

FINANCIAL SERVICES COMPENSATION SCHEME (AMENDMENT OF TARIFF MEASURES AND OTHER LEVY RULES) INSTRUMENT 2008

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 157(1) (Guidance);
 - (4) section 213 (The compensation scheme);
 - (5) section 214 (General); and
 - (6) section 223 (Management expenses).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex B comes into force on 1 November 2008;
 - (2) Part 2 of Annex B comes into force on 1 January 2009;
 - (3) Part 3 of Annex B comes into force on 1 April 2009; and
 - (4) the remainder of this instrument comes into force on 1 April 2010.

Amendments to the Handbook

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

Citation

- F. This instrument may be cited as the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008.

By order of the Board
29 October 2008

Annex A

Amendments to the Glossary of definitions

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

*annual eligible
income*

(in *FEES*) (in relation to a *firm* and a *sub-class*) the annual income (as described in ~~Part 2 of *FEES* 4.6 Annex 13R~~) for the *firm*'s last financial year ended in the year to 31 December preceding the date for submission of the information under *FEES* 6.5.13R attributable to ~~the relevant~~ that *sub-class*. A *firm* must calculate *annual eligible income* from such annual income in one of the following ways:

(a) ; or if the *firm* prefers, that amount of that annual income only include such annual income if it is attributable to business conducted with or on behalf for the benefit of *eligible claimants* and is otherwise attributable to compensatable business, but only if the *firm* notifies *FSCS* of the amount in accordance with *FSCS* reporting requirements; or

(b) include all such annual income.

Annex B

Amendments to the Fees manual (FEES)

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

Part 1: Comes into force on 1 November 2008

2.3 Relieving Provisions

Remission of Fees and levies

- 2.3.1 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy or *FOS* levy would be inequitable, the *FSA*, the *FSCS* or *FOS Ltd*, as relevant, may (unless *FEES* 2.3.2BR applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.
- 2.3.2 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FSA*, the *FSCS* or *FOS Ltd*, as relevant, of a fee, *FSCS* levy or *FOS* levy which has been paid would be inequitable, the *FSA*, the *FSCS* or *FOS Ltd*, may (unless *FEES* 2.3.2BR applies) refund all or part of that fee or levy.
- 2.3.2A G A poor estimate or forecast by a fee or levy payer, when providing information relevant to an applicable tariff base, is unlikely, of itself, to amount to an exceptional circumstance for the purposes of *FEES* 2.3.1R or *FEES* 2.3.2R. By contrast, a mistake of fact or law by a fee or levy payer may give rise to such a claim.
- 2.3.2B R The *FSA* or the *FSCS* may not consider a claim under *FEES* 2.3.1R and/or *FEES* 2.3.2R to reduce, remit or refund any overpaid amounts paid by a fee or levy payer in respect of a particular period, due to a mistake of fact or law by the fee or levy payer, if the claim is made by the fee or levy payer more than 2 years after the beginning of the period to which the overpayment relates.
- 2.3.3 G ~~*FEES* 2.3.1R, *FEES* 2.3.2R and *FEES* 2.3.2BR do not apply to the payment of shares of the *FSCS* levy. [deleted]~~

...

Adjustments to calculation of levy shares

- 6.3.22 R The *FSCS* may adjust the calculation of a *participant firm's* share of any levy to take proper account of:

...

- (5) FEES 2.3 (Relieving Provisions), FEES 6.4.8R (New participant firms), FEES 6.5.9R (New participant firms), FEES 6.3.23R (Remission of levy or additional administrative fee) or FEES 6.6 (Incoming EEA firms); or

...

6.3.22A R The FSCS may not adjust the calculation of a participant firm's share of any levy under FEES 6.3.22R on the grounds that it would be inequitable for that firm to pay that share or part of it or on the grounds that it would be inequitable for the FSCS to retain that share or part of it.

6.3.22B G The reason for FEES 6.3.22AR is that any such claim should be dealt with under FEES 2.3 (Relieving Provisions).

...

~~Exclusion of new and exempt participant firms~~ Membership of several classes or sub-classes

6.5.10 R ...

...

Reporting requirements

6.5.13 R (1) Unless exempt under FEES 6.2.1R, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the financial year, by the date requested by the *FSA*) with a statement of:

...

