up costs be recovered over one or three years?
- Q2:** Do you agree with the outliers for PSR fees we have identified and the proposed adjustments to address them? If you do not agree, please give your reasons.
- Q3:** Do you believe there should be other outliers for PSR fees? If you do, please give your reasons and the adjustments you consider should be made to address them and the justification for those adjustments.
- Q4:** Do you have any comments on our proposals for calculating fees if additional payment systems are designated?
- Q5:** Do you have any comments on our proposals for collecting and using the volume of transactions as the tariff data for the purpose of calculating PSR fees?
- Q6:** Do you have any comments on the proposed application of certain existing FCA fees rules and guidance to PSR fees?
- Q7:** Do you agree with our proposals for how the pensions guidance levy should be raised? If you do not agree, please give your reasons.
- Q8:** Do you agree with our proposed adjustments to the rules affecting fee-block A2 (Home finance providers and administrators)?
- Q9:** Do you agree with our proposals for introducing an annual fee for ARMs (approved reporting mechanisms) and other entities submitting transaction reports directly to us?
- Q10:** Do you have any comments on the proposed changes to the charges for inspecting the Mutuals Public Register?
- Q11:** Do you agree with our proposals for restructuring the fees of designated professional bodies?

- Q12:** Do you agree that we should extend to consumer credit firms with limited permission the discount applicable to straightforward and moderate categories when firms apply for simple changes in legal status?
- Q13:** Do you agree that applicants for the new Mortgage Credit Directive permission of 'Advising on regulated credit agreements the purpose of which is to acquire land' should be charged a straightforward consumer credit application fee?
- Q14:** Do you agree that we should add the two consumer credit fee-blocks to the list of relevant fee-blocks covered by our financial penalty scheme?
- Q15:** Do you agree that we should introduce a variable Money Advice Service levy for firms with limited consumer credit permissions in fee-block CC1?
- Q16:** Do you have any comments on our proposed clarification of the income definition for fee-block A9?
- Q17:** Do you agree with our clarification of the definition of income for intermediaries and consumer credit firms?
- Q18:** Do you agree that newly recognised investment exchanges should pay a pro rata fee based on the number of months remaining in the fee-year, on the same basis as other newly authorised firms?

## Annex 3

# List of non-confidential respondents to Chapter 3 of CP14/11

Advantage IFA Ltd  
Aegon  
AFH Independent Financial Services Limited  
Altus Limited  
Aquilaheywood  
Ask Money Ltd  
Asset Investment Management Ltd  
Association of Consulting Actuaries  
Association of Investment Companies  
Association of Member Nominated Trustees  
Association of Member-Directed Pension Schemes  
Association of Professional Financial Advisers  
Atlas Financial Planning Ltd  
Aviva  
Axa Investment Managers  
Axa Wealth Management  
B&CE The People's Pension  
Beckett Financial Services Ltd  
BlackRock  
Black Swan Financial Management  
Blue River Wealth Management Ltd  
BPH Wealth Management LLP  
Brian Shearing and Partners Limited  
Bryan J Hollingsworth, Chartered Financial Planner  
Buck Consultants Limited  
Building Society Association  
CAERUS Financial Limited  
Campbell & McConnachie  
Capita Employee Benefits  
Capital Tower Ltd  
Charlton Frank  
Christopher Miller Ltd  
City & Trust Finance Ltd  
Complete Compliance Support LTD  
Council of Mortgage Lenders

Crescent Independent (Financial Services) Ltd  
CTC Software  
DATA  
Davies Financial Ltd  
Devonshire Asset Management LLP  
DJH Wealthy Management  
DJ Lawrence & Associates  
DPI Financial services Ltd  
Eldon Financial Planning  
Fidelity Worldwide Investment  
Financial Services Consumer Panel  
Forty Two Financial Planning Ltd  
Foyle Financial  
Frary Financial Planning  
Friends Life  
Grant Saw Wealth Management  
Hargreaves Lansdown  
Horbury Financial Services Ltd  
ICAS Pensions Committee  
Informed Choice Ltd  
Institute and Faculty of Actuaries  
Institute of Financial Planning  
International Financial Data Services Ltd  
Intrinsic Financial Services Ltd  
Investment Management Association  
Jardine Lloyd Thompson (JLT)  
J.B Financial Services  
Johnston Financial Services LTD  
Jones Sheridan Financial Consulting  
JPRS (South West) Ltd  
Just Retirement Group plc  
Key Retirement Solutions  
Legal and General  
Lloyds Banking Group  
Marine and General Mutual Life  
MGM Advantage  
Mercer  
MetLife Europe Ltd  
Morgan Ash

National Association of Pension Funds  
NOW Pensions  
Old Mutual Wealth  
Openwork Limited  
Partnership Life Assurance Company Ltd  
Pen-Life Chartered Financial Planners  
Pensions Management Institute  
Pension PlayPen Ltd  
Professional Pensions and Investments Ltd  
Prudential  
Royal London Group  
Sabre Financial Ltd  
Sesame Bankhall Group  
Simon Kershaw and Associates Ltd  
Smith & Pinching Financial Services Ltd  
Society of Pensions Professionals  
Spofforths Financial Planning  
St James's Place Group  
Standard Life  
Star Financial Planning Ltd  
Sun Life Financial of Canada  
Tax Incentivised Savings Association  
Taylor Made Financial Planning LLP  
The Money Charity  
The Pensions Advisory Service  
The Prestwood Group  
The SimplyBiz Group  
Threesixty Services LLP  
Tower Watson  
Trent Motor Traction Company Ltd  
UK Sustainable Investment and Finance Association  
Universities Superannuation Scheme Limited  
Wealth Management Association  
Wealth Management & Growth Ltd  
Which?  
Whiting & Partners Wealth Management Ltd  
Wilson Chambers Limited  
Xafinity  
Yvonne Goodwin Wealth Management Ltd  
Zurich Insurance Group

