

**FEES (MISCELLANEOUS AMENDMENTS AND FINANCIAL OMBUDSMAN
SERVICE RULES) INSTRUMENT 2010**

Powers exercised

A. The Financial Ombudsman Service Limited makes in Annex B to this instrument:

- (1) the rules and guidance relating to the payment of fees under the Compulsory Jurisdiction;
- (2) the rules and guidance for licensees relating to payment of fees under the Consumer Credit Jurisdiction; and
- (3) the standard terms for VJ participants relating to the payment of fees under the Voluntary Jurisdiction;

in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

- (a) paragraph 8 (Guidance) of Schedule 17;
- (b) paragraph 15 (Fees) of Schedule 17;
- (c) paragraph 16C (Fees) of Schedule 17; and
- (d) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

B. The making of these rules, standard terms and guidance by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Services Authority.

C. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in or under:

- (1) the Act:
 - (a) section 156 (General supplementary powers);
 - (b) section 157(1) and (4) (Guidance);
 - (c) section 234 (Industry funding);
 - (d) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
 - (e) paragraph 12(1) (Funding of the relevant costs by authorised persons or payment service providers) of Part 2 of Schedule 1A (Further provision about the Consumer Financial Education Body);
- (2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance).

D. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

Commencement

E. This instrument comes into force on 17 December 2010.

Amendments to the Handbook

F. The modules of the FSA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Dispute Resolution: Complaints sourcebook (DISP)	Annex C

Citation

G. This instrument may be cited as the Fees (Miscellaneous Amendments and Financial Ombudsman Service Rules) Instrument 2010.

By order of the Board of the Financial Ombudsman Service Limited
15 December 2010

By order of the Board
16 December 2010

Annex A

Amendments to the Glossary of definitions

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

International Securities Identification Number (ISIN) a 12-character, alphanumeric code which uniquely identifies a *financial instrument* and provides for the uniform identification of *securities* at trading and settlement.

Annex B

Amendments to the Fees manual (FEES)

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

...

Purpose

- 3.1.3 G The purpose of this chapter is to set out the *FSA* fee paying requirements on the persons set out in *FEES* 1.1.2R(1). ~~The *FSA's* power to charge in respect of *guidance* regarding the Basel Capital Accord is derived from section 157(4)(c) of the Act.~~

...

Method of payment

- 3.2.3 R (1) Unless (2) or (3) applies, the sum payable under *FEES* 3.2.1R must be paid by bankers draft, cheque or other payable order.

...

- (3) The sum payable under *FEES* 3.2.1R by a *firm* applying for a variation of its *Part IV permission* (*FEES* 3.2.7R(p)) must be paid by any of the methods described in (1) or by Maestro/~~Switch~~ or credit card (Visa/Mastercard only). Any payment by a permitted credit card must include an additional 2% of the sum paid.

...

- 3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) Fee payable	Due date
...		
(q) A super transaction, being one where: (i) the <i>issuer</i> has a market capitalisation in excess of £1.5 billion and it is a new applicant for a <u><i>primary premium listing</i></u> under the <i>listing rules</i> , or involved in a reverse or hostile takeover or a significant restructuring; or
...		

Method of payment

4.2.4 R (1) Unless (2) applies, a periodic fee must be paid using either direct debit, credit transfer (BACS/CHAPS), cheque, ~~switch~~ Maestro or by credit card (Visa/Mastercard only). Any payment by permitted credit card must include an additional 2% of the sum paid.

...

...