- (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by FEES 6 Annex 3R (Financial Services Compensation Scheme - classes and sub-classes)) ending before firm's last financial year ended in the year to 31 December preceding the relevant year, or if appropriate to the tariff base, as at 31 December of the year immediately preceding the relevant year in relation to each of those *sub-classes*.

...

- (3) This *rule* does not apply in relation to the home finance provision *sub-class* E1. Therefore any reference in the *Handbook* to information that is or must be supplied under this *rule* must be read, in the case of *sub-class* E1, as if it referred to the corresponding provisions relating to *FSA* periodic fees.

6.5.13A G For example, when the tariff base for a particular *sub-class* is based on a *firm's annual eligible income* the valuation period for that *sub-class* is the *firm's last financial year ending in the year to 31 December preceding the financial year of the FSCS for which the calculation is being made*. In the case of a *firm in sub-class A1 (Deposits)* its valuation period will be 31 December.

...

TP 2 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8 and in 2008/9

...		
<u>2.7</u>	<u>Transitional provisions for changes to relieving provisions</u>	
<u>2.7.1</u>	<u>R</u>	<u>The amendments made in Part 1 of Annex B to the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 to FEES 2.3 and the addition of FEES 6.3.22AR (and consequential changes) (changes to Relieving Provisions) do not apply to any request made by a levy payer before 1 November 2008.</u>
<u>2.8</u>	<u>Effect of the tariff base changes for the financial year beginning on 1 April 2009 before that date</u>	
<u>2.8.1</u>	<u>R</u>	<u>The amendments made to FEES 6 Annex 3 (Financial Services Compensation Scheme – classes and sub-classes) and FEES TP 2 by Part 3 of Annex B to the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 have effect before 1 April 2009 for the purpose of the supply of information under FEES 6.5.13R in relation to the FSCS's financial year beginning on 1 April 2009.</u>
<u>2.8.2</u>	<u>G</u>	<u>In particular, a firm in sub-classes C2 and D2 should provide the FSCS by 30 November 2008 with the estimated breakdown of business between those two sub-classes required by FEES TP 2.2.</u>

TP 3 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2010/11

<u>3.1</u>	<u>Effect of the tariff base changes made in 2008 in relation to the financial year 2010/11 before that date</u>	
<u>3.1.1</u>	<u>R</u>	<u>The amendments made to <i>FEES 6</i> and to <i>FEES TP</i> by Part 4 of Annex B to the Financial Services Compensation Scheme (Amendment of Tariff Measures and Other Levy Rules) Instrument 2008 have effect before 1 April 2010 for the purpose of the supply of information under <i>FEES 6.5.13R</i> in relation to the <i>FSCS's</i> financial year beginning on 1 April 2010.</u>

Part 2: Comes into force on 1 January 2009

Firms acquiring businesses from other firms

- 6.3.22C R (1) This rule applies to the calculation of the levies of a firm (A) if:
- (a) either:
 - (i) A acquires all or a part of the business of another firm (B), whether by merger, acquisition of goodwill or otherwise; or
 - (ii) A became authorised as a result of B's simple change of legal status (as defined in FEES 3 Annex 1R Part 6);
 - (b) B is no longer liable to pay a levy; and
 - (c) that acquisition or change takes place after the date to which, or as of which, A's most recent statement of business under FEES 6.5.13R is drawn up so far as concerns the sub-classes covered by B's business.
- (2) A must pay an additional amount equal to the levy that would have been payable by B in relation to the relevant business and relevant sub-classes if the acquisition or change in status had not taken place and B had remained liable to pay levies. The amount is based on the most recent information supplied by B under FEES 6.5.13R. A is included in the sub-classes applicable to the relevant business.
- (3) This rule only applies with respect to those financial years of the FSCS for which A's levies are calculated on the basis of a statement of business under FEES 6.5.13R drawn up to a date, or as of a date, before the acquisition or change in legal status took place.

Part 3: Comes into force on 1 April 2009

6 Annex 3R Financial Services Compensation Scheme – classes and sub-classes

This table belongs to *FEES* 6.5.7R and *FEES* TP 2.5.2R

...

