

EXITING THE EUROPEAN UNION: GIBRALTAR (FEES) INSTRUMENT 2021

Powers exercised by the Financial Ombudsman Service Limited

- A. The Financial Ombudsman Service Limited makes and amends the rules for the Voluntary Jurisdiction; and fixes and varies the standard terms for Voluntary Jurisdiction participants as set out in Annex B and Annex C to this instrument, in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 227 (Voluntary jurisdiction);
 - (2) paragraph 14 (The scheme operator’s rules) of Schedule 17;
 - (3) paragraph 15 (Fees) of Schedule 17;
 - (4) paragraph 18 (Terms of reference to the scheme) of Schedule 17; and
 - (5) paragraph 20 (Voluntary jurisdiction rules: procedure) of Schedule 17.
- B. The making and amendment of the rules and guidance and the fixing and varying of the standard terms, as set out at Annex B and C, by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

Powers exercised by the Financial Conduct Authority

- C. The Financial Conduct Authority (“the FCA”) makes this instrument in the exercise of:
- (1) the following powers and related provisions in or under the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137A (The FCA’s general rules);
 - (b) section 137SA (Rules to recover expenses relating to the single financial guidance body);
 - (c) section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities);
 - (d) section 137T (General supplementary powers);
 - (e) section 139A (Power of the FCA to give guidance);
 - (f) section 226 (Compulsory jurisdiction);
 - (g) section 234 (Industry funding);
 - (h) section 333T (Funding of action against illegal money lending);
 - (i) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (2) regulation 118 (Costs of supervision) of the Payment Services Regulations 2017 (SI 2017/752);
 - (3) regulations 206 (Meaning of “qualifying functions” in this Part) and 208 (Fees: Financial Conduct Authority) of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019 (SI 2019/632); and

- (4) regulation 59 (Costs of supervision) of the Electronic Money Regulations 2011 (SI 2011/99).
- D. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.
- E. The Financial Conduct Authority consents to and approves the rules and guidance and standard terms made and amended and fixed and varied by the Financial Ombudsman Service Limited, as set out at Annex B and C.
- F. The Financial Conduct Authority exercises the powers in sections 137SA, 137SB and 333T of the Act having carried out the consultations required by those provisions and with the consent of the Secretary of State with regard to section 137SA and the Treasury with regard to sections 137SB and 333T.

Commencement

- G. This instrument comes into force on 1 April 2021.

Amendments to the Handbook

- H. The modules of the FCA'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) below.

(1)	(2)
General Provisions (GEN)	Annex A
Fees manual (FEES)	Annex B
Dispute Resolution: Complaints sourcebook (DISP)	Annex C

Citation

- I. This instrument may be cited as the Exiting the European Union: Gibraltar (Fees) Instrument 2021.

By order of the Board of the Financial Ombudsman Service Limited
22 March 2021

By order of the Board of the Financial Conduct Authority
25 March 2021

Annex A

Amendments to the General Provisions (GEN)

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

2 Interpreting the Handbook

2.1 Introduction

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2.1.8 R This chapter applies to all ~~rules~~ provisions made by *FOS Ltd.*

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2.3 General saving of the Handbook for Gibraltar

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Exception for fee rates

2.3.5 G Provisions in *FEES* that immediately before *IP completion day* applied in relation to or in connection with Gibraltar shall continue to apply after *IP completion day*. The exceptions to this provision are the fee rates set out in *FEES* which may change each *fee year*.

Annex B

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

4 Periodic fees

4.1 Introduction

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Gibraltar-based firms

- 4.1.2A R (1) In accordance with GEN 2.3 (General saving of the Handbook for Gibraltar), rules or guidance in FEES 4 that immediately before IP completion day applied in relation to or in connection with Gibraltar will continue to apply after IP completion day. The exceptions to this provision are the fee rates set out in Part 1, Part 2, Part 2(a) and Part 2(b) of FEES 4 Annex 2AR and Part 5 of FEES 4 Annex 11R, which may change each fee year.
- (2) The modifications that will continue to apply to Gibraltar-based firms (as defined in GEN 2.3) are:

<u>Activity group</u>	<u>Percentage deducted from the tariff payable under FEES 4 Annex 2AR and FEES 4 Annex 11R applicable to the Gibraltar-based firm</u>
<u>A.1</u>	<u>10%</u>
<u>A.3</u>	<u>10%</u>
<u>A.4</u>	<u>10%</u>
<u>A.7</u>	<u>10%</u>
<u>A.9</u>	<u>10%</u>
<u>A.10</u>	<u>10%</u>
<u>A.13</u>	<u>10%</u>
<u>A.18</u>	<u>10%</u>
<u>A.19</u>	<u>50%</u>
<u>B. MTF and OTF operators</u>	<u>Not applicable</u>