# Appendix 1

## Fees (Payment Systems Regulator)

### Instrument 2015

**FEES (PAYMENT SYSTEMS REGULATOR) INSTRUMENT 2015**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) paragraph 9 (Funding) of Schedule 4 (The Payment Systems Regulator) of the Financial Services (Banking Reform) Act 2013 (“FSBRA”); and
  - (2) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
    - (i) section 137T (General supplementary powers); and
    - (ii) section 139A (Power of the FCA to give guidance);
- B. The rule making powers listed above are specified for the purpose of paragraph 9 of Schedule 4 of FSBRA and section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. This instrument comes into force on [*date*].

**Amendments to the FCA 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.

**Citation**

- F. This instrument may be cited as the Fees (Payment Systems Regulator) Instrument 2015.

By order of the Board of the Financial Conduct Authority  
[*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. The text is not underlined.

<i>FSBRA</i>	(in <i>FEES</i> 9) the Financial Services (Banking Reform) Act 2013.
<i>payment system</i>	<p>(1) (in accordance with section 41 of <i>FSBRA</i>), a system which is operated by one or more <i>persons</i> in the course of business for the purpose of enabling <i>persons</i> to make transfers of funds, and includes a system which is designed to facilitate the transfer of funds using another payment system.</p> <p>(2) but “payment system” does not include:</p> <ul style="list-style-type: none"><li>(a) any arrangements for the physical movement of cash;</li><li>(b) a system which does not make any provision for the transfer of funds by payers, or to recipients, in the <i>United Kingdom</i>;</li><li>(c) a securities settlement system operated by a <i>person</i> approved under regulations under section 785 of the Companies Act 2006 (provisions enabling procedures for evidencing the transferring title);</li><li>(d) a system operated by a <i>recognised clearing house</i>;</li><li>(e) any other system whose primary purpose is not that of enabling <i>persons</i> to transfer funds.</li></ul>
<i>PSR</i>	Payment Systems Regulator, the <i>body corporate</i> established by the <i>FCA</i> under section 40(1) of <i>FSBRA</i> .
<i>PSR fees</i>	the fees payable to the <i>FCA</i> by an <i>operator</i> of a <i>regulated payment system</i> under <i>FEES</i> 9.2.1R.
<i>regulated payment system</i>	a <i>payment system</i> designated by HM Treasury under section 43 of <i>FSBRA</i> .

Amend the following definitions as shown. Underlining indicates new text.

*operator*

...

- (3) (in FEES 1 and 9), any *person* with responsibility under a *payment system* for managing or operating it; and any reference to the operation of a *payment system* includes a reference to its management.

**[Note: section 42(3) of *FSBRA*]**

...

## Annex B

### Amendments to the Fees manual (FEES)

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

#### 1 Fees Manual

##### 1.1 Application and Purpose

...

1.1.1B G FEES 9 (Payment System Regulator Funding) relates to PSR fees.

...

Application

...

1.1.2A R FEES 1 and 9 apply to an operator of a regulated payment system.

...

#### 2 General Provisions

##### 2.1 Introduction

...

2.1.1A R This chapter does not apply in relation to *FEES 5.5A*, *FEES 5 Annex 2R* or *FEES 5 Annex 3R*, or to the *PSR fees payable under FEES 9*.

...

After FEES 8 insert the following new chapter. The text is not underlined.

#### 9 Payment Systems Regulator funding

##### 9.1 Application and purpose

Application

9.1.1 R This chapter applies to an *operator of a regulated payment system*.

Purpose

- 9.1.2 G This chapter sets out the fees payable by an *operator* of a *regulated payment system* to establish and fund the *PSR*.

#### Introduction

- 9.1.3 G Section 40(1) of *FSBRA* (The Payment Systems Regulator) requires the *FCA* to establish the *PSR*.

- 9.1.4 G (1) Paragraph 9 of Schedule 4 of *FSBRA* enables the *FCA* to make *rules* requiring participants in *regulated payment systems* to pay to the *FCA* specified amounts or amounts calculated in a specified way for the purposes of:

- (a) meeting the relevant costs referred to in (2) below; and
- (b) enabling the *PSR* to maintain adequate reserves.

- (2) The relevant costs referred to in (1)(a) above means:

- (a) the expenses incurred, or expected to be incurred, by the *PSR* in connection with the discharge of its functions;
- (b) the expenses incurred by the *FCA* in establishing the *PSR*;
- (c) any other expenses incurred by the *FCA* in connection with the discharge of its functions under Part 5 of *FSBRA*;
- (d) any expenses incurred, or expected to be incurred, by the *FCA* in connection with the discharge of the *PSR*'s functions by an officer or member of staff of the *FCA* under arrangements made under paragraph 5 of Schedule 4 of *FSBRA*.

- (3) The amounts to be paid referred to in (1) may include the expenses of the *FCA* in collecting *PSR fees*.

- 9.1.5 G *FEES 9* sets out the *rules* referred to in *FEES 9.1.4G*

- 9.1.6 G The *FCA* must pay to the *PSR* the amounts that it receives as *PSR fees*, apart from the following amounts (which it may keep):

- (1) expenses under *FEES 9.1.4G*(2)(b) to (d);
- (2) collection costs, as referred to in *FEES 9.1.4G*(3).

#### Annual budget and annual plan

- 9.1.7 G (1) Paragraph 4(1) of Schedule 4 of *FSBRA* requires the *PSR* to adopt an annual budget which has been approved by the *FCA*.