Class D	Investment
...	
Tariff base	<p data-bbox="411 703 1390 813">Sub-class D1: gross <u>net income</u>. <u>Net income is equal to the net amount retained by the firm of all income due to the firm in respect of or in relation to activities falling within sub-class D1.</u></p> <p data-bbox="411 848 1390 958">Gross income in respect of activities falling into fee block A9 must be calculated in accordance with the tariff base provisions for that fee block in <u>FEES 4 Annex 1R.</u></p> <p data-bbox="411 994 1390 1211"><u>For the purposes of calculating net income, net amount retained means all the commission, fees, etc. in respect of activities falling within sub-class D1 that the firm has not rebated to customers or passed on to other firms (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.</u></p> <p data-bbox="411 1247 1366 1357">In any case the calculation excludes any value attributable to activities which are simultaneously activities in <i>sub-class D2</i> to the extent included there.</p> <p data-bbox="411 1393 1347 1503">Sub-class D2: Number of <i>approved persons</i> or, for <i>firms in contribution group</i> <u>fee block A10 as at 31 March 2008</u>, number of traders, as at 31 December, ...</p>

...

6 Annex 4G Guidance on the calculation of tariff bases

This table belongs to FEES 6.5.8G

		Calculation of <u>gross net</u> income for firms who carry out discretionary fund management and are in sub-class D1
-1.1	G	<u>The tariff base for sub-class D1 is calculated by taking gross income falling into sub-class D1 and then deducting commission, fees and similar amounts rebated to customers or passed on to other firms (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) should not be deducted.</u>
1.1	G	The calculation of gross income for the purpose of sub-class D1 ...
1.2	G	Gross Net income should exclude:
	(1)	income received or receivable from assets managed on a non-discretionary basis, being assets that the firm has a contractual duty to keep under continuous review but in respect of which prior specific consent of the client must be obtained for proposed transactions, as this activity is covered in sub-class D2 (the investment intermediation sub-class);
	(2)	income that the firm has rebated to customers or passed onto other firms (for instance where there is a commission chain).
1.3	G	A firm should make appropriate arrangements ...

...

TP 2 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8 and in 2008/9

...

2.2		Split of business between life and pensions intermediation and investment intermediation
2.2.1	R	FEES TP 2.2 deals with the calculation of the tariff base of participant firms in sub-classes C2 (Life and Pensions intermediation) and D2 (Investment intermediation) in relation to the FSCS's financial year <u>years</u> beginning on 1 April 2008 <u>and</u> 1 April 2009 (the applicable financial year).

2.2.2	R	If a <i>participant firm</i> would have fallen within both <i>sub-classes</i> C2 and D2 in the <u>preceding</u> financial year to 31 March 2008 it must provide FSCS, <u>by 30 November of the year preceding the applicable financial year (or, if it has become a <i>participant firm</i> part way through the financial year by the date requested by FSCS), with an estimated breakdown of business carried on in its financial year ended in the <u>calendar year ending on the 31 December 2007 preceding the applicable financial year</u> which would have fallen within <i>sub-classes</i> C2 and D2. <u>However, the <i>firm</i> must shorten the period covered by that breakdown to the extent necessary to ensure that the period it covers ends no later than one <i>Month</i> before the date by which the <i>firm</i> has to supply it. If the <i>firm</i> does not have a <i>permission</i> covering these activities for the whole of the period covered by the breakdown, it must use the projected valuation (as provided to the FSA in the course of the <i>firm's</i> application) of the business to which the tariff relates.</u></u>
...		
2.2.4	R	<i>Firms</i> in contribution group A10 in the financial year to 31 March 2008 will be deemed to have an estimated breakdown of business of one hundred per cent in <i>sub-class</i> D2 and zero per cent in <i>sub-class</i> C2, unless otherwise notified to the FSCS by the date for submission in FEES 6.5.13R. <u>The same applies in relation to the financial year beginning 1 April 2009 in the case of a <i>firm</i> in FSA fee block A10 in the financial year to 31 March 2009.</u>
2.2.4A	G	<u>The deemed allocation of one hundred per cent of business to <i>sub-class</i> D2 and zero per cent in <i>sub-class</i> C2 does not apply to FSA fee blocks A12, A13 or A14.</u>
...		
2.2.7	R	<u>If the split of a <i>firm's</i> business between <i>sub-classes</i> C2 and D2 was calculated under FEES TP 2.2 for the FSCS's financial year beginning on 1 April 2008 the same split applies for the financial year beginning on 1 April 2009. But this does not apply:</u>
	(a)	<u>if the difference between the split for the two financial years would be equal to or greater than ten; or</u>
	(b)	<u>to FEES TP 2.2.4R.</u>
		<u>For these purposes the split for a financial year means the amount of the difference (expressed as a number) between the percentage figures for the two <i>sub-classes</i> for that year calculated under FEES TP 2.2.2R.</u>
...		

