

09/26\*\*

Financial Services Authority

Regulatory fees  
and levies: policy  
proposals for 2010/11

November 2009





# Contents

1	Overview of whole Consultation Paper	5
	<b>Part 1: FSA fees internal strategic review</b>	
2	Overview of strategic review and consultation proposals	18
3	Outcome of the review	27
4	New 'A' fee-block minimum fee proposals	36
5	New 'A' fee-block periodic fee proposals	42
	<b>Part 2: Other FSA fees policy issues</b>	
6	Proposals for consultation:	50
	<ul style="list-style-type: none"><li>• UK Listing Authority (UKLA) – valuation date for market capitalisation</li><li>• Modified eligible liabilities (MELs) – change in formula for banks and building societies</li></ul>	
7	Fees policy clarifications:	57
	<ul style="list-style-type: none"><li>• Tariff-base for recovering additional IS development costs for Alternative Instrument Identifier (AII) code</li><li>• Treatment of transferred life insurance contracts in calculating tariff data for fee-block A.4</li></ul>	
8	For discussion: tariff-base for intermediary firms	61

9	Future fees policy consultations:	67
	<ul style="list-style-type: none"> <li>• Money guidance service</li> <li>• Passporting – discounts for EEA firms with branches in the UK</li> <li>• Credit rating agencies</li> <li>• Electronic Money Directive</li> <li>• The FSCS funding model review</li> </ul>	
10	Topics for information:	70
	<ul style="list-style-type: none"> <li>• Change in terminology in listing rules</li> <li>• Sale and rent back</li> <li>• Payment Services Directive (PSD) – indicative periodic fee rates for 2010/11</li> </ul>	
	<b>Annex 1:</b>	Compatibility statement and cost benefit analysis
	<b>Annex 2:</b>	List of questions on which we are consulting or seeking in principle views
	<b>Annex 3:</b>	Research on how other regulators raise fees – summary of approaches identified
	<b>Annex 4:</b>	Impact of proposed straight line recovery detailed in Chapter 5
	<b>Annex 5:</b>	Location of fees and levy rules and guidance in the FSA Handbook
	<b>Appendix 1:</b>	Draft rules and guidance – Fees (Strategic Review) Instrument 2010
	<b>Appendix 2:</b>	Draft rules and guidance – Fees (Building Societies) Instrument 2009
	<b>Appendix 3:</b>	Draft rules and guidance – Fees Provisions (Amendments) (No2) Instrument 2010

The Financial Services Authority invites comments on the proposals in this Consultation Paper. Comments on most questions should be submitted by **11 January 2010** with comments on Questions 9 and 10 by **7 December 2009**.

Comments may be sent by electronic submission using the form on the FSA's website at [www.fsa.gov.uk/pages/library/policy/cp/2009/cp09\\_26\\_response.shtml](http://www.fsa.gov.uk/pages/library/policy/cp/2009/cp09_26_response.shtml).

Alternatively, please send comments in writing on Part 1, the strategic review, to:

Peter Cardinali (Ref: CP09/26)

Finance Planning & Management Information – Fees Policy

Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

Telephone: 020 7066 5596

Fax: 020 7066 5597

E-mail: [cp09\\_26@fsa.gov.uk](mailto:cp09_26@fsa.gov.uk)

Comments on Part 2 may be sent to:

David Cheesman (Ref: CP09/26)

Finance Planning & Management Information – Fees Policy

Financial Services Authority

25 The North Colonnade

Canary Wharf

London E14 5HS

Telephone: 020 7066 5406

Fax: 020 7066 5407

E-mail: [cp09\\_26@fsa.gov.uk](mailto:cp09_26@fsa.gov.uk)

**It is our policy to make all responses to formal consultation available for public inspection unless the respondent requests otherwise. A standard confidentiality statement in an e-mail message will not be regarded as a request for non-disclosure.**

**A confidential response may be requested from us under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Tribunal.**

For any general queries regarding fees, please firstly consult our website at [www.fsa.gov.uk/Pages/Doing/Regulated/Fees](http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees). You can also contact the Fees Helpline by telephone on (020 7066 1888) and e-mail ([fsafees@fsa.gov.uk](mailto:fsafees@fsa.gov.uk)).

Copies of this Consultation Paper are available to download from the FSA website: [www.fsa.gov.uk](http://www.fsa.gov.uk). Paper copies are also available from the FSA order line: 0845 608 2372.



# 1 Overview of whole Consultation Paper

1.1 Each year we consult on:

- (1) proposed policy changes to the fee and levy regimes;
- (2) our Annual Funding Requirement (AFR) and its allocation between fee-blocks;
- (3) our fee rates for the forthcoming financial year;
- (4) the Financial Services Compensation Scheme (FSCS) management expenses levy limit; and
- (5) the Financial Ombudsman Service (FOS) general levy for the forthcoming financial year.

1.2 The annual consultation is relevant to all authorised firms and other bodies that pay fees to us and levies to the FSCS and the FOS, as well as to potential applicants for Financial Services Authority (FSA) authorisation and listing by the UK Listing Authority. We split the annual consultation into two phases. In November we consult on any proposed changes to the underlying policy for FSA fees or FOS and FSCS levies – (1) above. In the following February we consult on the proposed changes to (2), (3), (4) and (5) above. The February consultation coincides with the publication of the FOS and FSCS budgets for the next financial year, and is followed by the publication of the FSA's Business Plan.

1.3 Additional background material to proposals in either this November Consultation Paper or that in February 2010 can be found in our Consolidated Policy Statement (PS09/8)<sup>1</sup> on our fee raising arrangements and regulatory fees and levies. The FSA Handbook rules and guidance on fees are in the Fees manual (FEES) and Annex 5 to this paper outlines the structure of FEES for ease of reference.

---

<sup>1</sup> PS09/8: *Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2009/10 – including feedback on CP08/18, CP09/7 and 'made rules'* (June 2009)

## Structure of this Consultation Paper (CP)

- 1.4 This CP explains fee and levy policy proposals and consults on supporting draft rules and guidance affecting fee payers in certain fee-blocks. The proposals do not cover FOS and FSCS levies. The CP is presented in two parts:

### Part 1: FSA fees internal strategic review

This part reports on the outcome of the strategic review of our cost allocation and fees model which we committed to undertake in our 2009/10 Business Plan.<sup>2</sup> We make a number of proposals for consultation which will take place in two stages – the first stage in this CP and the second stage in our February 2010 CP.

### Part 2: Other FSA fees policy issues

This covers various issues that have emerged over the past year or are likely to arise in the future. In particular there are: proposals for consultation; a clarification of policy; a topic raised for discussion to inform later consultations; advance notice of some topics we anticipate consulting on over the coming year; and some topics for information only.

- 1.5 To identify the chapters most relevant to you, see Table 1.1 covering Part 1 and Table 1.2 covering Part 2, at the end of this chapter. These tables also set out the closing date for consultation responses and when the rules and/or guidance will be finalised.

- 1.6 There are five annexes and three appendices to this paper:

**Annex 1:** contains a statement of compatibility of our proposed changes to fees policy with the principles of good regulation.

**Annex 2:** contains a list of the questions in this CP.

**Annex 3:** research on how other regulators raise fees – summary of approaches identified.

**Annex 4:** impact of proposed straight line recovery detailed in Chapter 5

**Annex 5:** sets out where fee and levy rules and guidance are found in our Handbook.

**Appendix 1:** contains draft rules and guidance – Fees (Strategic Review) Instrument 2010

**Appendix 2:** contains draft rules and guidance – Fees (Building Societies) Instrument 2009

**Appendix 3:** contains draft rules and guidance – Fees Provisions (Amendments) (No2) Instrument 2010

---

2 *FSA Business Plan 2009/10, Section 4 Improving our business capability and effectiveness, page 35* (February 2009)

## **Part 1 – Summary of proposals**

### **Chapter 2 – Overview of strategic review and consultation proposals**

### **Chapter 3 – Outcome of the review**

### **Chapter 4 – New ‘A’ fee-block minimum fee proposals**

### **Chapter 5 – New ‘A’ fee-block periodic fee proposals**

- 1.7 We have completed our strategic review of our cost allocation and fees model which we committed to undertake in our 2009/10 Business Plan. Informal views taken from the industry did not produce a call for wholesale change – no fundamentally alternative model was suggested – but we received a clear message that there were concerns with the existing model. These concerns centred on a lack of transparency, the level of cross-subsidy, the extent risk is taken into account and complexity.
- 1.8 We are addressing these concerns through enhancing our existing model and are consulting on a proposed new minimum fee structure and adopting a straight line recovery policy for levying the variable periodic fees that most firms pay in addition to the minimum fee.