4.2.11 R Table of periodic fees

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to modified periodic fee
...			
<i>UK recognised body</i>	<i>FEES 4 Annex 6 R, Part 1</i>	...	<i>Recognition order is made. The Modified <u>modified</u> periodic fee: (1) for a <i>UK recognised investment exchange</i>, £150,000; (2) for a <i>UK recognised clearing house</i>, £250,000 <u>is specified in FEES 4 Annex 6R, Part 1.</u></i>
<i>Overseas recognised body</i>	<i>FEES 4 Annex 6R, part 2</i>	...	<i>Recognition order is made. The Modified <u>modified</u> periodic fee: (1) for an <i>overseas investment exchange</i>, £10,000; (2) for a <i>overseas clearing house</i>, £35,000 <u>is specified in FEES 4 Annex 6R, Part 2.</u></i>
...			

...

4 Annex 1R Activity groups, tariff bases and valuation dates applicable

Part 1	...
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Activity group	Fee payer falls in the activity group if
...	
A.16 Pensions review levy firms	it was liable to pay the Pensions Levy to PIA in 2001/2002. Not applicable.
...	

Part 2	...
--------	-----

Activity group	Tariff base
...	
A.7	...
	<p>Notes on FuM</p> <p>(a) ...</p> <p>(b) <u>Assets managed by the firm on a discretionary basis exclude the firm's own assets.</u> 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, are <u>also excluded</u> NOT included as this activity is covered in those charged to fees in activity groups A.12 and A.13.</p> <p>...</p>
...	
A.16	Percentage share of the amount paid towards PIA's 2001/2002 pensions review levy by fee payers in fee block A.16. Not applicable.
...	

...

4 Annex 3R Transaction reporting fees

This table shows the fees payable for firms using the FSA's Transaction Reporting System where firms do not have a written contract with the FSA in relation to their use of the System.

...

4 Annex 9R Periodic fees in respect of securities derivatives for the period from 1 April 2010 to 31 March 2011

Part 1

...

Fee amount for <i>firms</i>	
...	
<i>Market operators</i> providing facilities for trading in <i>securities derivatives</i> that do not identify those <i>securities derivatives</i> using an International Securities Identity Number <u><i>International Securities Identification Number</i></u>	...

...

5.2.7 G This chapter sets out the framework for the funding arrangements of the *Financial Ombudsman Service*, including, where relevant, the method by which fees will be calculated. Details of the actual fees payable will vary from year to year, depending on the *annual budget* of the *Financial Ombudsman Service*. These details will be set out in ~~an annex~~ annexes to this chapter (~~FEES 5 Annex 1R~~). ~~A new annex~~ New annexes will be prepared and consulted on for each *financial year*.

...

5.3.1 G Each *financial year*, the *FSA* and *FOS Ltd* will consult on the amount of the ~~annual budget~~ *annual budget* of the *Financial Ombudsman Service* which is to be raised by the *general levy*.

...

5.3.4 G ~~Part 2 of FEES 5 Annex 1R~~ sets out the fee tariffs for each *industry block*.

...

5.3.8 R A *firm's general levy* under the *compulsory jurisdiction* is calculated as follows:

- (1) identify each of the tariff bases set out in ~~Part 2 of FEES 5 Annex 1R~~ which apply to the *relevant business* of the *firm* for the relevant year;

...

...

5.3.10 R For the purpose of *FEES 5.3*, references to *relevant business* for a *firm*

which falls in *industry block* 16 or 17 and which so elects under ~~Part 2 of FEES 5 Annex 1R~~, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4*.

...

- 5.4.1 R (1) A *firm* must provide the *FSA* by the end of February each year (or, if the *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, by the date requested by the *FSA*) with a statement of the total amount of *relevant business* (measured in accordance with the appropriate tariff base(s)) which it conducted, as at or in the year to 31 December of the previous year as appropriate, in relation to the tariff base for each of the relevant *industry blocks* set out in ~~part 2 of FEES 5 Annex 1R~~.

...

- (4) For the purpose of *FEES 5.4.1R*, references to *relevant business* for a *firm* which falls in *industry block* 16 or 17 and which so elects under ~~part 2 of FEES 5 Annex 1R~~, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4 Annex 1R*.

...