Part 4: Comes into force on 1 April 2010

6 Annex 3R Financial Services Compensation Scheme – classes and sub-classes

This table belongs to *FEES* 6.5.7R and *FEES* TP 2.5.2R

...

Class B	General Insurance
...	
Tariff base	<p>Sub-class B1: <u>Relevant net premium income and eligible gross technical liabilities</u>. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to <u>relevant net premium income</u>. The tariff base for the second portion (25%) is based on <u>eligible gross technical liabilities</u>.</p> <p><u>Eligible gross technical liabilities are calculated in accordance with the method for calculating gross technical liabilities in fee block A3 in part 2 of FEES 4 Annex 1R with the following adjustments.</u></p> <p>(1) <u>Eligible gross technical liabilities are calculated by reference to protected contracts of insurance with eligible claimants.</u></p> <p>(2) <u>A firm may choose not to apply paragraph (1) and instead include all gross technical liabilities that it would be obliged to take into account for fee block A3 as long as the amount that it would include under (1) is lower.</u></p> <p>(3) <u>If an incoming EEA firm does not report gross technical liabilities in the way contemplated by this table, the firm's gross technical liabilities are calculated in the same way as they would be for a UK firm.</u></p> <p>(4) <u>None of the notes for the calculation of fees in fee block A3 in part 2 of FEES 4 Annex 1R apply except for the purposes of (2).</u></p> <p>(5) <u>A directive friendly society must also calculate eligible gross technical liabilities in accordance with this table.</u></p> <p>(6) <u>A non-directive friendly society must calculate gross technical liabilities as the amount that it is required to show in FSC 2 - Form 9 line 11 in Appendix 10 of IPRU(FSOC) (assets allocated towards the general insurance business required minimum margin) in relation to the most recent financial year of the firm (as at the applicable reporting date under FEES 6.5.13R) for which the firm is required to have reported that information to the FSA under IPRU(FSOC). A non-directive friendly society must disregard for this purpose such amounts as are not required to be included by reason of a waiver or a written concession carried forward as an amendment to the rule to which it relates under SUP TP.</u></p>

	<p>Sub-class B2: <u>annual eligible income</u> where the annual <u>annual eligible income</u> means annual income adjusted in accordance with this table. <u>Annual</u> income is calculated in accordance with that for fee block A19 in part 2 of FEES 4 Annex 1R, excluding annual eligible income for pure protection contracts. as the sum of (a) and (b):</p> <p>(a) <u>the net amount retained by the firm of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the firm in respect of or in relation to sub-class B2 activities, including any income received from an insurer; and</u></p> <p>(b) <u>if the firm is an insurer, in relation to sub-class B2 activities, the amount of premiums receivable on its contracts of insurance multiplied by 0.07, excluding those contracts of insurance which result from sub-class B2 activities carried out by another firm, where a payment has been made by the insurer to that other firm and that payment is of a type that falls under (a).</u></p> <p><u>Notes relating to the calculation of the tariff base for sub-class B2:</u></p> <p>(1) <u>Exclude annual income for pure protection contracts. Only include general insurance contracts.</u></p> <p>(2) <u>The calculation is adjusted in accordance with the definition of annual eligible income.</u></p> <p>(3) <u>Net amount retained means all the commission, fees, etc. in respect of sub-class B2 activities that the firm has not rebated to customers or passed on to other firms (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.</u></p> <p>(4) <u>Sub-class B2 activities mean activities that fall within sub-class B2. They also include activities that now fall within sub-class B2 but that were not regulated activities when they were carried out.</u></p> <p>(5) <u>A reference to a firm also includes a reference to any person who carried out activities that would now fall into sub-class B2 but which were not at the time regulated activities.</u></p>
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Class C	Life and Pensions
...	
Tariff base	<p>Sub-class C1: <u>Relevant net premium income</u> and eligible mathematical reserves. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to <u>relevant net premium income</u>. The tariff base for the second portion (25%) is based on <u>mathematical reserves</u>.</p>

Eligible mathematical reserves are calculated in accordance with the method for calculating mathematical reserves in fee block A4 in part 2 of FEES 4 Annex 1R with the following adjustments.