#### *New minimum fee structure*

- 1.9 Firms will be levied a minimum fee, expected to be in the region of £1,000, that is directly related to the minimum costs of an individual firm being authorised and therefore avoids the need to levy several minimum fees on fee-blocks and then applying a regime of discounts as is the case currently. The minimum costs recovered include the costs of the minimal base line monitoring we carry out on all firms and the costs of the firm contact centre.
- 1.10 These proposals simplifies and significantly increases transparency as it is clear what the minimum fee covers and why – for both the firm who only pays the minimum fee and those that pay the additional variable periodic fee due to the size and type of permitted business they carry out. It will also be fairer as the basis for calculating it will be the same for all firms.
- 1.11 We are proposing that smaller Credit Unions are an exception so that they continue to pay current minimum fees of £160 and £540 depending on size. We believe these smaller mutual organisations are an exception because they offer basic savings and loan services to their members, many of whom cannot obtain such services from mainstreams banks and building societies. We propose that the unrecovered minimum regulatory costs should be recovered from the other firms in the A.1-fee-block (Deposit acceptors) – including larger Credit Unions.
- 1.12 The amount we recover from minimum fees will fall from £30.3m to £19.7m representing a fall from 7% to 5% of the annual funding requirement covered by the affected fee-blocks. Of the 8,993 firms that currently only pay minimum fees,

25% will pay the same or see a change of £40 or less, 35% will pay less and 40% will pay more. The main group paying more will be firms that only carry out permitted business falling under A.19 (General insurance mediation). These represent 87% of the firms paying more.

### *Straight line recovery policy*

- 1.13 Under our current policy for most fee-blocks we moderate the recovery of costs within fee-blocks which results in larger firms in the fee-blocks paying less fees for each incremental increase in the measures we use to assess size of their permitted business (tariff data). This results in a ‘tapering-off’ of recovery of our costs for the larger firms. We have reviewed the historic basis for the current policy and the moderation framework.
- 1.14 The structure and risks of both firms and the market has changed significantly since the current moderation policy was adopted in 2000/01, as has our response to these changes. We now consider that the extent of current moderation is no longer supported, especially given our new ‘intensive supervision’ supervisory approach. In all fee-blocks we are spending more resources on the supervision of higher impact firms (larger firms). As a consequence of these changes we consider the historic case to support tapering-off for larger firms is no longer valid. **We are therefore proposing to adopt a straight line recovery policy for calculating the fees which recover from firms the costs allocated to the fee-blocks.**
- 1.15 Straight line recovery is based on fees being in direct proportion to the size of permitted business – impact risk on our objectives should that business fail. The more permitted business a firm undertakes the more fees it will pay. The benefit of straight line recovery over the current moderated recovery is that it is consistent to all firms in all fee-blocks, transparent and easier to understand.
- 1.16 In proposing a straight line recovery policy we are conscious that there may be changes in our future regulatory activities that will focus on a subset of firms in a fee block. Where such exceptions would result in a moderation of recovery from a straight line for the specified fee-block, we are proposing this moderation is based on a new framework aligned as far as possible to the cut-off points for the ARROW<sup>3</sup> risk impact categorisations of low, medium low, medium high and high. This new moderation framework will permit moderation to either side of the straight line recovery through the application of either premiums or discounts. The premiums and discounts would be published to provide greater transparency.
- 1.17 We are currently proposing only one exception to the straight line approach. This is in fee block A1 (Deposit acceptors). As a result of the move to our new intensive approach to the supervision of higher impact firms additional resources have been targeted to larger firms, in particular the high impact systemically important firms (banks, building societies and other firms that accept deposits). Our current supervision enhancement programme costs have already been weighted to this fee-block. This level of supervision increases our costs substantially so we

---

3 Advanced Risk Responsive Operating frameWork (ARROW): this is our risk assessment model which guides the way we risk-assess and supervise firms, and target thematic work on consumers, sectors or multiple firms.

are proposing applying premium recovery rates to only the high and medium high firms in this fee-block.

- 1.18 We recognise that our proposal to adopt a straight line recovery policy will impact the amount of fees firms will pay compared to the current structure. From the impact analysis we have carried out 2% of firms will pay more fees (322 firms) and 54% will pay less fees (10,925). It should be noted that to show the impact on variable periodic fee payers we have left firms who only pay the minimum fee as unchanged – the changes in their fees as a result of the new minimum fees proposals was covered above.
- 1.19 The extent of the change will depend on which fee-blocks firms are in (they can be in several) and the degree of moderation from a straight line recovery (i.e. tapering-off) that currently applies to a specific fee-block – which varies greatly. In general there will be a shift of cost recovery from the smaller/medium size firms to the larger firms, reflecting the greater impact they impose on our statutory objectives.
- 1.20 Chapter 2 provides an overview of the review and the proposals for consultation. Chapter 3 gives more detail on the outcome of the strategic review. Chapter 4 covers the detailed proposals for the new minimum fee structure and Chapter 5 covers the detailed proposals for the adoption of the straight line recovery policy.

## **Part 2 – Summary of proposals**

### **Chapter 6 – proposals for consultation**

- 1.21 We are putting forward two proposals for consultation:
- **Valuation date for market capitalisation** – we are confirming the last working day of November as the date on which we value market capitalisation to calculate UK Listing Authority fees for listed and non-listed issuers of securities or their sponsors.
  - **Modified eligible liabilities (MELs) for banks and building societies** – We are simplifying and updating our rules for calculating MELs as the tariff-base for banks and building societies. At present, we derive these from the Balance Sheet (BT) form which firms submit to the Bank of England (BoE). The BoE are replacing this with a new Eligible Liabilities (ELS) form from 1 January 2010. Our Instrument sets out a single MEL formula to be incorporated into the ELS return for both banks and building societies. This is intended to remove the need for separate formulae, without affecting the calculations. Another Instrument also removes separate rules relating to building societies.

### **Chapter 7 – fees policy clarifications**

- 1.22 There are two policy clarifications arising out of queries firms have raised with us:
- **Tariff-base for recovering additional IS development costs for Alternative Instrument Identifier (AII) code** – We have created Guidance to clarify what

we mean by ‘relevant contracts’ in certain derivative transaction reports. These form the tariff-base for the Special Project Fee set up to recover the costs of developing our AII system from advisers, arrangers, dealers, brokers and UK exchanges.

- **Treatment of transferred life insurance contracts in calculating tariff data** – Some insurance companies have asked us to clarify how they should treat assets transferred from other companies when calculating their tariff data in fee-block A.4. The clarification describes the circumstances in which transferred assets should be classed as new business to the industry and so included within firms’ calculations as ‘new regular premium business’.

## **Chapter 8 – for discussion: tariff-base for intermediary firms**

- 1.23 This chapter seeks views in principle on the merits of replacing the headcount of approved persons, which forms the tariff-base for fee-blocks A.12, A.13 and A.14, with an income measure. At this stage, we are presenting the issues for discussion only. If we decide to proceed, we will put forward detailed proposals, probably in October 2010 with a view to implementation from 2012/13. One of the objectives of the present exercise is to seek feedback from firms on the key factors we should take into account if we do develop these ideas in greater depth.

## **Chapter 9 – future fees consultations**

- 1.24 In this chapter we give firms advance notice of five topics we anticipate consulting on over the coming year:
- **Money guidance service** – the government intends to introduce legislation establishing an independent consumer education and information authority which would carry forward our work on financial capability. We do not know when the legislation will come into effect but it may necessitate an increase in the funding requirement for financial capability in 2010/11. To promote transparency and prepare for the proposed new body, we will present financial capability as a separate line on invoices to firms from next year. Some fee-blocks are exempt from the levy on financial capability, and we propose to continue these exclusions.
  - **Passporting** – we expect to consult in February 2010 on the discounts applied to inward-passporting EEA and Treaty firms with branches in the UK.
  - **Credit rating agencies** – the EU Regulation for Credit Rating Agencies will come into force shortly and next year we expect to include in a Treasury consultation paper our proposals for fees to recover the costs of supervising and registering these firms.
  - **Electronic Money Directive** – the EU’s second Electronic Money Directive should be published soon for implementation by spring 2011. We expect to consult on the new regulatory regime, including fees, in the second quarter of 2010.
  - **The FSCS funding model review** – outline plans for a review.