- (2) Paragraph 6(1) of Schedule 4 of *FSBRA* requires the *PSR* to prepare an annual plan which has been approved by the *FCA*.

- 9.1.8 G (1) *PSR fees* will vary from year to year, depending on the *PSR's* annual plan and budget.
- (2) These details are in *FEES 9 Annex 1R*.
- (3) The *FCA* will prepare and consult on new details for each *fee year*.

## 9.2 PSR fees

### Obligation to pay PSR fees

- 9.2.1 R An *operator* of a *regulated payment system* must pay the applicable *PSR fees* in *FEES 9 Annex 1R*
- (1) in full and without deduction; and
- (2) in line with *FEES 9.2.2R* or *FEES 9.2.3R*

### Time of payment

- 9.2.2 R If an *operator* of a *regulated payment system's* fees for the previous *fee year* was at least £50,000, that *operator* must pay:
- (a) an amount equal to 50% of the *PSR fees* payable for the previous *fee year*, by 30 April in the current *fee year*; and
- (b) the balance of the *PSR fees* due by 1 September in the current *fee year*.
- 9.2.3 R If an *operator* of a *regulated payment system's* fee for the previous *fee year* was less than £50,000, the *operator* of that *regulated payment system* must pay its *PSR fees* in full by 1 August in the current *fee year* or, if later, within 30 *days* of the date of the invoice in the current *fee year*.

### Method of payment

- 9.2.4 G An *operator* of a *regulated payment system* should generally pay its fees by electronic credit transfer.

### Regulated payment systems ceasing to be a designated payment system

- 9.2.5 R (1) The *FCA* will not refund *PSR fees* if, a *payment system* ceases to be a *regulated payment system* after the start of that *fee year*.
- (2) If a *payment system* ceases to be a *regulated payment system*, the *operator* of that system must pay any outstanding *PSR fees* before it ceases to hold that status.

### Late payments

- 9.2.6 R If an *operator* of a *regulated payment system* does not pay the total amount of its *PSR fees* before the end of the date on which it is due it must pay:

- (1) an administrative fee of £250; plus
- (2) interest on any unpaid part of the fee at an annual rate of 5% above the Official Bank Rate from time to time in force, accruing daily from the date on which the amount concerned became due.

Reduction, remission and repayment of fees

- 9.2.7 G The *FCA* may reduce or remit all or part of *PSR fees*, if it appears to the *FCA*, having consulted the *PSR*, that in the exceptional circumstances of a particular case the payment of *PSR fees* would be inequitable.
- 9.2.8 G The *FCA* may (unless *FEES* 9.2.9G applies), refund all or part of *PSR fees*, if it appears to the *FCA*, having consulted the *PSR*, that in the exceptional circumstances of a particular case the retention by the *FCA* or the *PSR* of the *PSR fees* would be inequitable.
- 9.2.9 G The *FCA* will generally not consider a claim to reduce, remit or refund *PSR fees*, due to a mistake of fact or law by the fee paying *operator* of a *regulated payment system*, if the claim is made more than two years after the beginning of the *fee year* to which the fee relates.

**9 Annex 1R PSR fees for the period 1 April 2015 to 31 March 2016**

The table below shows the *PSR fees* applicable to the *operator* of each *regulated payment system*.

**Table A**

<b>Name of <i>regulated payment system</i></b>	<b>Amount payable by the relevant operator (£)</b>
Bacs	[tbc]
CHAPS	[tbc]
Cheque & Credit Clearing	[tbc]
Faster Payments Service	[tbc]
LINK	[tbc]
Northern Ireland Cheque Clearing	[tbc]
MasterCard	[tbc]
Visa	[tbc]

After FEES TP 10 insert the following new FEES TP 11. The text is not underlined.

(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
11.1	<i>FEES</i> 9.2.2R and <i>FEES</i> 9.2.3R	R	Replace the current <i>FEES</i> 9.2.2R and <i>FEES</i> 9.2.3R with the following:  <i>“An operator of a regulated payment system must pay its PSR fees in full by 1 August 2015, or if later, within 30 days of the date of the invoice to which the PSR fees relate.”</i>	From 1 April 2015 until 31 March 2016	1 April 2015

# Appendix 2

## Fees (Pension Guidance) Instrument 2015

## **FEES (PENSION GUIDANCE) INSTRUMENT 2015**

### **Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 139A (Power of the FCA to give guidance); and
  - (2) section 333R (Funding of Treasury’s pension guidance costs)<sup>1</sup>
- 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 FCA 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.

### **Citation**

- F. This instrument may be cited as the Fees (Pension Guidance) Instrument 2015.

By order of the Board of the Financial Conduct Authority  
[*date*]

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<sup>1</sup> Proposed as part of the Pension Schemes Bill which is expected to enter into force in February 2015.

## Annex A

### Amendments to the Glossary of definitions

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

*pension guidance levy*      The amount notified by HM Treasury to the *FCA* under section 333R of the *Act*, plus any amount required to cover the expenses of the *FCA* in collecting the payments.

## Annex B

### Amendments to the Fees manual (FEES)

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

#### 1 Fees Manual

##### 1.1 Application and Purpose

1.1.1B<sup>2</sup> ...

1.1.1C G FEES 10 (Pension Guidance) relates to the *pensions guidance levy*.

#### 2 General Provisions

##### 2.1 Introduction

...

2.1.1A R This chapter does not apply in relation to *FEES 5.5A*, *FEES 5 Annex 2R* or *FEES 5 Annex 3R* or to the *pension guidance levy* payable under *FEES 10*.