(1) Eligible mathematical reserves are calculated by reference to protected contracts of insurance with eligible claimants.

(2) A firm may choose not to apply paragraph (1) and instead include all mathematical reserves that it would be obliged to take into account for fee block A4 as long as the amount that it would include under (1) is lower.

(3) If an incoming EEA firm does not report mathematical reserves in the way contemplated by this table, the firm's mathematical reserves are calculated in the same way as they would be for a UK firm.

(4) None of the notes for the calculation of fees in fee block A4 in part 2 of FEES 4 Annex 1R apply except for the purposes of (2).

(5) A directive friendly society must also calculate eligible mathematical reserves in accordance with this table.

(6) A non-directive friendly society must calculate mathematical reserves as the amount that it is required to show in FSC 2 - Form 9 line 23 in Appendix 10 of IPRU(FSOC) (total mathematical reserves after distribution of surplus) in relation to the most recent financial year of the firm (as at the applicable reporting date under FEES 6.5.13R) for which the firm is required to have reported that information to the FSA under IPRU(FSOC). A non-directive friendly society must disregard for this purpose such amounts as are not required to be included by reason of a waiver or a written concession carried forward as an amendment to the rule to which it relates under SUP TP.

(7) The provisions relating to pension fund management business in Part 2 of FEES 4 Annex 1R do not apply. A firm undertaking such business that does not carry out any other activities within sub-class C1 (ignoring any activities that would have a wholly insignificant effect on the calculation of its tariff base for sub-class C1) must use its Long-term insurance capital requirement instead of gross technical liabilities. The Long-term insurance capital requirement means the amount that it is required to show as its Long-term insurance capital requirement in Form 2 Line 31 (Statement of solvency – Long-term insurance business) in relation to the most recent financial year of the firm (as at the applicable reporting date under FEES 6.5.13R) for which the firm is required to have reported that information to the FSA.

(8) The split in the levy between relevant net premium income and eligible mathematical reserves does not apply to a partnership pension society (as defined in Chapter 7 of IPRU(FSOC) (Definitions)). Instead the levy is only calculated by reference to relevant net premium income.

Sub-class C2: Number of *approved persons* as at 31 December, calculated on the same basis as corresponding tariff base provisions for fee blocks A12, 13, and A14 in FEES 4 Annex 1 R (even if the *firm's approved persons* are not counted for the purposes of those fee blocks), and multiplied by the *firm's* estimated proportion of business falling within *sub-class C2* provided or deemed as provided in accordance with FEES 6. *annual eligible income* where *annual eligible income* means annual income adjusted in accordance with this table. Annual income is calculated as the sum of (a) and (b):

(a) the net amount retained by the *firm* of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the *firm* in respect of or in relation to *sub-class C2* activities including any income received from an *insurer*; and:

(b) if the *firm* is a life and pensions *firm*, in relation to *sub-class C2* activities, the amount of *premiums* or commission receivable on its life and pensions contracts multiplied by 0.07, excluding those life and pensions contracts which result from *sub-class C2* activities carried out by another *firm*, where a payment has been made by the life and pensions *firm* to that other *firm* and that payment is of a type that falls under (a).

Notes relating to the calculation of the tariff base for *sub-class C2*:

(1) Life and pensions contracts mean *long-term insurance contracts* (including *pure protection contracts*) and rights under a *stakeholder pension scheme* or a *personal pension scheme*.

(2) Life and pensions *firm* means an *insurer*. It also means a *firm* that provides *stakeholder pension schemes* or *personal pension schemes* if those activities fall into *sub-class D1*.

(3) The calculation is adjusted in accordance with the definition of *annual eligible income*.

(4) Net amount retained means all the commission, fees, etc. in respect of *sub-class C2* activities that the *firm* has not rebated to customers or passed on to other *firms* (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.

(5) *Sub-class C2* activities mean activities that fall within *sub-class C2*. They also include activities that now fall within *sub-class C2* but that were not *regulated activities* when they were carried out.