## Chapter 10 – topics for information

1.25 This chapter presents information on three topics firms may wish to be aware of:

- **Change in terminology in listing rules** – the term ‘primary listing’ will be replaced by ‘premium listing’ from April 2010. This will have no effect on the firms concerned or the fees charged.
- **Sale and rent back** – firms that are in or considering entering the sale and rent back market should take the opportunity to review proposals that we published in September and send us their comments if they have views. The consultation period is still open, with a deadline of 30 November.
- **Payment Services Directive** – payment services activities were brought under our regulation from 1 November 2009 and firms will be charged periodic fees from 2010/11. In this section, we provide estimates of the fees we expect to levy in 2010/11 from authorised payment institutions and firms already authorised under FSMA in fee-block A.1

### Consultation period

1.26 The consultation period for most of the proposals in this paper closes on 11 January 2010. The exception is the simplification of reporting arrangements for modified eligible liabilities (MELs) in Chapter 6, for which the deadline is 7 December 2009. Table 1.1 covering Part 1 of this CP and Table 1.2 covering Part 2 at the end of this chapter sets out the closing date for consultation responses and when the rules and/or guidance will be finalised.

### Next steps

1.27 Next steps for the two parts of this CP differ.

#### Part 1 – FSA fees internal strategic review

1.28 Consultation on the proposed **new minimum fee structure** and adoption of a **straight line** recovery policy within the variable periodic fees framework will take place in two stages to enable us to implement the enhancements in 2010/11, subject to consultation responses from the industry and FSA Board approval of final policy. This is a year earlier than we anticipated at the outset of our review.

##### *Stage 1*

1.29 In this CP we are consulting on the underlying policy to the proposals and providing details of the overall impact on the level of fees firms pay if the proposals are implemented. To do this we have calculated the fees firms would have paid in 2009/10, if we had adopted the proposals this year. We are referring to these as Stage 1 proposed fees. We have then compared Stage 1 proposed fees with the actual

fees being paid this year to show the impact of the proposed new policy. On this basis the Stage 1 proposed new minimum fee would have been in the region of £1,000 (except for the smaller Credit Unions which remains at £160 and £540). The Stage 1 proposed tariff rates under straight line recovery are set out for each fee-block in the draft legal instrument at Appendix 1 and Table 5.2 in Chapter 5. By applying these rates to their tariff data for 2009/10 firms can calculate what their Stage 1 fees would be under the proposed straight line recovery policy and assess the impact on their fees by comparing it with the actual fees they are paying in 2009/10.

- 1.30 A Stage 1 Fees Calculator will be made available to firms before the end of November to help them assess the impact of the proposals.
- 1.31 We encourage firms to assess the impact of the proposals by using the Stage 1 tariff rates or Fees Calculator ahead of the Stage 2 consultation.

The closing date for responses to this Stage 1 consultation is **11 January 2010** representing a two-month consultation period.

### *Stage 2*

- 1.32 In February 2010 we will undertake Stage 2 of the consultation which will take into account the responses received to the Stage 1 consultation. The proposed **new minimum fee** and the tariff rates under the proposed **straight line** recovery policy will then be based on the AFR for 2010/11 – Stage 2 proposed fees. The AFR for 2010/11 will be based on our budget for delivering our strategic objectives as set out in our Business Plan for that year. The regulatory costs that make up the new minimum fee will also be based on our 2010/11 budget and the number of authorised firms at that time. This may result in a materially different amount to the £1,000 quoted in this Stage 1 consultation.
- 1.33 We plan to give a **further two-month consultation period** and subject to responses received to the Stage 2 consultation and FSA Board approval (May 2010) we plan to publish the finalised policy and fees for 2010/11 in June 2010 through our annual fees consolidated policy statement.
- 1.34 Fee payers will be invoiced from June 2010 on the basis of the 2010/11 periodic fees, levies and policy changes.

### **Part 2 – Other fees policy issues**

- 1.35 Subject to FSA Board approval and in the light of responses to Part 2 of this CP, we expect to publish most of the responses and our feedback to those responses in March 2010. Most of the rules finalised after this consultation will come into force from 1 April 2010. The exception is the simplification of reporting requirements for modified eligible liabilities (MELs) in Chapter 6, where we expect to publish the responses and our feedback to those responses in December 2009 with finalised rules to come into force from 11 December 2009.
- 1.36 We expect to publish the final rules and appropriate feedback statements for Part 2 in our December 2009 and March 2010 Handbook Notices. Fee payers will be invoiced from June 2010 on the basis of the 2010/11 periodic fees, levies and policy changes.

**Table 1.1: Who should read Part 1 of this CP?**

Issue	Fee payers likely to be affected	Chapter	Deadline for responses to consultation	Rules finalised
<p>Proposed new minimum fee structure (Stage 1 consultation)</p>	<p>All firms in fee-blocks:</p> <ul style="list-style-type: none"> <li>A.1 Deposit acceptors</li> <li>A.2 Home finance providers and administrators</li> <li>A.3 Insurers – general</li> <li>A.4 Insurers – life</li> <li>A.5 Managing agents at Lloyd’s</li> <li>A.7 Fund managers</li> </ul>	4	11 January 2010	May 2010
<p>Proposed adoption of a straight line recovery policy for variable periodic fees (Stage 1 consultation)</p>	<ul style="list-style-type: none"> <li>A.9 Operators, Trustees and Depositories of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes</li> <li>A.10 Firms dealing as principal</li> <li>A.12 Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both)</li> <li>A.13 Advisory arrangers, dealers or brokers (<b>not</b> holding or controlling client money or assets, or both)</li> <li>A.14 Corporate finance advisers</li> <li>A.18 Home finance providers, advisers and arrangers</li> <li>A.19 General insurance mediation</li> </ul> <p>These proposals will also affect incoming EEA firms and incoming Treaty firms which have established branches in the UK and undertake permitted business covered by the above relevant fee-blocks under FEES 4 Annex 2R Part 3.</p>	5	11 January 2010	May 2010

**Table 1.2: Who should read Part 2 of this CP?**

Issue	Fee payers likely to be affected	Chapter	Deadline for responses to consultation	Rules finalised
UK Listing Authority (UKLA) – valuation date for market capitalisations	All firms in fee-block E (issuers of listed and non-listed securities or their sponsors)	6	<b>11 January 2010</b>	March 2010
Modified eligible liabilities (MELs) – changes to formula for tariff-base for banks and building societies	All banks and building societies (fee-block A.1 – Deposit acceptors)	6	<b>7 December 2009</b>	December 2009 and March 2010
Transaction reporting – targeted recovery of IS costs	Firms in following fee-blocks: A.10 Firms dealing as principal A.12 Advisers, arrangers, dealers or brokers (holding or controlling client money or assets, or both) A.13 Advisers, arrangers, dealers or brokers ( <b>not</b> holding or controlling client money or assets, or both) UK exchanges in fee-block B	7	<b>11 January 2010</b>	March 2010
Transferred life insurance contracts – tariff data calculations for fee-block A.4	Life insurers in fee-block A.4	7	<b>11 January 2010</b>	March 2010
Intermediaries – possible move from headcount of approved persons to income measure	All firms in fee-blocks: A.12 Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both) A.13 Advisory arrangers, dealers or brokers ( <b>not</b> holding or controlling client money or assets, or both) A.14 Corporate finance advisers	8	<b>11 January 2010</b> <i>(In principle views ahead of consultation)</i>	Not applicable
Money guidance service	All authorised firms	9	Not applicable	Not applicable
Credit rating agencies	All credit rating agencies	9	Not applicable	Not applicable

Issue	Fee payers likely to be affected	Chapter	Deadline for responses to consultation	Rules finalised
Electronic Money Directive	All electronic money issuers (fee-block A.1 – Deposit acceptors)	9	Not applicable	Not applicable
FSCS funding model review	All firms that pay FSCS levies	9	Not applicable	Not applicable
UK Listing Authority (UKLA) – change in terminology in listing rules	Firms in fee-block E – issuers of securities admitted to the official list (as defined in FSMA s 74) or sponsor firms (as defined in FSMA s 88)	10	Not applicable	Not applicable
Sale and rent back	All firms involved in or considering entry to the sale and rent back market – fee-blocks A.2 (Home finance providers and administrators) and A.18 (Home finance providers, advisers and arrangers)	10	Not applicable	Not applicable
Payment Services Directive – indicative levels for periodic fees	All firms in fee-block A.1 (Deposit acceptors) except credit unions and all authorised payment institutions in fee-block G3	10	Not applicable	Not applicable

## CONSUMERS

This CP contains no material of direct relevance to retail financial services consumers or consumers groups, although indirectly part of our fees are met by financial services consumers.



