

FEES (MISCELLANEOUS AMENDMENTS) (No 10) INSTRUMENT 2017

Powers exercised

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

Commencement

- C. This instrument comes into force on 1 April 2017.

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 10) Instrument 2017.

By order of the Board
30 March 2017

Annex

Amendments to the Fees manual (FEES)

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

4 Periodic fees

...

4.2 Obligation to pay periodic fees

...

4.2.7K R ...

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

Fee-block	Tariff base	Calculation where trading data are not available
...		
B. Service companies	Annual income for the financial year ended in the calendar year ending 31 December	Apply the formula $(A \div B) \times 12$ to arrive at the annualised figure.
B. Benchmark administrators	Flat fee <u>Annual income for the financial year ended in the calendar year ending 31 December</u>	Not applicable <u>Apply the formula $(A \div B) \times 12$ to arrive at the annualised figure.</u>
B. Recognised investment exchanges	See FEES 4 Annex 6R <u>Annual income for the financial year ended in the calendar year ending 31 December</u>	Not applicable <u>Apply the formula $(A \div B) \times 12$ to arrive at the annualised figure.</u>
B. Recognised auction platforms	Flat fee	Not applicable.
B. Recognised overseas investment exchanges	Flat fee	Not applicable.

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...

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

Part 1	
...	
Activity group	Fee payer falls in the activity group if
...	
B. MTF operators	its <i>permission</i> includes operating a <i>multilateral trading facility</i> .
B. Principal benchmark administrators	It is a <i>benchmark administrator</i> who administers the arrangements for determining one or more <i>specified benchmarks</i>.
B. Benchmark administrators	It is a <i>benchmark administrator</i> who does not administer arrangements for determining one or more <i>specified benchmarks</i> it administers one or more <u><i>specified benchmarks</i></u> .
B. Recognised investment exchanges	it is a <i>recognised investment exchange</i> .
B. Recognised auction platforms	it is a <i>recognised auction platform</i> .
B. Recognised overseas investment exchanges	it is a <i>recognised overseas investment exchange</i> .
...	
Part 3	
...	
Activity group	Tariff base
...	
B. MTF operators	SUPERVISORY CATEGORY The general supervisory category to which the <i>firm</i> was assigned as at the start of the relevant <i>fee year</i> .

B. Benchmark administrators	Not applicable Annual income as defined in <i>FEES</i> 4 Annex 11AR.
B. Recognised investment exchanges	Not applicable Annual income as defined in <i>FEES</i> 4 Annex 11AR.
B. Recognised auction platforms	Not applicable.
B. Recognised overseas investment exchanges	Not applicable.
...	

Part 5

...

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

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from ~~1 April 2016 to 31 March 2017~~ 1 April 2017 to 31 March 2018

Part 1

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

<u>B. Recognised overseas investment exchanges</u>	[tbc]
...	

...

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

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

[deleted]

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, Recognised Investment Exchanges and Benchmark Administrators

Annual income definition
<p><u>General definition for all relevant fee-blocks (other than where the firms is an operator of a Recognised Investment Exchange or a Benchmark Administrator)</u></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</i> 4 Annex 1AR Part 1 as belonging to the relevant fee block.</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><u>Definition for Recognised Investment Exchanges</u></p> <p><u>“Annual income” for a recognised investment exchange is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the firm’s accounts during the reporting year in respect of, or in relation to activities that comprise a necessary part of an exchange’s business as an investment</u></p>

exchange.

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

Where the firm is a Benchmark Administrator

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

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

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

...

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

Table 1	
The following table sets out <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, <u>Recognised Investment Exchanges and Benchmark Administrators</u> .	
Calculating and apportioning annual income – FEES 4 Annex 11AR	
Calculating annual income	
Defining relevant income streams	
(1)	The <i>firm</i> should refer to the fee-block definitions in FEES 4 Annex 1A <u>1AR</u> , Part 1 to decide which particular income streams should be taken into account when calculating its annual income for the purposes of fee-blocks A.13, A.14, A.18, A.19 and B. Service Companies, <u>Recognised Investment Exchanges and Benchmark Administrators</u> .
(2)	For the avoidance of doubt, the only income streams reportable for a relevant fee-block are those income streams which relate to a <i>regulated</i>

	<p><i>activity</i> listed in that fee-block. Income streams that do not relate to a <i>regulated activity</i> listed in the relevant fee-block should not be reported. <u><i>Service companies, operators of recognised investment exchanges and benchmark administrators should report the income relating to each of these activities, excluding income from any other activities in the B fee-block on which they pay FCA fees.</i></u></p> <p><u>Under FEES 4 Annex 11AR, where the sales and marketing of a benchmark are undertaken by a separate legal entity within the same group, the income generated as a result is also deemed to relate to the regulated activity carried on by the benchmark administrator and so should be reported to the FCA by the benchmark administrator as its own income (for fees setting purposes).</u></p> <p>As such, firms Firms should exclude from the calculation of its their annual income for any particular fee-block all income earned in relation to regulated activities belonging to fee blocks A.13, A.14, A.18, A.19 and B. Service Companies where the income is directly derived from the performance of regulated activities belonging to other fee-blocks, for For example;</p>
(a)	<p>interest from loans made in the course of providing or administering home finance (A.2); <u>should be excluded from commission earned from arranging home finance agreements (A.18);</u></p>
(b)	<p>premium interest from carrying out or effecting life insurance contracts (A.3), income from managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyds (A.5); <u>should be excluded from commissions for arranging general insurance (A.19);</u></p>
(c)	<p>income from managing investments, collective investment schemes or pensions schemes (A.7 or A.9) or income from operating multi-lateral trading facilities (FEES 4 Annex 10R) <u>should be excluded from income derived from investment intermediation (A.13) or operating a recognised investment exchange or administering a specified benchmark.</u></p>
(3)	...
...	

Insert the new FEES TP 14 after FEES TP 13 (Transitional provisions relating to the calculation of tariff bases for insurers). The text is not underlined.

TP 14 Transitional provisions relating to FEES 4 for benchmark administrators and recognised investment exchanges

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
14.1	<i>FEES</i> TP 4.1.2R and <i>FEES</i> 4.4	R	<i>FEES</i> TP 4.1.2R does not apply to changes to the requirements in <i>FEES</i> on <i>benchmark administrators</i> and <i>recognised investment exchanges</i> made by the Fees (Miscellaneous Amendments) (No 9) Instrument 2017. These amendments will have immediate effect for the supply of information under <i>FEES</i> 4.4 in relation to the <i>fee year</i> beginning 1 April 2017 and ending 31 March 2018.	From 1 April 2017	1 April 2017
14.2	<i>FEES</i> 4.4.2R	R	For the year ending 31 December 2016, rather than having to provide the <i>FCA</i> with the information required under <i>FEES</i> 4.4.1R within two <i>months</i> of the date specified as the valuation date in Part 5 of <i>FEES</i> 4 Annex 1AR, <i>benchmark administrators</i> and <i>recognised investment exchanges</i> are required to submit this information by 18 June 2017.	From 1 April 2017	1 April 2017