...

After FEES 9 insert the following new chapter. The text is not underlined.

#### 10 Pension guidance levy

##### 10.1 Application, purpose and background

###### Application

10.1.1 R This chapter applies to:

- (1) every *firm* with a *Part 4A Permission*;
- (2) an *incoming EEA firm* who has established a *branch* in the *United Kingdom*; and
- (3) an *incoming Treaty firm* who has established a *branch* in the *United Kingdom*.

10.1.2 R Where *rules* from other *FEES* chapters are incorporated into this chapter

---

<sup>2</sup> To be introduced by Fees (Payment Systems Regulator) Instrument 2015

those *rules* are the *rules* in effect at [*date instrument comes into force*].

#### Purpose

- 10.1.3 G This chapter sets out the *pension guidance levy* payable by *firms* to fund HM Treasury's pension guidance costs.

#### Background

- 10.1.4 G (1) Section 333R of the *Act* requires the *FCA* to make *rules* requiring *authorised persons* or any specified class of *authorised persons* to pay to the *FCA* specified amounts, or amounts calculated in a specified way, to recover the amounts notified by HM Treasury, as HM Treasury's pensions guidance cost.
- (2) The amounts paid under the *pension guidance levy* may include the *FCA's* expenses in collecting the payments.
- 10.1.5 G The *FCA* must pay to the HM Treasury the amounts that it receives under the *pension guidance levy*, apart from amounts covering its collection costs (which it may keep).
- 10.1.6 G This chapter specifies how the *pension guidance levy* will be calculated. The total amount raised by the levy may vary from year to year depending on the amount notified to the *FCA* by HM Treasury under section 333R(1) of the *Act*.
- 10.1.7 G Under section 333R of the *Act*, the *FCA* must consult with HM Treasury in advance of publishing any draft *rules* relating to the *pensions guidance levy* and the *rules* may only be made with the consent of HM Treasury.

## 10.2 Pension guidance levy

#### Obligation to pay pension guidance levy

- 10.2.1 R A *firm* must pay the *pension guidance levy* applicable to it unless allowed or required by *FEES 10*.

#### Activity Groups

- 10.2.2 R The *pensions guidance levy* applies to the following activity groups:
- (1) A.1 Deposit acceptors;
  - (2) A.4 Insurers – life;
  - (3) A.7 Portfolio managers excluding Class (1)A *firms*;
  - (4) A.9 Managers and depositaries of investment funds, and operators of collective investment schemes or pension schemes; and
  - (5) A.13 Advisors, arrangers, dealers or brokers.

#### Time of payment

- 10.2.3 R A *firm* must pay the *pension guidance levy* due in full within 30 *days* of the date of the invoice in the *fee year* to which that sum relates unless one of the following applies:
- (a) In full on the date an application is made by a *firm* to cancel its *Part 4A permission* under *SUP 6.4.5D* (Cancellation of permission);
  - (b) In full immediately before a cancellation becomes effective if the *FCA* has exercised its *own-initiative powers* to cancel a *firm's Part 4A permission*; or
  - (c) 30 *days* after a *firm* receives or extends its *permission* during the fee year.
- 10.2.4 R A *firm* need not pay the *pensions guidance levy* when it is due under *FEES 10.2.3R* if;
- (a) that date falls during a period in which circumstances of the sort in *GEN 1.3.2R* (Emergencies) exist; and
  - (b) it has reasonable grounds to believe that those circumstances impair its ability to pay the levy.

In which case, the *firm* must pay it on or before the fifth *business day* after the end of that emergency period.

#### Calculation of pension guidance levy

- 10.2.5 R The *pension guidance levy* is calculated as follows:
- (1) identify each of the activity groups in *FEES 10.2.2R* that apply to the business of the *firm* for the relevant period;
  - (2) for each of those activity groups, calculate the amount payable under *FEES 10.2.6R*;
  - (3) modify the result as indicated by the table in *FEES 4.2.6R* and *FEES 4.2.7R* (persons becoming subject to periodic fees during the course of a fee year) if applicable;
  - (4) apply any applicable payment charge specified in *FEES 4.2.4R*.

- 10.2.6 R The *pension guidance levy* payable by a *firm* for each activity group is calculated as follows:
- (1)
    - (a) calculate the size of the *firm's* tariff base for that activity group using the tariff base calculations in Part 3 of *FEES* 4 Annex 1A and the valuation date requirements in Part 5 of *FEES* 4 Annex 1A;
    - (b) exclude *mathematical reserves* in the calculation for fee block A4
  - (2) use the figure in (1) to calculate the levy applicable for each band in *FEES* 10 Annex 1R;
  - (3) add together the sums for each applicable band under (2);
  - (4) make the calculations using information obtained in accordance with *FEES* 4.4.
- 10.2.7 R For *FEES* 10.2.6R a *firm* 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 *firm's* UK business separately from its non-UK business in the way described in Part 3 of *FEES* 4 Annex 1A and Part 1 of *FEES* 4 Annex 11 are disproportionate to the difference in levy payable; and
  - (b) it notifies the *FCA* in writing at the same time it provides the information concerned under *FEES* 4.4 (Information on which fees are calculated) or, if earlier, at the time it pays the levy concerned.
- 10.2.8 R For a *firm* which has not complied with *FEES* 4.4.2R (Information on which fees are calculated) for this period, the *pension guidance levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

#### Value-added tax (VAT)

- 10.2.9 R (1) All levies payable under *FEES* 10 are stated net of VAT.
- (2) Where VAT is applicable, this must also be included.