Part 1:  
FSA fees internal  
strategic review

# 2 Overview of strategic review and consultation proposals

## Outcome of the review

- 2.1 We have completed the internal strategic review of our cost allocation and fees model which we committed to undertake in our 2009/10 Business Plan. The scope of the review was to question how we allocate our costs and recover them from firms. How much we raise or what we spend it on was not within the scope of this review.
- 2.2 The review has focussed on the annual fee raising arrangements for the firms in the 'A' fee-block – within which there are 13 sub-set fee-blocks. If firms undertake the permitted business covered by a fee-block they pay fees towards the costs allocated to those fee-blocks. A firm's permissions can place it in several fee-blocks. Firms include banks, building societies, insurers, investment managers, securities firms and retail, mortgage and general insurance intermediaries. In 2009/10 we recovered 94% of our £435.5m annual funding requirement (AFR) from the fees levied on these firms. Table 2.1 at the end of this chapter details the fee-blocks included in the review and explains why the other fee-blocks, which account for the remaining 6% of the AFR, were not included.
- 2.3 In carrying out the review we have taken informal views from the industry through an open question in our February 2009 periodic fees Consultation Paper (CP), trade association workshops and meetings with the both practitioner panels.<sup>4</sup> We also commissioned PA Consulting to undertake research into the fee raising models used by other regulators where they are funded by the industry they regulate.
- 2.4 These industry views did not produce a call for wholesale change – no fundamentally different alternative model was suggested – but we received a clear message that there were concerns with the existing model. These concerns centred on a lack of transparency, the level of cross-subsidy, the extent risk is taken into account and complexity.
- 2.5 The independent research was wide and comprehensive, profiling 108 regulators including regulators from the G20 countries. The research identified eight approaches to regulatory funding, none of which are radically different from our existing arrangements. The full research is published alongside this CP.

---

4 Practitioners Panel and the Smaller Businesses Practitioners Panel

- 2.6 We acknowledge the industry's concerns, and have focussed the review on addressing those concerns through making enhancements to the existing model. We provide more detail on why and how we carried out the review in Chapter 3.
- 2.7 We summarise below the proposals for making enhancements to our existing model and outline the two-stage consultation process to implement these proposals (subject to FSA Board approval) in 2010/11. Full details of the proposals are set out in Chapters 4 and 5. Full details of the two-stage consultation process for these proposals and the timetable for all proposals consulted through this CP are detailed in Chapter 1.

## Existing fees model

- 2.8 Our existing fees model has two key stages in calculating an individual firm's fee – **cost allocation** to fee-blocks and **recovery** of those allocated costs from the firms within the fee-block.
- 2.9 Our review concluded that our existing **cost allocation** process was effective at allocating the right level of aggregate costs to fee-blocks and in doing so it inherently takes account of the risk profile (impact and probability of default) of firms in the fee-block, reducing the possibility of cross-subsidy across sectors.
- 2.10 At the **recovery** stage, when we distribute the aggregate costs allocated to fee-blocks across firms within those fee-blocks, we do so in two ways. Through a **minimum fee** and above that, a **variable periodic fee** which is calculated based on the size of the permitted business the firm undertakes in a specific fee-block. The rates at which the costs are recovered are subject to a moderation policy that changes the incremental rate of recovery of costs as a firm carries out more business in a fee-block. The degree and direction of this moderation varies significantly across fee-blocks.
- 2.11 The two-stage process of the existing model is explained in Table 2.2 at the end of this chapter.
- 2.12 We are consulting on proposals to enhance the basis under which both the minimum fee and the variable periodic fee are levied.

## Proposed new minimum fee structure

- 2.13 Under the **current minimum fee structure**, minimum fee levels vary greatly between fee-blocks. Many firms pay more than one minimum fee due to their permissions in several fee-blocks – they pay the highest minimum fee in full and half the others. Our review concluded that the minimum fee amounts are based on historical measures that do not relate to the minimum costs of regulating a firm in a consistent way – this produces anomalies across fee-blocks.
- 2.14 We propose to introduce a **new minimum fee structure** with one fee 'per firm' based on an equal contribution to the minimum costs of being regulated. Based on 2009/10

costs this new minimum fee would be in the region of £1,000. The new minimum fee will recover the following regulatory costs:

- **Reporting and Customer Contact Centre** – We have included the costs of our regulatory reporting function and the Customer Contact Centre (CCC) which we operate for all firms. We have also included the consumer element of the CCC as this is one of the ways we meet our public awareness objective (Financial Capability Strategy) as ultimately all firms levied will benefit from the improved financial capability of consumers; and
- **Authorisation and policing the perimeter** – We incur costs for authorising new firms that are not covered by application fees and we are not permitted to levy fees on vetting Approved Persons. One of the key objectives of our authorisation and vetting process is to ensure that only firms and Approved Persons who fully meet the conditions of entry are authorised. These costs have been included as all firms levied will benefit from this process which helps to maintain market confidence. On the same basis we are including the cost of ‘policing the perimeter’ where we investigate and prevent persons carrying out regulated business without being authorised.

2.15 Based on the 2009/10 costs we would recover £19.7m under the new minimum fee structure, compared with the £30.3m we recovered through our existing minimum fees. This means that under these proposals the proportion of our AFR that is recovered through minimum fees (which includes firms that only pay minimum fees) will reduce from 7% to 5%.

2.16 We believe the new minimum fee represents the right level of our costs that can be recovered on an individual firm basis. The fee is directly related to the minimum costs of an individual firm being authorised and therefore avoids the need to levy several minimum fees on fee-blocks and then applying a regime of discounts. This simplifies and significantly increases transparency as it is clear what the minimum fee covers and why – for both the firm who only pays the minimum fee and those that pay the additional variable periodic fees due to the size and type of permitted business they carry out. It will also be fairer as the basis for calculating it will be the same for all firms.

2.17 We are proposing to treat the smaller Credit Unions as an exception so that they continue to pay the current minimum fees of £160 and £540 depending on size. We believe these smaller mutual organisations are an exception because they offer basic savings and loan facilities to their members, many of whom cannot obtain such services from mainstream banks and building societies. We propose that the unrecovered minimum regulatory costs should be recovered from the other firms in the A.1 fee-block (Deposit acceptors). We acknowledge that this results in a cross-subsidy, but we believe it is justifiable given the social value of the services they provide and the impact on them if we applied the new minimum fee. The unrecovered amount of approximately £342,000 represents 0.3% of the £124.2m AFR recovered from the A.1 fee-block in 2009/10. We also acknowledge that this will result in larger Credit Unions effectively subsidising smaller Credit Unions. However, these Credit Unions are much larger and can pay the variable periodic fee in addition to the new

minimum fee due to their size, so we believe they should be treated the same as other deposit acceptors in the A.1 fee-block.

- 2.18 Of the 8,993 firms that currently only pay minimum fees, 25% will pay the same or see a change of £40 or less, 35% will pay less and 40% will pay more. The main group paying more will be firms that only carry out permitted business falling under A.19 (General insurance mediation), these represent 87% of the firms paying more. The impact on firms that only pay a minimum fee across fee-blocks is illustrated in Table 4.1 in Chapter 4.

## Proposed adoption of a straight line recovery policy

- 2.19 Costs allocated to a fee-block (above those covered by the minimum fee) are currently recovered from the firms in the fee-block using a **variable periodic fee structure**. This uses the size of permitted business as a proxy for impact risk – the impact on our statutory objectives should that business fail. We measure the size of the permitted business firms carry out within fee-blocks by reference to tariff data (for example level of income or number of Approved Persons). Each fee block is split into a series of tariff bands to which a tariff rate is applied. This enables differing tariff rates to be applied as the tariff data increases.
- 2.20 The tariff rates are calculated so that they recover all the fee-block costs from the total tariff data submitted by firms. If the same tariff rate is applied to each band then the fee payable by all firms in the fee-block would be in direct proportion to the amount of their tariff data. We refer to this as straight line recovery – a 10% increase in the amount of permitted business carried out (as measured by the tariff data) would lead to a 10% increase in fees for a firm.
- 2.21 Currently we ‘moderate’ the tariff rates for each tariff band so that the recovery of costs from the tariff data at the higher bands is reduced. This effectively means that firms in the higher tariff bands are paying less fees for each incremental increase in their tariff data than those in the lower tariff bands. The rate of recovery tends towards a curve at the top end of what would otherwise be a ‘straight line’. We refer to this as moderated recovery. We illustrate the effect of current moderation in Table 2.2 at the end of this chapter in an example fee-block. The degree of moderation varies widely across fee-blocks.
- 2.22 In our review we focussed on the historic policy of adopting moderated recovery for fee-blocks in the light of changes in financial services markets and our practices since it was developed. We also reviewed the factors that influence the degree of moderation: width of the tariff bands (which also varies across fee-blocks); and the rationale for the extent that tariff rates are reduced when applied to the tariff bands.
- 2.23 The original policy intention, when we set up the current variable periodic fee structure, did not include any moderation and proposed to use the size of permitted business as the basis for recovering costs from firms within a fee-block. This would ensure that fees would increase continuously and uniformly in line with the size of the permitted business carried out by each firm – straight line recovery. Size of

permitted business is used as a proxy for impact risk – the impact on our statutory objectives should that business fail. The aim was to apply this measure consistently across all firms in a fee block. It was not intended to take account of the comparative probability of default risk of individual firms, nor was it intended to be a measure that took account of the cost of the actual resources applied to individual firms.

