

**FEES (MISCELLANEOUS AMENDMENTS) (No 12) INSTRUMENT 2018**

**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) section 234 (Industry funding); and
  - (5) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.
- C. The Financial Conduct Authority approves the fixing and variation of the standard terms relating to the payment of fees by the Financial Conduct Ombudsman Service Limited.

**Commencement**

- D. This instrument comes into force on 1 October 2018.

**Amendments to the Handbook**

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

**Citation**

- F. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 12) Instrument 2018.

By order of the Board  
27 September 2018

## Annex

## Amendments to the Fees manual (FEES)

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

#### 4 Periodic fees

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#### 4.2 Obligation to pay periodic fees

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

##### 4.2.7E R (1)

- (a) *A firm* (other than an *AIFM qualifier*, an *ICVC*, a *UCITS qualifier*, or an *issuer of regulated covered bonds*) which becomes authorised or registered, or whose *permission* and/or activities is extended, during the course of the *fee year* must pay a fee based on its projected valuation for the first twelve *months* of its new business.
- (b) This is the valuation provided by the *firm* in the course of its application or if not provided at that time, the valuation provided subsequently.

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

4.2.7F	R	(1)	Identify the tariff rate or rates which will be relevant to the <i>firm</i> as a result of its new or extended <i>permission</i> ; and then
		(2)	apply the formula $(A+B+C) \times D$ , where:
			A = the amount arrived at by applying the tariff rates to the <i>firm's</i> projected valuation for <del>its first year</del> <u>the first twelve months</u> of <u>its</u> new business, as provided by it in <del>the course of its application</del> <u>accordance with FEES 4.2.7ER</u> ;
			...

Calculating fees in the second fee-year where the firm received permission between 1 January and 31 March in its first fee year

- 4.2.7G R When a *firm* receives permission between 1 January and 31 March, its fee for the following *fee year* starting 1 April will be calculated from ~~the~~

~~projected valuation for the first twelve months of its new business that it provided;~~

- (a) the projected valuation for the first twelve ~~months~~ months of its new business that it provided in ~~the course of its application~~ accordance with FEES 4.2.7ER; or
- (b) an annualised figure based on actual data provided by 30 April in the fee year following obtaining its new or extended permission.

If the annualised tariff base figure provided under (b) is a cumulative measure like income, covering the full year, it must apply the formula (A÷B) x 12, where:

A = the total income from the date the new or extended permission was obtained up to the firm's financial year end or 31 March (whichever is sooner) of its first fee year, calculated according to the relevant rules; and

B = the number of months in the period referred to in A.

Where the measure is not cumulative (e.g. the number of traders for fee-block A10), the firm must use the figure as at the firm's financial year end or 31 March (whichever is sooner) of its first fee year, calculated in accordance with the relevant rules. If trading has not commenced by the applicable date the figure is nil.

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

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- 4.2.7K R Where the measure is not cumulative (e.g. the number of traders for fee-block A10), the firm must use the figure relating to ~~its annual reporting date~~ the valuation date specified in FEES 4 Annex 1R Part 5 (e.g. 31 December for A10) ~~or, if that is not available, the projected figure used when it was authorised.~~ Table A sets out the reporting requirements for the key fee-blocks when full actual data is not available:

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

Fee-block	Tariff base	Calculation where trading data are not available
A1. Deposit acceptors	Average MELS for October - December	Use data available at 31 December or, if trading has not commenced by 31 December, use <del>the projection submitted as part of the application</del>

		<del>process</del> <u>nil.</u>
...		
A3. Insurers - general	Gross written premium for fees purposes (GWP) for the financial year ended in the calendar year ending 31 December and best estimate liabilities for fees purposes (BEL) valued at the end of the financial year	GWP – apply the formula $(A \div B) \times 12$ to arrive at an annualised figure.  BEL – use data at valuation date or, if trading has not commenced by then, use <del>projections provided at</del> <u>authorisation nil.</u>
A4. Insurers - life	Gross written premium for fees purposes (GWP) for the financial year ended in the calendar year ending 31 December and best estimate liabilities for fees purposes (BEL) valued at the end of the financial year	
...		
A7. Portfolio managers	Funds under management valued at 31 December	Use data as at 31 December or, if trading has not commenced by 31 December, use <del>the projection submitted as part of the application</del> <u>process nil.</u>
...		
A10. Firms dealing as principal	Number of traders as at 31 December	Use data as at 31 December or, if trading has not commenced by 31 December, use <del>the projection submitted as part of the application</del> <u>process nil.</u>
...		
A21. Firms holding client money or assets, or both	The highest amount of client money and the highest amount of	The highest amount of client money and/or <i>custody assets</i> over the