(6) A reference to a *firm* also includes a reference to any *person* who carried out activities that would now fall into *sub-class C2* but which were not at the time *regulated activities*.

Class D	Investment
...	
Tariff base	<p data-bbox="411 353 1406 539">Sub-class D1: <u>net income</u>. <u>annual eligible income</u> where <u>annual eligible income</u> means annual income adjusted in accordance with this table. <u>Annual income</u> <u>Net income</u> is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>sub-class</i> D1.</p> <p data-bbox="411 573 1406 678">Gross income in respect of activities falling into fee block A9 must be calculated in accordance with the tariff base provisions for that fee block in FEES 4 Annex 1R.</p> <p data-bbox="411 712 1406 929">For the purposes of calculating net income, net amount retained means all the commission, fees, etc. in respect of activities falling within <i>sub-class</i> D1 that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.</p> <p data-bbox="411 963 1406 1068">In any case the calculation excludes any value attributable to activities which are simultaneously activities in <i>sub-class</i> D2 to the extent included there.</p> <p data-bbox="411 1102 1406 1585">Sub-class D2: Number of <i>approved persons</i> or, for <i>firms</i> in contribution group A10 as at 31 March 2008, number of traders, as at 31 December, calculated on the same basis as corresponding tariff base provisions for fee blocks A12, A13, A10 and A14 in FEES 4 Annex 1R, and multiplied by the <i>firm's</i> estimated proportion of business falling within <i>sub-class</i> D2 (except fee block A10) provided or deemed as provided in accordance with FEES 6. To avoid double counting, when calculating the number of traders FSCS must deduct the number of <i>approved persons</i> who are also traders attributed to the <i>firm</i> for the purposes of FSA fee block A12, A13 or A14. <u>annual eligible income</u> where <u>annual eligible income</u> means annual income adjusted in accordance with this table. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>sub-class</i> D2.</p> <p data-bbox="411 1619 1406 1659"><u>Notes on <i>annual eligible income</i> for <i>sub-classes</i> D1 and D2:</u></p> <p data-bbox="411 1693 1406 1910">(1) <u>For the purposes of calculating annual income, net amount retained means all the commission, fees, etc. in respect of activities falling within <i>sub-class</i> D1 or D2, as the case may be, that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.</u></p> <p data-bbox="411 1944 1406 2013">(2) <u>The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</u></p>

	(3) <u>Box management profits are excluded from the calculation of annual income.</u>
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Notes	
(1)	Any reference in this annex to a <i>specified investment</i> includes a reference to <i>rights to or interests in investments</i> in that <i>specified investment</i> .
(2)	This paragraph deals with a tariff base calculation for a <i>sub-class</i> based on the calculations for corresponding specified fee blocks where this is not possible because there are no corresponding fee blocks. In this case the calculation is based on whichever of the specified fee blocks <i>FSCS</i> may reasonably choose. In calculating <i>annual eligible income</i> a <i>firm</i> must apportion income between different <i>sub-classes</i> and between income that falls within the definition of <i>annual eligible income</i> and income that does not in a reasonable and consistent way and on the basis of clear policies.
(3)	<p>The question of whether a <i>person</i> is an <i>eligible claimant</i> or not or whether a <i>contract of insurance</i> is a <i>protected contract</i> or not or whether business is compensatable business or not must be judged at whichever of the following dates the <i>firm</i> chooses:</p> <p>(a) <u>(for a <i>person</i> who has become a new <i>client</i> during the period by reference to which the <i>firm's</i> tariff base is being calculated) the date on which the <i>person</i> becomes a client;</u></p> <p>(b) <u>(for a <i>person</i> who has ceased to be <i>client</i> during that period) the date on which the <i>person</i> ceases to be a <i>client</i>; or</u></p> <p>(c) <u>(in any other case) the date to which the most recent information supplied by the <i>firm</i> under <i>FEES</i> 6.5.13R is prepared.</u></p>