- 2.24 We did, however, move to our current policy of using moderation following the response to our CP on this policy in 2000/01. This was in response to comments from the larger firms, who argued that the rate of increase should taper-off for larger businesses to take account of ‘economies of scale’.
- 2.25 The structure and risks of both firms and the market has changed significantly since this consultation in 2000/01, as has our response to these changes. We now consider that the extent of current moderation is no longer supported, especially given our new ‘intensive supervision’ supervisory approach. In all fee-blocks we are spending more resources on the supervision of higher impact firms (larger firms). As a consequence of these changes we consider that the historic case to support tapering off for larger firms is no longer valid. **We are therefore proposing to adopt a straight line recovery policy for calculating the fees that recover from firms the costs allocated to the fee-blocks.**
- 2.26 Straight line recovery is based on fees being in direct proportion to the size of permitted business based on tariff data within a fee-block. The more permitted business a firm undertakes the more fees it will pay. The benefit of straight line recovery over the current moderated recovery is that it is consistent to all firms in all fee-blocks, transparent and easier to understand.
- 2.27 In proposing a straight line recovery policy, we are conscious that there may be changes in our future regulatory activities that will focus on a subset of firms in a fee block. While these costs could be recovered as ‘special project’ fee, we believe that we should also have the ability to target recovery of costs within a fee-block on an exceptions basis where it can be justified. Where such exceptions would result in a moderation of recovery from a straight line for the specified fee-block, this moderation would be made clear to all. Our proposal is therefore that the current moderation framework – which is the basis for the number of tariff bands, their width and the rationale for the extent that tariff rates are moderated when applied to the tariff bands – should be replaced with one that has a common framework which is applied consistently across all fee-blocks.
- 2.28 We are therefore proposing a new moderation framework where each fee-block is divided into five tariff bands. These bands will be aligned as far as possible to the cut-off points for the ARROW<sup>5</sup> risk impact categorisations of low, medium low, medium high and high. The fifth band arises from splitting the low band into two to reflect that it covers such a large number of firms. This new moderation framework will allow moderation on either side of the straight line recovery through the application of either premiums or discounts to the tariff rate in the targeted tariff band. The premiums and discounts would be published to provide

---

5 Advanced Risk Responsive Operating frameWork (ARROW): this is our risk assessment model which guides the way we risk-assess and supervise firms, and target thematic work on consumers, sectors or multiple firms.

greater transparency. This means that the current framework, with four to eight tariff bands for each fee-block each calculated on a different yet undefined basis, will be replaced by five tariff bands for each fee-block but calculated on the same defined basis – greater transparency and less complexity.

- 2.29 We are currently proposing only one exception to the straight line approach. This is in fee block A1 (Deposit acceptors). As a result of the move to our new intensive approach to the supervision of higher impact firms additional resources have been targeted to larger firms, in particular the high impact systemically important firms (banks, building societies and other firms that accept deposits). Our current Supervision Enhancement Programme costs have already been weighted to this fee-block. This level of supervision increases our costs substantially, so we are proposing to only apply premium recovery rates to the top two tariff bands (high +65% and medium high +25%).
- 2.30 We recognise that our proposal to adopt a straight line recovery policy will impact the amount of fees firms will pay compared to the current structure. Table 2.3 below shows the overall number of firms that will pay more and less fees as a result of our proposals and what proportion of the current AFR is recovered from them.

**Table 2.3: Overall impact of proposal to move to straight line recovery**

Firms	Number of firms		Fees recovered	Proportion of 2009/10 AFR
Pay more	322	2%	£262m	64%
Pay less	10,925	54%	£137m	33%
Pay same <sup>(i)</sup>	8,993	44%	£11m	3%
<b>Total</b>	<b>20,240</b>	<b>100%</b>	<b>£410m</b>	<b>100%</b>
<sup>(i)</sup> Covers firms who only pay a minimum fee and which have not been impacted by the new straight line policy on the variable periodic fee. The impact of the new minimum fee on firms that only pay a minimum fee is illustrated in Table 4.1 in Chapter 4.				

- 2.31 The extent of the change will depend on which fee-blocks firms are in (they can be in several) and the degree of moderation from a straight line recovery (i.e. tapering off) that currently applies to a specific fee-block – which varies greatly. In general there will be a shift of cost recovery from the smaller/medium size firms to the larger firms, reflecting the greater impact they impose on our statutory objectives.
- 2.32 While the degree of increases that some individual firms will experience at the single fee-block level may be significant, at a group level it is much less significant, since within a group there are often smaller firms that will see a reduction in fees to off-set the increases for their larger firms in the same group.
- 2.33 The three tables in Annex 4 show an example of the impact of our proposals on the fees firms pay. Table A shows, at an individual fee-block level, the proportions of firms that will pay more or less fees in that fee-block and the range of the change. Table B presents the impact data in Table A in a series of graphs for each fee-block. These show the degree of moderation that currently applies (current fees) and the proposed straight line recovery. Table C represents a group level view for high and

medium high firms. It takes the largest individual firm increase within a fee-block and compares it to the overall increase that applies to the whole group it is a member of.

- 2.34 We accept that not all large firms are part of such groups. However, the effect can also apply to a single large firm in several fee-blocks. Although the fee-block that accounts for most of the firm's permitted business is attracting an increase, in other fee-blocks where it is undertaking less permitted business, it may be experiencing a decrease in fees.