### 10.3 Late payments and recovery of unpaid levies

#### Late payments

- 10.3.1 R If a *firm* does not pay the total amount of the *pension guidance levy* before the end of the date on which it is due, it must pay:
- (1) an administrative fee of £250; plus
  - (2) interest on any unpaid part of the levy at an annual rate of 5% above the Official Bank Rate from time to time in force, accruing daily from the date on which the amount concerned became due.

- 10.3.2 G The *FCA* expects to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. Accordingly, a *firm* will usually have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

#### Recovery of levies

- 10.3.3 G (1) The *FCA* may recover the *pensions guidance levy* as a debt owed to the *FCA* under paragraphs 23(8) and 27 of Schedule 1ZA of the *Act*.
- (2) The *FCA* will consider taking action for recovery (including interest) through the civil courts.
- 10.3.4 G In addition, the *FCA* may be entitled to take regulatory action for the non-payment of the *pension guidance levy*. What action (if any) is taken by the *FCA* will be decided by the particular circumstances of the case.

## 10.4 Relieving provisions

#### Reductions, remission or repayment of levy

- 10.4.1 G The *FCA* may (unless *FEES* 10.4.4R applies) reduce or remit all or part of the *pensions guidance levy* if it appears to the *FCA* that, in the exceptional circumstances of a particular case, the payment of the *pensions guidance levy* would be inequitable.
- 10.4.2 G The *FCA* may (unless *FEES* 10.4.4R applies) refund all or part of the levy if it appears to the *FCA* that in the exceptional circumstances of a particular case to which *FEES* 10.4.1R does not apply, the retention by the *FCA* of the *pension guidance levy* which has been paid would be inequitable.
- 10.4.3 G A poor estimate or forecast by a levy payer, when providing information relevant to an applicable tariff base, is unlikely to amount to an exceptional circumstance under *FEES* 10.4.1R or *FEES* 10.4.2R. By contrast, a mistake of fact or law by a levy payer may give rise to such a claim.
- 10.4.4 G The *FCA* will generally not consider a claim under *FEES* 10.4.1R and/or *FEES* 10.4.2R to reduce, remit or refund any overpaid amounts paid by a levy payer, due to a mistake of fact or law by a levy payer, if the claim is made more than two years after the beginning of the period to which the levy relates.

## 10.5 Application of FEES 4 to the *pensions guidance levy*

- 10.5.1 G *Handbook* provisions on the *pensions guidance levy* are intended to follow closely the provisions for to the payment of periodic fees under *FEES 4*. Some *FEES 4 rules* are replicated by individual *rules* in *FEES 10*. The rest are set out in the table in *FEES 10.5.4R*. As set out in *FEES 10.1.2*, *FEES 10* incorporates those *rules* in effect at [*date instrument comes into force*].
- 10.5.2 R The *rules* in the table in *FEES 10.5.4R* and any other *rules* in *FEES* included in *FEES 10* by cross-reference apply to the *pension guidance levy* in the same way as they apply to periodic fees payable under *FEES 4*.
- 10.5.3 R (1) Reference to a periodic fee in a *FEES 4 rule* incorporated into *FEES 10* is a reference to the *pension guidance levy*.
- (2) Reference in *FEES 4 rules* incorporated into *FEES 10* to *payment service providers, electronic money issuers, market operators, service companies, MTF operators, investment exchanges, or designated professional bodies* should be disregarded.
- 10.5.4 R Table of *rules* in *FEES 4* that also apply in *FEES 10*.

<b>FEES 4 incorporated into FEES 10</b>	<b>Description</b>	<b>Modifications</b>
<i>FEES 4.2.4R</i>	Method of payment	none
<i>FEES 4.2.6R</i> <i>FEES 4.2.7R</i> <i>FEES 4.2.7AG</i>	Modifications for persons becoming subject to periodic fees during the course of a fee year	Reference to <i>FEES 4.2.1R</i> is a reference to <i>FEES 10.2.1R</i>  Reference to <i>FEES 4.2.11R</i> is a reference to <i>FEES 10.2.3(d)R</i> .
<i>FEES 4.2.7BR</i>	Calculation of periodic fees and tariff base for a <i>firm's</i> second financial year	none
<i>FEES 4.2.7CG</i>	Application of <i>FEES</i>	none
<i>FEES 4.2.8R</i>	How <i>FEES 4.2.7R</i> applies to an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i>	none
<i>FEES 4.2.9G</i>	Fee payers ceasing to hold relevant status or reducing the scope of their permission after start of relevant period	Reference to <i>FEES 4.2.11R</i> is a reference to <i>FEES 10.2.3(d)R</i> .

<i>FEES 4.3.7R</i>	Groups of <i>firms</i>	Reference to <i>FEES 4.2.11R</i> is a reference to <i>FEES 10.2.3(d)R</i> .
<i>FEES 4.3.13R</i>	<i>Firms</i> applying to cancel or vary permission before start of period	Reference to <i>FEES 4.2.1R</i> is a reference to <i>FEES 10.2.1R</i> .
<i>FEES 4.3.15R</i>	<i>Firms</i> acquiring businesses from other <i>firms</i>	none
<i>FEES 4.4.1R</i> to <i>FEES 4.4.6R</i>	Information on which fees are calculated	none

**10 Pension guidance levy for the period 1 April 2015 to 31 March 2016**  
**Annex 1R**

<b>Activity Group</b>	<b>Pension guidance levy payable</b>	
A.1	Band width (£ million of modified eligible liabilities (MELs)) >10	Fixed sum (£/£m or part £m of MELS) tbc
A.4	Band width (£ million of adjusted annual gross premium income (AGPI) >1	Fixed sum (£/£m or part £m of AGPI) tbc
A.7	For class 1(B), 1 (C), (2) and (3) firms: Band width (£ million of funds under management (FuM)) >10	Fixed sum (£/£m or part £m of FuM) tbc
A.9	Band width (£ million of gross income (GI)) >1	Fixed sum (£/£m or part £m of GI) tbc
A.13	Band Width (£ thousands of annual income (AI)) >100	Fixed sum (£/£ thousand or part of £ thousand of AI) tbc



# **Appendix 3**

## **Fees (Miscellaneous Amendments) (No 8)**

### **Instrument 2015**

**FEES (MISCELLANEOUS AMENDMENTS) (NO 8) INSTRUMENT 2015**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
  - (2) section 137T (General supplementary powers);
  - (3) section 139A (Power of the FCA to give guidance);
  - (4) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority) of the Act; and
  - (5) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body).
- 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 FCA 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.