This table belongs to *FEES* 6.5.8G

		Calculation of net income <u>annual eligible income</u> for firms in sub-class D1 who carry out discretionary fund management and are in sub-class D1 <u>FSA fee block A7</u>	
-1.1	G	The tariff base for <i>sub-class</i> D1 is calculated by taking gross income falling into <i>sub-class</i> D1 and then deducting commission, fees and similar amounts rebated to customers or passed on to other firms (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) should not be deducted. <u>The calculation should be further adjusted so as to exclude income that is not attributable to business conducted with or for the benefit of eligible claimants, unless the firm chooses to include such income.</u>	
1.1	G	The calculation of gross income for the purpose of sub-class D1 should be based on the calculation of fees under fee block A9. Gross income for the activity of <i>managing investments</i> is the sum of the following:	
		(1)	the amount of the annual charge on all assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in the latest accounting period (this is calculated as a percentage of funds invested, typically 1% p.a.); plus
		(2)	the front-end or exit charge levied on sales or redemptions of assets in portfolios which the <i>firm</i> manages on a discretionary basis (typically 4-5% of sales/redemptions) in that same accounting period; plus
		(3)	the amount of performance management fees from the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in that same accounting period; plus
		(4)	any other income directly attributable to the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis in that same accounting period, including commission and interest received.
1.2	G	Net income <u>Annual eligible income</u> should exclude income received or receivable from assets managed on a non-discretionary basis, being assets that the <i>firm</i> has a contractual duty to keep under continuous review but in respect of which prior specific consent of the <i>client</i> must be obtained for proposed transactions, as this activity is covered in <i>sub-class</i> D2 (the investment intermediation <i>sub-class</i>).	

1.3	G	A <i>firm</i> should make appropriate arrangements to ensure that income is not double counted in relation to the activities it undertakes (for example, where it operates and manages a <i>personal pension scheme</i> or <i>collective investment scheme</i>).
<u>Corresponding fee blocks</u> Calculation of annual eligible income for firms in sub-class D1 and who carry out activities within FSA fee block A9		
2.1	G	<p>An example of a case covered by Note 2 in <i>FEES 6 Annex 3R</i> (Financial Services Compensation Scheme – classes and sub-classes) is as follows. The tariff base for <i>sub-class C2</i> (Life and Pensions Intermediation) is based on <i>approved persons</i>, calculated on the same basis as the corresponding tariff base provisions for fee blocks A12, 13, and A14. However <i>firms</i> carrying on business originally falling within fee block A19 (e.g. in relation to <i>pure protection contracts</i>) can also fall into <i>sub-class C2</i>. The note means that <i>FSCS</i> may choose whether the calculation is based on the tariff base applicable to A12, A13, or A14.</p> <p><u>The calculation of income in respect of activities falling into <i>sub-class D1</i> and FSA fee block A9 should be based on the tariff base provisions for that fee block (in Part 2 of <i>FEES 4 Annex 1R</i>). It should be adjusted so as to exclude income that is not attributable to business conducted with or for the benefit of <i>eligible claimants</i>, unless the <i>firm</i> chooses to include such income.</u></p>
2.2	G	<u>Although the calculation should be based on the one for fee block A9, the calculation is not the same. FSA fee block A9 is based on gross income. <i>Sub-class D1</i> is based on net income retained.</u>
<u>Calculation of annual eligible income for a firm in sub-class B2 or sub-class C2</u>		
3.1	G	<u>The amount of <i>annual eligible income</i> should include the amount of any trail or renewable commission due to the <i>firm</i>. Trail commission is received as a small percentage of the value of a policy on an ongoing basis. Renewable commission is received from a very small percentage of the value of a policy from ongoing premiums often received once the initial commission period is over.</u>
<u>Difficulties in calculating annual eligible income</u>		
4.1	G	<u>The purpose of Note 2 in the section of notes at the end of <i>FEES 6 Annex 3R</i> (Financial Services Compensation Scheme – classes and sub-classes) is to deal with the practical difficulties of allocating income correctly between different <i>sub-classes</i> and in deciding whether income falls outside <i>FEES 6 Annex 3R</i> altogether. Note 2 requires a <i>firm</i> to carry out the necessary apportionment on a reasonable and consistent basis.</u>
4.2	G	<u>The following provides some <i>guidance</i> as to how <i>firms</i> may approach the allocation of <i>annual eligible income</i>.</u>