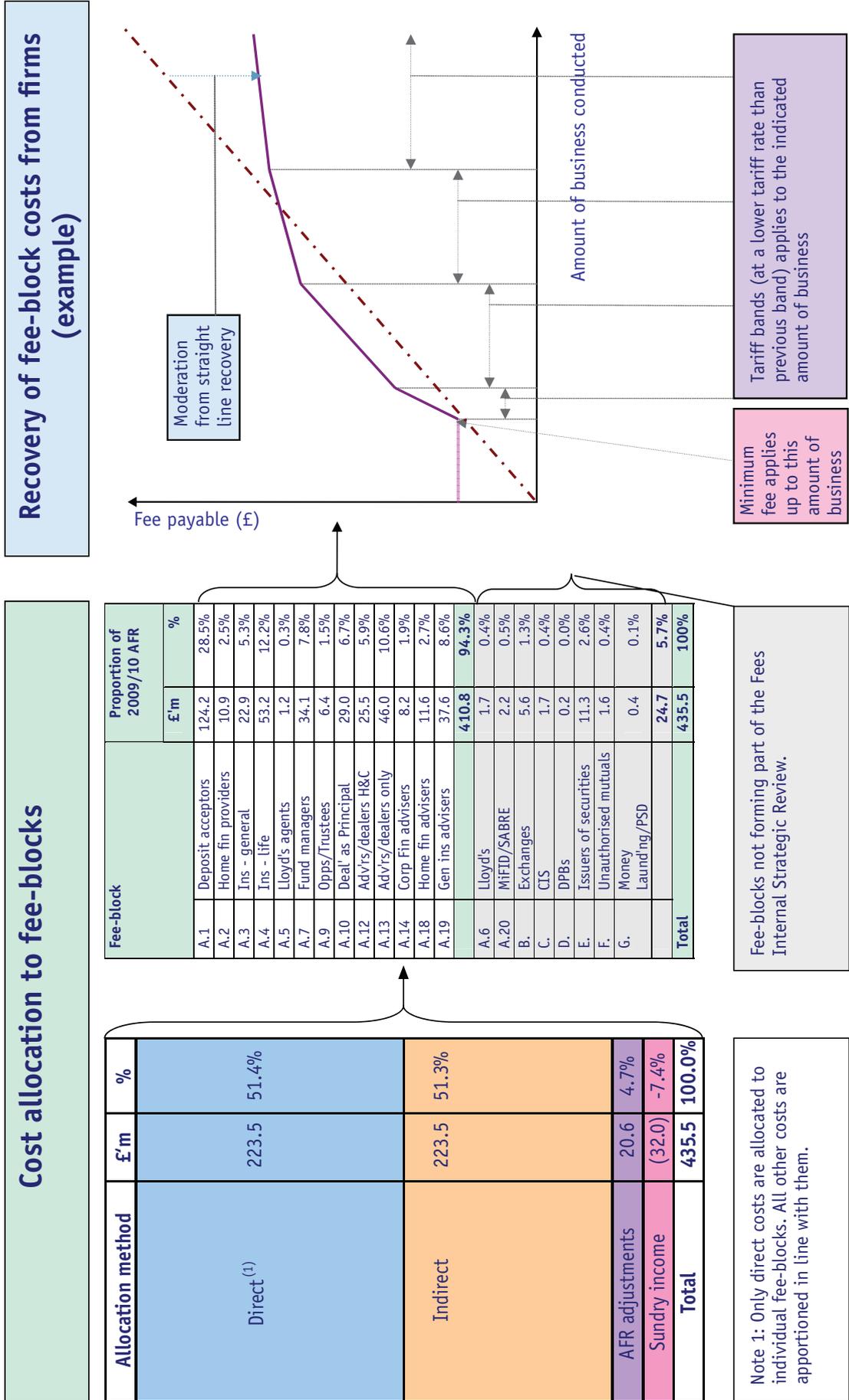
## **Two stage consultation process**

- 2.35 Consultation on the proposed **new minimum fee structure** and adoption of a **straight line** recovery policy within the variable periodic fees framework will take place in two stages to enable us to implement the enhancements in 2010/11, subject to consultation responses from the industry and FSA Board approval of final policy. This is a year earlier than we anticipated at the start of our review.
- 2.36 In this CP we are consulting on the underlying policy to the proposals. To show the impact of the proposals we have included tariff rates in the draft instrument (Appendix 1) and Table 5.2 in Chapter 5, which are calculated on the basis of what firms would have paid in 2009/10 if we had adopted the proposals this year – Stage 1 proposals. A Stage 1 Fees Calculator will be made available to firms before the end of November to help them assess the impact of the proposals.
- 2.37 In February 2010 we will undertake Stage 2 of the consultation which will take into account the responses received to the Stage 1 consultation. The proposed **new minimum fee** and the tariff rates under the proposed **straight line** recovery policy will then be based on the AFR for 2010/11 – Stage 2 proposed fees.
- 2.38 See Chapter 1 for full details of the two stage consultation process and timetable for all the proposals consulted on through this CP.

**Table 2.1: Coverage of the FSA Fees Internal Strategic Review**

Fee-blocks		
A.1	Deposit acceptors	<p><b>Included in the review. Accounts for 94% of the £435.5m Annual Funding Requirement (AFR) for 2009/10</b></p> <p><i>NB: Also affects incoming EEA firms and incoming Treaty firms which have established branches in the UK</i></p>
A.2	Home finance providers and administrators	
A.3	Insurers – general	
A.4	Insurers – life	
A.5	Managing agents at Lloyd's	
A.7	Fund managers	
A.9	Operators, Trustees and Depositaries of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes	
A.10	Firms dealing as principal	
A.12	Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both)	
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding or controlling client money or assets, or both)	
A.14	Corporate finance advisers	
A.18	Home finance providers, advisers and arrangers	
A.19	General insurance mediation	
		<b>Not included in the review</b>
A.6	The Society of Lloyd's	Fee set on individual basis
A.20	Markets in Financial Instruments Directive (MiFID) transaction reporting– targeted recovery of additional IS costs	Additional periodic fee for certain firms and market operators in certain securitised derivatives
B.	Recognised Exchanges, Clearing Houses and Operators of prescribed markets and service companies	Fees set individually for each fee-payer
C.	Collective Investment Schemes	Related to firms under fee-block A.9
D.	Designated professional bodies (DPBs)	Differentiated regulation under the Financial Services and Markets Act 2000 (FSMA)
E.	Issuers and sponsors of securities	Regulated within the FSA by the UK Listing Authority
F.	Unauthorised mutuals	Registered but not authorised under FSMA
G.1	Firms registered under the Money-Laundering Regulations 2007	<p>Activities not authorised under FSMA. Where applicable firms were covered under the review of the 'A' fee-blocks</p>
G.2 to G.5	Firms covered by the Payment Services Regulations 2009	
Notes: Reference to fee-blocks A.8, A.11, A.15, A.16 and A.17 are not included as they are no longer used.		

Table 2.2: Two key stages of existing model



# 3 Outcome of the review

3.1 In this chapter we set out:

- why and how we carried out the FSA Fees Internal Strategic Review (the review); and
- the key stages of our existing framework and the issues we are addressing through this consultation.

## Why and how we carried out the review

3.2 In our 2009/10 Business Plan<sup>6</sup> we acknowledged that our fee structure has evolved since December 2001, when we received our powers under the Financial Services and Markets Act 2000 (FSMA). We have seen significant changes to both the industry and ourselves, particularly due to EU directive implementation, since the current regime was introduced in 2001/02. As a result we are questioning whether our current fee structure and cost allocation model continue to be appropriate. We made the following commitment to:

‘...carry out an internal strategic review to establish whether a wider review involving external consultation is necessary. In Q2 2009 we will be seeking informal input from firms and trade associations and aim to announce in Q3 2009 whether a new fees regime framework would be beneficial and what shape it would take. We plan to consult formally on any new framework in Q1 2010...’

3.3 We have completed our review and are reporting on the findings and bringing forward the consultation from Q1 2010<sup>7</sup> so we can realise the benefits from the improvements to the existing framework a year earlier than planned.

---

<sup>6</sup> FSA Business Plan 2009/10, Section 4 Improving our business capability and effectiveness, page 35 (February 2009)

<sup>7</sup> We therefore delayed reporting on the outcome of the review from end of September so it could be included in this CP with full proposals for consultation.

- 3.4 As well as an open question in CP09/7<sup>8</sup> we held work shops with trade associations and met with the both practitioner panels<sup>9</sup> and commissioned PA Consulting to undertake independent research into how other regulators raise fees where they are funded by their industry. From an initial profile of 108 regulators, which included financial services regulators from the G20 countries and non-financial services regulators, 12 organisations were selected for more detailed analysis. These organisations were chosen with a focus on those most comparable to ourselves but also to provide a range of different funding models. Eight different approaches to regulatory charging were identified from this group, none of which are radically different to our existing arrangements. These are summarised in Annex 3 and the full report is published with this CP.
- 3.5 Although there was no fundamentally different framework identified through the independent research or proposed by industry through the informal views taken, areas of potential improvement were identified with the existing framework. These centred on lack of transparency, level of cross-subsidy, the extent risk is taken into account and complexity. Based on the responses received from the industry we developed a set of governing principles for the review. These governing principles are set out in Table 3.1 below:

**Table 3.1: FSA fees regime governing principles**

<b>1. Fair:</b>	Justify basis for any cross-subsidy.
<b>2. Risk aligned:</b>	Risk taken into account where effective to do so.
<b>3. Transparent:</b>	Link between cost allocation, application of risk and level of fees is clear.
<b>4. Predictable:</b>	Firms can reasonably estimate for the forth coming year.
<b>5. Flexible:</b>	Adaptable to changes in financial markets.
<b>6. Proportionate:</b>	Costs of operating should be proportionate.
<b>7. Legal:</b>	Allowable within Financial Services and Markets Act 2000 (FSMA).

- 3.6 Overall the desired outcome we have been seeking to achieve is:

*The fee raising regime for funding the FSA is acknowledged by our internal and external stakeholders as fair and transparent and the cost of administering it is proportionate.*

- 3.7 The industry also raised concerns regarding value for money and accountability. This aspect fell outside the scope of the review, which focussed on how we allocate and recover costs and not about how much we raise, what we spend it on and why. This is covered by our annual Business Plan, which sets out the budget for meeting our strategic priorities. We also publish the Performance Account which provides detailed information about our performance and adds to the information in our Annual Report.

8 CP09/7: *Regulatory fees and levies: Rates proposals 2009/10* (February 2009)

9 Practitioners Panel and the Smaller Businesses Practitioners Panel

- 3.8 The consultation proposals focus on firms within the 13 ‘A’ fee-block sub-sets listed in Table 2.1 in Chapter 2 (all references to fee-blocks in this section of the CP relate to these 13 subsets unless otherwise stated). Periodic fees from these ‘A’ fee-blocks account for 94% of the 2009/10 Annual Funding Requirement (AFR) for the current fee year – £435.5m. Table 2.1 also comments on why the other fee-blocks, which account for the remaining 6% of the AFR, were not included.