**Citation**

- F. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 8) Instrument 2015.

By order of the Board of the Financial Conduct Authority  
[*date*] 2015

**Annex A****Amendments to the Glossary of definitions**

In this Annex, underlining indicates new text.

*credit-related regulated activity* (in accordance with section 22 of the *Act* (the classes of activity and categories of investments)) any of the following activities specified in Part 2 or 3A of the *Regulated Activities Order* (Specified Activities):

...

(n) *advising on regulated credit agreements the purpose of which is to acquire land* (article 53E);

...

## Annex B

## Amendments to the Fees manual (FEES)

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

## 1 Fees Manual

### 1.1 Application and Purpose

...

Application

1.1.2 R This manual applies in the following way:

...

(2) *FEES* 1, 2 and 4 apply to:

...

(n) ...

(o) every firm, third party acting on a firm's behalf, approved reporting mechanism, operator of a regulated market, or operator of an MTF that makes transactions reports directly to the FCA under SUP 17 (Transaction reporting).

...

## 3 Application, Notification and Vetting Fees

...

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

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable	Due date
(a) Any applicant for <i>Part 4A permission</i> (including an <i>incoming firm</i> applying for <i>top-up permission</i> ) whose fee is not payable pursuant to sub-paragraph (ga)	(1) Unless (2) applies, in respect of a particular application, the highest of the tariffs set out in <i>FEES 3 Annex 1R part 1</i> which apply to that application  (2) <del>In respect of a</del>	On or before the application is made

of this table	<p>particular application which is:</p> <p>(i) a straightforward or moderately complex case for the purposes of <i>FEES 3 Annex 1 R</i> part 1, and</p> <p>(ii) only involves a simple change of legal status as set out in <i>FEES 3 Annex 1 R</i> part 6,</p> <p>the fee payable is 50% of the tariff that would otherwise be payable in <i>FEES 3 Annex 1R</i></p> <p>(2) The fee payable is 50% of the tariff that would otherwise be payable in <i>FEES 3 Annex 1R</i> when both (A) and (B) apply:</p> <p>(A) the application only involves a simple change of legal status as set out in <i>FEES 3 Annex 1R</i> part 6;</p> <p>(B) the case is:</p> <p>(i) a straightforward case under paragraph 2(d) or 3(g) of <i>FEES 3 Annex 1R</i>;</p> <p>(ii) a moderately complex case under paragraph 2(e) or 3(h) of <i>FEES 3 Annex 1R</i>;</p> <p>(iii) a <i>limited permission</i> case under paragraph 3(i) of <i>FEES 3 Annex 1R</i>.</p>	
...		

<p>(u) any of the following:</p> <p>(i) an operator of an <i>approved reporting mechanism</i>;</p> <p>(ii) a <i>firm</i>;</p> <p>(iii) a third party acting on behalf of a <i>firm</i>;</p> <p>(iv) a <i>market operator</i>;</p> <p>(v) an <i>MTF operator</i>;</p> <p>that satisfies the following conditions:</p> <p>(1) it provides <i>transaction reports</i> directly to the <i>FCA</i>;</p> <p>(2) having made changes to its reporting systems, it asks the <i>FCA</i> to support the testing of the compatibility of its systems with the <i>FCA's</i> systems.</p> <p>[deleted]</p>	<p>As set out <i>FEES 3 Annex 7</i>.</p>	<p>Within 30 days of the date of the invoice.</p>
...		

...

### 3 Annex 1R Authorisation fees payable

...

Part 3 Complexity groupings relating to *credit-related regulated activities*

Straightforward cases

Activity Grouping	Description
CC.2	<p><i>Credit broking;</i>  <i>Providing credit information services</i>  <i>Advising on regulated credit agreements the purpose of</i></p>

	<i>which is to acquire land</i>
--	---------------------------------

...

...

Delete the following Annex in its entirety. The deleted text is not shown.

**3 Annex 7R Fees where changes are made to firms’ transaction reporting systems and the FCA is asked to check that these systems remain compatible with FCA systems [deleted]**

...

**4 Periodic fees**

...

**4.2 Obligation to pay periodic fees**

...

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

4.2.6 R (1) ~~Unless (2) applies, for~~ For the *fee year* during which the event described in column (4) of the table in *FEES* 4.2.11R and/or *FEES* 4.2.11AR, 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:

...

(2) ~~For *recognised bodies*, if the recognition order is made during the course of the relevant *fee year* the periodic fee required is set out in Column (4) of the table in *FEES* 4.2.11R. [deleted]~~

...

4.2.11 R Table of periodic fees payable to the *FCA*

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to the modified periodic fee
...	...	..	...
<i>A small registered UK AIFM</i>	...	...	...