5.5 Case fees

Standard case fee

- 5.5.1 R A *firm* or *licensee* must pay to *FOS Ltd* the standard case fee specified in ~~part 3 of FEES 5 Annex 4R~~ 3R in respect of each *chargeable case* relating to that *firm* or *licensee* which is closed by the *Financial Ombudsman Service*, unless a special case fee is payable or has been paid in respect of that case under *FEES 5.5.6R* to *FEES 5.5.12R*.

...

- 5.5.4 R Any *firm* falling into either *industry block* 13 or *industry block* 15 in ~~part 2 of FEES 5 Annex 1R~~ is not required to pay the standard case fee in respect of *chargeable cases* relating to those *industry blocks*.

...

Special case fees: complaints from small businesses

- 5.5.6 R A *firm* must pay to *FOS Ltd* a special case fee, as specified in ~~part 3 of FEES 5 Annex 4R~~ 3R in respect of each *chargeable case* relating to that *firm* closed by the *Financial Ombudsman Service* which was referred to the *Financial Ombudsman Service* by *eligible complainants* who fall within *DISP 2.7.3R(2)*, *DISP 2.7.6R(12)(a)* and *DISP 2.7.6R(12)(a)*.

...

5.5.7 R A firm which ceases to be *authorised* must pay to FOS Ltd a special case fee, as specified in ~~part 3 of FEES 5 Annex 1R~~ 3R, in respect of each *chargeable case* relating to that firm closed by the *Financial Ombudsman Service* which concerned an act or omission occurring when the firm was *authorised* and where the complaint was made after its *authorisation* ceased.

5.5.7A R ~~DISP FEES~~ 5.5.7R applies to persons which cease to be *licensees* in the same way as it applies to firms which cease to be *authorised*.

...

Special case fees: relevant complaints against persons who were subject to a former scheme

5.5.8 R An *unauthorised person* who is subject to the *Compulsory Jurisdiction* in relation to a *relevant complaint* must pay to FOS Ltd a special case fee as specified in ~~part 3 of FEES 5 Annex 1R~~ 3R in respect of each *chargeable case* relating to that *unauthorised person* closed by the *Financial Ombudsman Service*.

...

5.5.10 R A firm which was a *member of PIA* before *commencement* must pay to FOS Ltd a special case fee, as specified in *FEES 5 Annex* ~~1R~~ 3R, in respect of each *chargeable case* relating to that firm received by the *Financial Ombudsman Service* after *commencement* and before 31 March 2002.

...

5.5.12 R A firm which was not a *member of a former scheme* before the *commencement day* must pay to FOS Ltd a special case fee, as specified in *FEES 5 Annex* ~~1R~~ 3R, in respect of each *chargeable case* which relates to business conducted by the firm after the *commencement day* and which is closed by the *Financial Ombudsman Service* before 31 March 2002.

...

5.9.2 G Firms which cease to be *authorised* and therefore subject to the *Compulsory Jurisdiction* part way through the year will not receive a refund of their *general levy* except in exceptional circumstances. Firms and *payment service providers* will continue to be liable for any case fees relating to *chargeable cases* closed by the *Financial Ombudsman Service* after they cease to be *authorised*, or cease to be *payment service providers*. Firms and *payment service providers* will be charged the standard case fee where the complaint was closed by the *Financial Ombudsman Service* before the end of the year in which their *authorisation* ceased or, as the case may be, they ceased to be *payment service providers*. The special case fee will apply to any complaint closed after the end of that year since the firm or *payment*

service provider will no longer be contributing to the *general levy*.

...

5 Annex 1 R ~~Annual Fees Payable in Relation to 2010/11~~ Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2010/11

Introduction: annual budget

1. The *annual budget* for 2010/11 approved by the *FSA* is £113.7m.

~~Part 1: General levy~~

2. The total amount expected to be raised through the *general levy* in 2010/11 will be £17.7m (net of £1.8m to be raised from consumer credit firms).