## Existing fees model and issues being addressed

- 3.9 The existing fees model has two key stages in determining individual fees:
- cost allocation to fee-blocks (cost allocation); and
  - recovery of allocated costs within fee-blocks (recovery).
- 3.10 Table 2.2 in Chapter 2 sets out diagrammatically how these two key stages operate within the existing framework. Annually we publish a consolidated statement on our existing fee-raising arrangements. When we discuss these two key stages we make reference to the latest version PS09/8,<sup>10</sup> where further detail can be found. We will also highlight where, under recovery of allocated costs, we are proposing to change our policy from that stated in PS09/8.

## Cost allocation

### *Fee-blocks*

- 3.11 Each year we apply our resources in the most effective way to meet our strategic objectives, as set out in our annual Business Plan, mitigating the risks identified in our Financial Risk Outlook. Which sectors, types of firm and hence the amount of resources we apply to each will vary to a lesser or greater extent depending on the nature of the risks being mitigated (including the impact they would have if they were to happen). To match the costs of these risk mitigation activities to firms we have developed a series of ‘fee-blocks’ that allows us to:
- link together, at an appropriate level, related types of permitted regulatory business that firms undertake into clearly defined groupings – fee-blocks;
  - allocate the costs of our activities, in mitigating the risks to our statutory objectives arising from the types of permitted business covered by a fee-block and recover those costs from the firms that fall within that fee-block – this reduces the possibility of cross-subsidy between different sectors of the financial services industry; and

---

<sup>10</sup> PS09/8: *Consolidated Policy Statement on our fee-raising arrangements and regulatory fees and levies 2009/10 – including feedback on CP08/19 and CP09/7* (June 2008)

- administer cost allocation in an efficient and economic way – as we avoid the additional operational costs of putting in place systems and processes that would need to be capable of relating to individual firms, at a highly granular level, the costs of our risk mitigation activities for the 20,240 firms we regulate that come within the ‘A’ fee-block.

3.12 Cost allocation to fee-blocks is carried out twice a year: when fixing the budget for our Business Plan for the forthcoming year; and at the end of that year when we identify any variance between the budgeted costs allocated to fee-blocks and the actual spend. For the purposes of this CP references to cost allocation covers both these allocations.

### *Ongoing Regulatory Activities (ORA) and Annual Funding Requirement (AFR)*

3.13 The ORA represents our core operating activities. These are subject to approval as part of our budget process. The cost of the ORA is linked to how we have met our statutory obligations as well as the economic and efficient use of our resources. The total ORA in a given year is reduced by the amount of Sundry Income we received (e.g. authorisation application fees). For 2009/10 the ORA was £415m.

3.14 The ORA costs are divided into two groups – direct and indirect regulatory costs (each with an appropriate share of our overheads):

- **Direct** regulatory costs are those that can be allocated to a particular fee-block because they are either firm-specific, or if not firm specific, are still specific to a particular fee-block as a whole; and
- **Indirect** regulatory costs relate to activities that cut across multiple fee-blocks (for example the work on this strategic review). These are allocated to fee-blocks in proportion to the allocation of direct regulatory costs.

3.15 The ORA is combined with a number of adjustments to create the AFR. In 2009/10 these adjustments included the additional 2008/09 expenditure on improved supervisory activities, funding the transition to more outcome-focused regulation and other financial adjustments, e.g. reserve movements. For 2009/10 the AFR was £435.5m, which represents the total amount we aim to raise from fee payers in the year.

3.16 For a fuller explanation of fee-blocks, ORA and AFR see Chapters 4, 14 and 15 in PS09/8.

### *Firm-specific (supervisory) and non-firm-specific (non-supervisory) costs*

3.17 We allocate costs on an activities-based costing basis:

- For **supervisory costs** (which include costs from other functions such as Risk Management, General Counsel or Policy where they are firm specific) the cost of these activities inherently takes into account the risk profile of the firms supervised. The more higher risk firms (in terms of both impact and probability of failure) we have carrying out the permitted business covered by a specific

fee-block, the greater the activity and the more costs are allocated to that fee-block; and

- For **non-supervisory costs** ( for example our policy development work) the costs of these activities is allocated to the fee-blocks whose permitted business the policy development relates to.

3.18 Overall we believe that our cost allocation framework is effective at allocating the right level of aggregate costs to fee-blocks and in doing so takes account of the firms' risk profile (impact and probability), reducing the possibility of cross-subsidy between sectors.

## **Recovery**

3.19 Recovery of allocated costs within fee-blocks addresses how much of the **aggregated** costs should be recovered from individual firms in the fee-blocks. There are two elements to recovery of allocated costs:

- a minimum periodic fee that all firms pay; and
- variable periodic fees that some firms pay in addition to the minimum fee.

3.20 We reviewed the effectiveness of both these elements.

### *Existing minimum fee structure*

3.21 We currently levy a separate minimum fee for each fee-block. If a firm is in more than one fee-block it pays the highest one in full and 50% of the others.

3.22 The current minimum fees were originally drawn from the pre-FSA organisations and consulted on in CP56<sup>11</sup> where the main rationale was that:

- every firm should contribute to the costs of regulation;
- minimum fees should be the estimated incremental cost of regulating the smallest organisation that could be admitted to a fee-block; and
- the level of minimum fee should strike a balance between being too high, which would unnecessarily impede competition, and being too low which would prejudice existing fee-payers.

3.23 The minimum fees established at that time were based on the pre-FSA organisations' minimum fees – effectively their estimated incremental cost of regulating the smallest organisation that could be admitted to a fee-block.

3.24 In 2004/2005 when our regulatory scope increased to embrace Mortgage and General Insurance (M&GI) business, which substantially increased the number of firms we regulate (particularly small firms), we based M&GI minimum fees on the risk profile of general insurance advice and mortgage advice relative to the existing

---

11 CP56: *The FSA's post-N2 fee-raising arrangements* (June 2000)

retail investment advice firms minimum fee. Again, the minimum fee is related to pre-FSA bases but with a different rationale underpinning it – that of the relative ‘riskiness’ of one type of regulated permitted business with another.

3.25 Across the fee-blocks the current minimum fee structure varies greatly and does not represent the current incremental costs of regulating the smallest organisation that could be admitted to a single fee-block. It also does not reflect the relative risk to our statutory objectives, of the different types of permitted regulated business covered by the current range of fee-blocks. Table 3.2 sets out current levels of minimum fees for each fee-block which shows the extent they are out of line with the original policy intention.

**Table 3.2: Existing minimum fees ‘per fee-block’**

Fee-block		Existing minimum fees £
A.1	Deposit acceptors <sup>(i)</sup>	160
		540
		1,070
A.2	Home finance providers and administrators	525
A.3	Insurers – general	430
A.4	Insurers – life	430
A.5	Managing agents at Lloyd’s	580
A.7	Fund managers	1,210
A.9	Operators, Trustees and Depositaries of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes	1,890
A.10	Firms dealing as principal	2,310
A.12	Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both)	1,960
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding or controlling client money or assets, or both)	1,850
A.14	Corporate finance advisers	1,335
A.18	Home finance providers, advisers and arrangers	745
A.19	General insurance mediation	450
<sup>(i)</sup> There are effectively three levels of minimum fees for this fee-block depending on size – amount of tariff data (modified eligible liabilities in this case)		

3.26 We highlight the following anomalies, which show the varying extent that current minimum fees are out of step with the original policy that minimum fees should reflect the incremental costs of regulating the smallest organisation that could be admitted to fee-blocks:

- Minimum fees for Insurers (A.3 and A.4) are £430 but for fund managers (A.7) it is £1210. The incremental cost for A.3 and A.4 would be higher than A.7 but the current minimum fee reflects the opposite.
- Minimum fee for Home finance providers (A.2) is £525 but for Home finance advice (A18) it is £745. The incremental cost for A.2 would be higher than A.18 but the current minimum fee reflects the opposite.

- Minimum fee for Firms dealing as Principal (A.10) is £2,310 but for advisers, dealers or brokers (including those that advise as intermediaries on retail investments) A.12/A.13 it is £1960/£1850. The incremental cost for A.10 would be much higher than A.12/A.13 but the current minimum fee puts them nearly at the same.
- 3.27 In order to address these issues we are proposing to replace our current minimum fee structure with one minimum fee for all authorised firms, which will ensure that:
- every firm makes an equal contribution to the minimum costs of regulation;
  - those minimum costs of regulation are clearly defined, based on a stated rationale and applied consistently across all firms, allowing for exceptions where they can be justified; and
  - the level of minimum fee strikes a balance between being too high a minimum fee which would unnecessarily impede competition, and being too low, which would prejudice existing fee-payers.
- 3.28 Our detailed proposals are set out in Chapter 4.