<p><u>A firm, a third party acting on a firm's behalf, an approved reporting mechanism, an operator of a regulated market or an operator of an MTF that makes transaction reports directly to the FCA under of SUP 17 (Transaction reporting)</u></p>	<p><u>FEES 4 Annex 3AR</u></p>	<p><u>Within 30 days of the date of the invoice</u></p>	<p><u>The FCA enters into arrangements with the fee payer under which the fee payer can make transaction reports directly to the FCA</u></p>
---	--------------------------------	---	--

...

**4 Annex R FCA Activity groups, tariff bases and valuation dates**  
**1A**

...

<p>Part 3</p> <p>This table indicates the tariff base for each fee-block set out in Part 1.</p> <p>The tariff base in this Part is the means by which the <i>FCA</i> measures the amount of business conducted by a <i>firm</i> under of calculating the annual periodic fees payable to the <i>FCA</i> by that <i>firm</i>.</p>	
Activity group	Tariff base
...	...
A.2	<p><del>NUMBER OF MORTGAGES AND OTHER HOME FINANCE TRANSACTIONS ENTERED INTO AND ADMINISTERED</del></p> <p>The number of new <del>mortgage contracts, home purchase plans, home reversion plans and regulated sale and rent back agreements</del> <u>home finance transactions</u> entered into;</p> <p><b>AND</b></p> <p>The number of <del>mortgage contracts, home purchase plans, home reversion plans and regulated sale and rent back agreements</del> <u>home finance transactions</u> being administered;</p>

	<p>(a) multiplied by 0.05 for <del>mortgage outsourcing firms or other home finance outsourcing firms with permission for administering a home finance transaction but not permission for entering into a home finance transaction; and or</del></p> <p>(b) by 0.5 for all other firms.</p>
	<p><b>Notes:</b></p> <p>(1) <del>Mortgage outsourcing firms are firms with permission for administering regulated mortgage contracts, but not to enter the contract as lender.</del></p> <p><del>Home finance outsourcing firms are firms with permission for administering a home finance transaction, but not entering into a home finance transaction.</del></p> <p>(1) (2) <del>In this context a 'mortgage' means a loan secured by a first charge over residential property in the United Kingdom.</del></p> <p>For the measure of the number of contracts being administered, each first charge counts as one contract, irrespective of the number of loans involved.</p> <p>(2) (3) <del>Mortgages, home purchase plans, home reversion plans and regulated sale and rent back agreements</del> <u>Home finance transactions</u> administered include those that the firm administers on behalf of other firms.</p>
...	
A.7	<p>...</p> <p>(4) its permission includes managing an AIF or managing a UCITS (a class 4 firm)</p>
...	
A.9	<p>GROSS INCOME</p> <p>(1)</p> <p>For AIFMs (excluding internally managed AIFs), management companies, operators (including ACDs and authorised fund managers of unit trusts or authorised contractual schemes but excluding operators of a personal pension scheme or a stakeholder pension scheme) and residual CIS operators</p> <p>gross income from the activity relating to fee-block A.9 is defined as:</p> <p>the amount of the annual charge on investments in the fund received or receivable in the latest accounting period (this is</p>

	<p>calculated as a % of the funds invested, typically 1% p.a.);</p> <p>PLUS</p> <p>the front-end or exit charge levied on sales or redemptions of <i>collective investment schemes</i> (typically 4-5% of sales/redemptions) in that same accounting period <u>and any amount the firm would have levied as such a charge but for a business decision to waive, discount or rebate etc. that charge;</u></p> <p>...</p>
...	

...

4 Annex R FCA Fee rates and EEA/Treaty firm modifications for the period 1 April  
2A 2014 to 31 March 2015

Part 1		
This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 FEES 4 Annex 1AR		
...		
Activity group	Fee payable	
...		
A7	For class 1(c), (2) <del>and (3)</del> <u>(3)</u> and <u>(4) firms</u>	...
...		

...

After FEES 4 Annex 2BR insert the following new Annex 3AR. The text is not underlined.

4 Annex R Fees relating to the direct reporting of transactions to the FCA under  
3A SUP 17

This table shows the fees payable by a <i>firm</i> , a third party acting on behalf of a <i>firm</i> , an <i>approved reporting mechanism</i> , an operator of a <i>regulated market</i> or an operator of an <i>MTF</i> that makes <i>transaction reports</i> directly to the <i>FCA</i> under of <i>SUP 17</i> (Transaction reporting).	
Fee	Fee amount (£)
Technical	[tbc]

support fee	
Testing environment fee	[tbc]
Variable transaction-based fee	[tbc] per 100,000 <i>transaction reports</i> or part 100,000 <i>transaction reports</i> processed during the calendar year ending 31 December before the <i>fee year</i> to which the fee relates

...

Amend the following as shown.

**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**

<p><b>Annual income definition</b></p> <p><b>General definition for all fee-blocks</b></p> <p>“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’s</i> 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 <i>FEES 4 Annex 1AR Part 1</i>, as belonging to the relevant fee block.</p> <p>The figure should be reported for the relevant fee block without netting off the operating costs or business expenses, but including:</p> <p>...</p> <p>(c) the “fair value” of any goods or services the <i>firm</i> provided to <i>clients</i>. This is the <i>commission equivalent</i> or an estimate of the amount the <i>firm</i> would otherwise have received for any <i>regulated activity</i> under (a) above, but for which it has made a business decision to waive or discount its charges.</p> <p><b><u>Where the firm’s regulated activities are carried on by an appointed representative of the firm</u></b></p> <p><u>Where a <i>regulated activity</i> is carried on by a <i>firm’s appointed representative</i>, the <i>firm’s</i> annual income must include the <i>appointed representative’s</i> annual income for that carrying on that <i>regulated activity</i>.</u></p> <p><u>The <i>appointed representative’s</i> annual income must be calculated in the same way as the <i>firm’s</i>. However, to avoid double counting, the <i>appointed representative’s</i> annual income must not include any income also recognised in the <i>firm’s</i> accounts, including income recognised in the <i>firm’s</i> accounts as a result of a commission sharing arrangement with the <i>appointed</i></u></p>
---

*representative.*

...