4.3	G	<u>Where a firm cannot separate its income on the basis of activities, such as a fund manager which acts on a discretionary and non-discretionary basis for the same client and who only sends out a single invoice, the firm may apportion the income in another way. For instance, a firm may calculate that the business it undertook for a client was split 90% on a discretionary basis and 10% on a non-discretionary basis calculated by reference to funds under management. The firm may split the income accordingly.</u>
4.4	G	<u>A firm may allocate trail or renewable commission on the basis of the type of firm it receives it from. For instance, if it comes from a life provider the firm may consider it as life and pensions mediation income. If it comes from a fund manager the firm may treat it as investment mediation income.</u>
4.5	G	<u>If a firm receives annual eligible income from a platform based business it may report annual eligible income in line with the proportionate split of business that the firm otherwise undertakes. For instance, if a firm receives 70% of its other commission from life and pensions mediation business and 30% from investment mediation business, then it may divide what it receives in relation to the platform business on the same basis.</u>
4.6	G	<u>Unless a firm chooses to include all relevant annual income, annual eligible income excludes business that is not compensatable under the compensation scheme. This can create difficulties because, for example, a person may move between being and not being an eligible claimant over time. The purpose of Note 3 in the section of notes at the end of FEES 6 Annex 3R is to deal with that difficulty by fixing a date for deciding this.</u>
<u>Gross technical liabilities and mathematical reserves for non-directive friendly societies</u>		
5.1	G	<u>The tariff base for a non-directive friendly society carrying out general insurance business is based in part on gross technical liabilities and the tariff base for a non-directive friendly society carrying out life insurance business is based in part on mathematical reserves. These concepts do not directly apply to non-directive friendly societies and so the tariff base calculation uses a corresponding concept.</u>
5.2	G	<u>The figures for gross technical liabilities and mathematical reserves of a non-directive friendly society for the purpose of calculating its tariff base in sub-class B1 (General Insurance Provision) and C1 (Life and Pensions Provision) are based on a valuation. This valuation only has to be made every three years. FEES 6 does not require a non-directive friendly society to update that information every year. Instead the figures from a non-directive friendly society's valuation will be used on a rolling three year basis for the purposes of the levy calculations in FEES 6. The effect of this calculation is therefore to modify the normal basis on which information is supplied under FEES 6.5.13R.</u>

...

TP 3 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2010/11

...		
<u>3.2</u>		<u>Transitional requirements relating to firms in run off</u>
<u>3.2.1</u>	<u>R</u>	<u>This rule adjusts the calculation of the tariff base for <i>sub-class B1</i> (General insurance providers) and <i>sub-class C1</i> (Life and pensions providers) for the purposes of the <i>FSCS's</i> financial year beginning on 1 April 2010 and for subsequent periods. It applies if the <i>firm</i> is in run-off and has been in run-off since 1 November 2008.</u>
<u>3.2.2</u>	<u>R</u>	<u>The whole of the levy is calculated by reference to <i>relevant net premium income</i> instead of being split 75:25 between <i>relevant net premium income</i> and eligible gross technical liabilities or mathematical reserves.</u>
<u>3.2.3</u>	<u>R</u>	<u>A <i>firm</i> is in run-off for these purposes if it has ceased to effect new <i>contracts of insurance</i>, its <i>permission for effecting contracts of insurance</i> has been cancelled, its exclusive remaining business is administering its remaining insurance liabilities and, if it is required to supply one, it has supplied a run-off plan to the <i>FSA</i> under <i>SUP App 2.8.1R</i>.</u>
<u>3.3</u>		<u>Treatment of pure protection fees in 2010/11</u>
<u>3.3.1</u>	<u>R</u>	<u>This rule adjusts the calculation of the tariff base for <i>sub-class C2</i> (Life and pensions intermediation) for the purposes of the <i>FSCS's</i> financial year beginning on 1 April 2010.</u>
<u>3.3.2</u>	<u>R</u>	<u>If the only activities that a <i>firm</i> carries out in respect of the relevant period that fall into <i>sub-class C2</i> are in relation to <i>pure protection contracts</i> the <i>firm</i> must exclude all income relating to those activities from the calculation of its tariff base for that <i>sub-class</i>.</u>
<u>3.3.3</u>	<u>R</u>	<u>This rule does not apply to a <i>firm</i> if its <i>annual eligible income</i> for the relevant period in relation to <i>pure protection contracts</i> equals or exceeds £75,000.</u>