~~Part 2: Fee tariffs for general levy~~

Compulsory jurisdiction - general levy

Industry block	Tariff base	General levy payable by firm
...		

Delete Parts 3, 3A and 4 of FEES 5 Annex 1 and insert the following new Annexes. The new text is not underlined.

5 Annex 2R Annual Levy Payable in Relation to the Voluntary Jurisdiction for 2010/11

Voluntary jurisdiction – annual levy for VJ participants				
Industry block and business activity		Tariff basis	Tariff rate	Minimum levy
1V	Deposit acceptors, <i>mortgage lenders</i> and <i>mortgage administrators</i> , including debit/credit/charge card issuers and electronic money institutions	number of relevant accounts, adjusted in respect of <i>e-money accounts</i> on the same basis as for industry block 1 in <i>FEES 5 Annex 1R</i>	£0.0278	£100
2V	<i>VJ participants</i> undertaking insurance activities subject only to	per £1,000 of relevant annual gross premium income	£0.103	£100

	prudential regulation			
3V	<i>VJ participants</i> undertaking insurance activities subject to prudential and conduct of business regulation	Per £1,000 of relevant adjusted annual gross premium income	£0.025	£100
6V	Intermediaries	n/a	n/a	£75
7V	Freight-forwarding companies	n/a	n/a	£75
8V	National Savings & Investments	n/a	n/a	£10,000
9V	Post Office Limited	n/a	n/a	£10,000
10V	Persons not covered by 1V to 9V undertaking activities which would be <i>regulated activities</i> or <i>payment services</i> or <i>consumer credit activities</i> if they were carried on from an establishment in the <i>United Kingdom</i>	n/a	n/a	£75

5 Annex 3R Case Fees Payable for 2010/11

Table of case fees payable		
	Standard case fee	Special case fee
Compulsory jurisdiction	£500	£500
Voluntary jurisdiction	£500	£500
Consumer credit jurisdiction	£500	£500

Notes

1	The definitions of standard case fee and special case fee are in <i>FEES 5.5</i> (Case fees).
2	<i>Firms, licensees</i> and <i>VJ participants</i> will only be charged for the fourth and subsequent <i>chargeable case</i> in each financial year. The definition of <i>chargeable case</i> is in the Glossary to the <i>Handbook</i> .

Annex C

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

- 4.2.6 R The following *rules* in *FEES* apply to *VJ participants* as part of the *standard terms*, but substituting '*VJ participant*' for '*firm*':
- ...
- (5) *FEES* 5.3.8R (calculation of general levy) but substituting '~~part 4~~' '*FEES* 5 Annex 2R' for '~~part 2~~' '*FEES* 5 Annex 1R';
- (6) *FEES* 5.4.1R (information) but substituting:
- (a) '*FOS Ltd*' for 'the *FSA*'; and
- (b) '~~part 4~~' '*FEES* 5 Annex 2R' for '~~part 2~~' '*FEES* 5 Annex 1R';
- (7) *FEES* 5.5.1R (standard case fee) ~~but substituting 'part 4' for 'part 3'~~;
- ...
- (12) ~~*FEES* 5 Annex 1R (fees payable)~~ *FEES* 5 Annex 2R and *FEES* 5 Annex 3R.

Sch 4 Powers Exercised

Sch 4.5 G

The powers to make rules relating to the Ombudsman Scheme are shared between the <i>FSA</i> and the <i>FOS Ltd</i> . <i>FOS Ltd</i> 's rules are subject to <i>FSA</i> consent or approval. The rules made exclusively by <i>FOS Ltd</i> are:	
...	
<i>FEES</i> 5	... <i>FEES</i> 5.9.1R <u><i>FEES</i> 5 Annex 2R</u> <u><i>FEES</i> 5 Annex 3R</u>
<i>FEES</i> 5	<i>FEES</i> 5 Annex 1R parts 3 and 4