**4 Annex R**      **Definition of annual income for the purposes of calculating fees in fee**  
**11B**                      **blocks CC1 and CC2**

Annual income definition for *credit related regulated activities*

“Annual income” 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 fee-blocks CC1 or CC2 as applicable.

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

...

(d) for *credit broking* where a *firm* effects an introduction between a *lender* and a *borrower* with a view to the *borrower* entering into a *regulated credit agreement* to finance the purchase of goods and/or services by the *borrower* from the *firm*, the difference between the amount of credit the *lender* provides to the *borrower* and the amount *A* accepts from the *lender*.

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

Where a *regulated activity* is carried on by a *firm’s* *appointed representative*, the *firm’s* annual income must include the *appointed representative’s* annual income for that carrying on that *regulated activity*.

The *appointed representative’s* annual income must be calculated in the same way as the *firm’s*. However, to avoid double counting, the *appointed representative’s* annual income must not include any income also recognised in the *firm’s* accounts, including income recognised in the *firm’s* accounts as a result of a commission sharing arrangement with the *appointed representative*.

Guidance on the interpretation of this definition is presented in Table 2 of *FEES 4 Annex 13G*.

...

**4 Annex R**      **Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR**  
**13G**                      **Part 3**

Table 1

The following table sets out the <i>guidance</i> on how a <i>firm</i> should calculate tariffs for fee blocks A.13, A.14, A.18, A.19 and B. Service Companies		
...		
Inclusions		
(7)	Annual income should include	
	...	
	(c)	<del>earnings from those who will become its <i>appointment representatives</i> immediately after authorisation;</del>  <u>amounts earned by the <i>firm's appointed representatives</i> when carrying on a <i>regulated activity</i> to which <i>FEES 4 Annex 11AR</i> applies on its behalf, including such amounts when earned by any <i>person</i> who will become the <i>firm's appointed representative</i> immediately after authorisation;</u>
	...	
...		

Table 2		
The following table sets out <i>guidance</i> on how a <i>firm</i> should calculate tariffs for fee blocks CC.1 and CC.2		
...		
Inclusions		
(7)	Annual income should include:	
	...	
	(d)	<del>earnings from those who will become its <i>appointment representatives</i> immediately after authorisation</del>  <u>amounts earned by the <i>firm's appointed representatives</i> when carrying on a <i>regulated activity</i> to which <i>FEES 4 Annex 11BR</i> applies on its behalf, including such amounts when earned by any <i>person</i> who will become the <i>firm's appointed representative</i> immediately after authorisation; and</u>
	...	
...		

## 5 Financial Ombudsman Service Funding

...

### 5.8 Joining the Financial Ombudsman Service

...

#### Application of FEES 5.8.2R

- 5.8.3 G The table below sets out the period within which a *firm's* tariff base is calculated (the data period) for second year levies calculated under FEES 5.8.2R. The example is based on a *firm* that acquires *permission* on 1 November ~~2009~~ 2014 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 levies.

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

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 5.8.2R	Data period under FEES 5.2.8R
Insurers - general	Relevant annual gross premium income <u>and gross technical liabilities</u>	31 March <del>2009</del> <u>2014</u> so projected valuations will be used	1 November to 31 December <del>2009</del> <u>2014</u>
<del>Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)</del> <u>Portfolio managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)</u>	...	...	...
<u>Advisory Advisors, arrangers, dealers</u>	<u>Number of relevant persons</u>	<u>Relevant approved persons as at</u>	<u>Relevant approved persons as at 31</u>

or brokers holding and controlling client money and/or assets	<p><del>approved to perform the <i>customer function</i> with certain exclusions</del></p> <p><u>Annual income as defined in FEES 4 Annex 11AR</u></p>	<p><del>31 December</del></p> <p><u>31 December.</u></p> <p><u>This is because the <i>firm's</i> tariff base is calculated by reference to the <i>firm's</i> financial year ended in the calendar year ending on the 31 December before the start of the <i>FCA fee year</i>. Therefore <i>FEES</i> 5.8.2R(3)(c) applies.</u></p>	<p><del>December</del></p> <p><u>1 November to 31 December but annualised in accordance with FEES 5.8.2R(3)(c)(iii)</u></p>
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...

## 7 CFEB levies

...

### 7 Annex R CFEB levies for the period from 1 April 2014 to 31 March 2015

1

This table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group	<i>CFEB levy</i> payable	
...		
CC.1	Minimum fee	£10
	<u>Band Width (£ thousand of annual income (AI))</u>	<u>Fee (£/£ thousand or part thousand of AI)</u>

	> 250	[...]
...		

...

## Appendix 1      **Unauthorised Mutuals Registration Fees Rules**

### App 1.1          **Introduction**

...

App 1.1.2      G      The purpose of these rules is to set out the requirements for *registered societies* and *sponsoring bodies* to pay periodic and application fees which, together, will provide the funding for the *FCA's* functions in respect of the registrant-only fee block (Category F). This set of rules is in respect of the registration functions relating to registered societies transferred to the FCA by ~~Part XXI (Mutual Societies) of the Financial Services and Markets Act 2000 ('the Act')~~ by section 50 of the Financial Services Act 2012, other than friendly societies authorised under section 31 of the Act.

...

Financial Conduct Authority



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