	custody assets held over the 12 months ending 31 December	period between the date of <i>authorisation</i> and 31 December or, if trading has not started, use <del>the projection submitted as part of the application process</del> <u>nil</u> .
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**4.4 Information on which fees are calculated**

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4.4.2A R If a *firm* is a UK Solvency II firm, an *incoming EEA firm* or an *incoming Treaty firm* in activity group A.3 or A.4 and the *PRA* or the *FCA* has either:

- (1) not received the necessary tariff data on a timely basis in line with Part 3 and 5 of *FEES 4 Annex 1AR*; or
- (2) deemed the tariff data received to be incomplete or insufficiently reliable, by reference to a specific *firm* or across all or part of the activity group,

the *FCA* may use tariff data from the previous reporting period for the periodic fees calculation.

4.4.2B R For *firms* in activity group A.3 and A.4, if the data source specified in the applicable tariff base in Part 3 of *FEES 4 Annex 1AR* is not available to the *PRA* or *FCA* for any reason and the same data is available to the *PRA* or *FCA* from an alternative source, the *FCA* may use that alternative source to calculate the tariff rates under *FEES 4 Annex 2AR*.

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

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Part 3

This table indicates the tariff base for each fee-block set out in Part 1.

The tariff base in this Part is the means by which the *FCA* measures the amount of business conducted by a *firm* for the purposes of calculating the annual periodic fees payable to the *FCA* by that *firm*.

Activity group	Tariff base
...	

<b>A.3</b>	<p><b>GROSS WRITTEN PREMIUM FOR FEES PURPOSES AND BEST ESTIMATE LIABILITIES FOR FEES PURPOSES</b></p> <p>Gross written premium for fees purposes means:</p> <p>...</p> <p>(3) for <i>non-directive firms</i>, a <i>firm's</i> gross premium written as reported to the <i>PRA</i> under item 11 of form 11, or where this is not reported because the <i>firm</i> is a <i>Swiss general insurer</i> <u>or holds a relevant waiver given by the <i>PRA</i> under the <i>PRA Rulebook</i></u>, the entry at sheet 1, line 1, column 1, of form 20A, or where the <i>firm</i> is a <i>friendly society</i>, the income and expenditure account entry for gross premium written or contributions as income receivable, as appropriate under the Friendly Societies (Accounts and Related Provisions) Regulation 1994 (SI 1994/1983).</p> <p>...</p>
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## 5 Financial Ombudsman Service Funding

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### 5.4 Information requirement

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- 5.4.1-A R (1) In the case of *firms* in *industry blocks 2* and *4* the requirements under *FEES 5.4.1R* apply in relation to the tariff bases(s) and tariff data in *FEES 5 Annex 1R*.
- (2) If a *firm* is a UK Solvency II firm, an *incoming EEA firm* or an *incoming Treaty firm* in *industry blocks 2* and *4* in *FEES 5 Annex 1R*, the *FCA* may use tariff data from the previous reporting period for the periodic fees calculation if the *PRA* or the *FCA* has either:
- (a) not received the necessary tariff data in a timely basis in line with Part 3 and 5 of *FEES 4 Annex 1AR*; or
  - (b) deemed the tariff data received to be incomplete or insufficiently reliable, by reference to a specific *firm* or across all or part of the *industry block*.

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- 5.4.1B R For *firms* in *industry blocks 2* and *4*, if the data source specified in the applicable tariff base in Part 3 of *FEES 4 Annex 1AR* is not available to the *PRA* or *FCA* for any reason and the same data is available to the *PRA* or

FCA from an alternative source, the FCA may use that alternative source to calculate the tariff rates under FEES 5 Annex 1R.

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