<u>AP.0</u>	<u>100%</u>
<u>G.2</u>	<u>40%</u>
<u>G.3</u>	<u>40%</u>
<u>G.10</u>	<u>40%</u>
<u>Note 1</u>	<u>The modifications to fee tariffs payable by a Gibraltar-based firm apply only in relation to the relevant regulated activities of the firm which are carried on in the United Kingdom.</u>
<u>Note 2</u>	<u>The FCA minimum fees described in Part 2 of FEES 4 Annex 2AR and Part 5 of FEES 4 Annex 11R apply in full and the modifications in this FEES 4.1.2AR(2) do not apply to them.</u>

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5 Financial Ombudsman Service Funding

5.1 Application and Purpose

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Gibraltar-based firms

5.1.8 **R** In accordance with GEN 2.3 (General saving of the Handbook for Gibraltar), provisions in FEES 5 that immediately before IP completion day applied in relation to or in connection with Gibraltar will continue to apply after IP completion day. The exceptions to this provision are the amount of annual and case fees payable that are set out in FEES 5 Annex 1R, 5 Annex 2R and 5 Annex 3R, which may change each fee year.

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7A SFGB levies

7A.1 Application and Purpose

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Gibraltar-based firms

7A.1.10 **R** (1) In accordance with GEN 2.3 (General saving of the Handbook for Gibraltar), rules or guidance in FEES 7A that immediately before IP completion day applied in relation to or in connection with Gibraltar will

continue to apply after IP completion day. The exceptions to this provision are the fee rates set out in Part 1 of FEES 7A Annex 1R, Part 4 of FEES 7A Annex 2R and 7A Annex 3R which may change each fee year.

- (2) The modifications that will continue to apply to Gibraltar-based firms (as defined in GEN 2.3) in relation to payment of the SFGB money advice levy are:

<u>Activity group</u>	<u>Percentage deducted from the tariff payable under FEES 7 Annex 1R applicable to the Gibraltar-based firm</u>
<u>A.1</u>	<u>10%</u>
<u>A.3</u>	<u>10%</u>
<u>A.4</u>	<u>10%</u>
<u>A.7</u>	<u>10%</u>
<u>A.9</u>	<u>10%</u>
<u>A.10</u>	<u>10%</u>
<u>A.13</u>	<u>10%</u>
<u>A.18</u>	<u>10%</u>
<u>A.19</u>	<u>50%</u>
<u>B. MTF and OTF operators</u>	<u>Not applicable</u>
<u>AP.0</u>	<u>100%</u>
<u>G.2</u>	<u>40%</u>
<u>G.3</u>	<u>40%</u>
<u>G.10</u>	<u>40%</u>
<u>Note 1</u>	<u>The modifications to fee tariffs payable by a Gibraltar-based firm apply only in relation to the relevant regulated activities of the firm which are carried on in the <i>United Kingdom</i>.</u>
<u>Note 2</u>	<u>The FCA minimum fees described in FEES 7A Annex 1R apply in full.</u>

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7B The DA levy

7B.1 Application and Purpose

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Gibraltar-based firms

7B.1.10 R In accordance with GEN 2.3 (General saving of the Handbook for Gibraltar), rules or guidance in FEES 7B that immediately before IP completion day applied in relation to or in connection with Gibraltar will continue to apply after IP completion day. The exceptions to this provision are the fee rates set out in Part 4 of FEES 7B Annex 1R, which may change each fee year.

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13 Illegal money lending levy

13.1 Application and purpose

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Gibraltar-based firms

13.1.9 R In accordance with GEN 2.3 (General saving of the Handbook for Gibraltar), rules or guidance in FEES 13 that immediately before IP completion day applied in relation to or in connection with Gibraltar will continue to apply after IP completion day. The exceptions to this provision are the fee rates set out in FEES 13 Annex 1R, which may change each fee year.

Annex C

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

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

4 Standard terms

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4.2 Standard terms

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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*':

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(11) *FEES* 5.3.8AR; ~~and~~

(12) *FEES* 5 Annex 2R and *FEES* 5 Annex 3R; and

(13) *FEES* 5.1.8R.

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