*Existing periodic fee structure above the minimum fee*

- 3.29 To calculate the level of recovery from firms within a fee-block of the costs allocated to that fee-block (above those covered by the minimum fee) we currently do the following:
- Use the size of permitted business a firm undertakes (above the minimum fee) as the basis to recover the costs in a fee-block.
  - Measure size of permitted business using **tariff data** (e.g. income or number of Approved Persons) provided by firms.
  - Use a series of **tariff bands** to distribute a fee-block's costs on an ascending scale and apply a **tariff rate** to the tariff data that falls into each band. The tariff rate is calculated so that it recovers all the fee-block costs from the total tariff data submitted by firms in that fee-block.
- (If we applied the same tariff rate to each band then the fee payable by all firms in the fee-block would be in direct proportion to the amount of their tariff data. We refer to this as straight line recovery – the larger the amount of permitted business carried out (as measured by the tariff data) the more the firm contributes to recovering the costs of the fee-block amount.)
- Adjust the tariff rates applied to each tariff band so that that the recovery of costs from the tariff data at the higher bands is reduced. This effectively means that firms with tariff data in the higher tariff bands are paying less fees for each incremental increase in their tariff data than firms that are only in the lower tariff bands. The rate of recovery bends into a curve at the top end of what would otherwise be a 'straight line'. We refer to this as moderated recovery. We illustrate the effect of the current moderation in Table 2.2 in Chapter 2 for an example fee-block.

- 3.30 We have identified a number of issues with the way this current moderated recovery framework operates:
- The width of the current tariff bands varies between fee-blocks and have not been reviewed since they were first developed.
  - The degree of moderation across fee-blocks varies.
  - We consult on the tariff band rates and firms can work out their individual fee through our website Fees Calculator. However, the extent the recovery is moderated is not transparent.
- 3.31 The original policy intention, when we set up the current periodic fee structure, was that using the size of permitted business as the basis for recovering costs from firms within a fee-block would ensure that fees would increase continuously and uniformly in line with the size of the permitted business carried out by each firm – straight line recovery. It was intended that the size of permitted business would be a proxy for impact risk – the impact on our statutory objectives should that business fail. This would be a measure that could be applied in a consistent way across all firms in a fee block. It was not intended to take account of the comparative probability of default risk of individual firms. It was also not intended to be a measure that took account of the cost of the actual resources applied to individual firms.
- 3.32 When we consulted on the fees regime in 2000/01 we proposed a straight line recovery. We also argued that a non-uniform (moderated) approach would be inefficient to administer as the points at which it tapers-off would need to be kept under review. However, during consultation, in response to comments from the larger firms who argued that the rate of increase should taper-off for large businesses to take account of ‘economies of scale’, we moved to our current position. Some respondents referred to such a practice being operated by the existing (at that time) regulators. Our feedback at that time stated that taking into account the current practice of existing regulators, we agreed to set fee-tariffs so that fee rates tapered-off for the very high ‘sizes of business’.
- 3.33 Given the issues identified with the operation of the current moderated recovery policy, we considered whether the extent of moderation that is occurring could be supported given the changes in markets and our practices since the policy was originally established.
- 3.34 The structure and risks of both the firms and the market has changed significantly since the 2000/01 consultation, as has our response to these changes. We now consider that the extent the moderated curve bends is no longer sustainable given our new ‘intensive supervision’ supervisory approach. In all fee-blocks we are spending more resources on the supervision of higher impact firms (larger firms). As a consequence of these changes we consider that the historic case to support tapering off for larger firms is no longer valid.

- 3.35 We are therefore proposing to introduce a new periodic fee structure for recovery, above the new minimum fee, of allocated costs to the 'A' fee-blocks to ensure that:
- distribution of recovery of allocated costs from firms within fee-blocks is directly linked to the size of the permitted business they undertake (straight line recovery);
  - there is a framework in place that enables the operation of any moderation, should it be required, to be transparent; and
  - any moderation from straight line recovery is on an exceptions basis only, supported by stated rationale.
- 3.36 Our detailed proposals are set out in Chapter 5.
- 3.37 The proposals on minimum fee and the periodic fees paid above the minimum fee will replace the majority of the fees policy currently set out in Chapter 6 of PS09/8.

# 4 New 'A' fee-block minimum fee proposals

*(FEES 4 Annex 2R Part 1, Part 1A and Part 3, draft rules in Appendix 1)*

- 4.1 In this chapter we set out our detailed proposals for consultation on introducing a new minimum fee structure as part of our recovery of allocated costs to the 'A' fee-block. The background to the reasons for making these proposals is discussed in Chapter 3.
- 4.2 Firms affected by these proposals are those that are permitted to undertake regulatory business that is covered by the 13 sub-set 'A' fee-blocks which are listed in Table 2.1 in Chapter 2. These proposals also affect incoming EEA firms and incoming Treaty firms which have established branches in the UK.

## **Policy intent of new minimum fee proposals**

- 4.3 As discussed in Chapter 3 our review identified a number of issues with the current minimum fee structure. We are seeking to address these by introducing a new minimum fee structure with one minimum fee for all authorised firms. This will ensure that:
  - every firm makes an equal contribution to the minimum costs of regulation;
  - those minimum costs of regulation are clearly defined, based on a stated rationale and applied consistently across all firms, allowing for exceptions where they can be justified; and
  - the level of minimum fee strikes a balance between being too high, which would unnecessarily impede competition, and being too low, which would prejudice existing fee-payers.

## Minimum level of regulatory costs

4.4 The minimum level of regulatory costs that we propose to recover through the new minimum fee are as follows:

- **Regulatory reporting** – Costs of collecting, validating and carrying out first line checks on regulatory returns. All firms are required to submit regulatory returns and these functions represent the minimal level of Baseline Monitoring, which we must undertake for all firms. The amounts we receive from firms who pay an administrative charge when they submit their regulatory returns late will be deducted from these costs.
- **Customer Contact Centre (CCC)** – This provides advice and guidance to both regulated firms and consumers who contact us either by telephone or correspondence (letter and emails). All firms have access to these services. The consumer element of the CCC is included as this service is one of the ways we meet our public awareness objective (Financial Capability Strategy). Including these costs in the minimum fee ensures that all firms make a contribution to the costs of meeting that objective, which all firms benefit from through the improved financial capability of consumers.<sup>12</sup>
- **Unrecovered authorisation costs** – Costs of authorising firms and vetting approved persons that are not recovered by application fees. Application fees for the authorisation of firms are fixed at a level that balances recovery of the costs of processing them with not being a barrier to entry. Under FSMA we are not permitted to charge application fees for vetting Approved Persons. A key objective of the firm authorisation process is to prevent entry to the market of firms that do not meet our threshold conditions. Similar aims apply to the case of vetting of individuals as Approved Persons. Including these costs in the minimum fee ensures that all firms make a contribution to these processes, which benefit them by helping to maintain market confidence.
- **Policing the perimeter** – Costs of investigating persons who are potentially carrying on regulated activities without authorisation. Including these costs in the minimum fee ensures that all firms make a contribution to the costs, which benefit them by helping to maintain market confidence.

4.5 We are proposing that the net costs relating to these functions would be allocated to a new A fee-block '0' (zero) each year. They would then be apportioned equally across all authorised firms in line with the number on 1 April, the start of the financial year that the minimum fee will be levied.

---

<sup>12</sup> Outside the 'A' fee-block our financial capability costs are not recovered from: Collective Investment Schemes (CIS) – fee-block C – because operators already contribute through their periodic fees in fee-block A.9 (CIS Operators, Trustees, Depositories of CIS)/Operators; Issuers of securities – fee-block E – because although recognised exchanges contribute to financial capability costs, the listed companies are not part of the regulated financial sector; and Unauthorised mutual's – fee-block F – because our responsibilities here are limited to registration and recording of documentation.

4.6 Under our two stage consultation process (described in Chapter 1) we have identified the level of net costs that would have been recovered through the new minimum fee based on the £435.5m AFR for 2009/10. This amounts to £19.7m, which compares with the £30.3m we are recovering through our existing minimum fees in 2009/10. This means that under these proposals the proportion of our AFR that is recovered through minimum fees (which includes firms that only pay minimum fees) will reduce from 7% to 5%.

Q1: Do you agree with the inclusion of the regulatory function costs that we propose to recover through the new minimum fee?

4.7 In Chapter 9 we outline the government's proposals to pass legislation to require us to establish an independent consumer education and information authority, which will carry out our work on the financial capability strategy. We anticipate that if this new authority is formed, the costs of our existing financial capability strategy and the national rollout of the money guidance service will pass over to a new authority. We have therefore not included recovery of any further financial capability costs in the proposed new minimum fee pending confirmation of this change. We do however anticipate that further minimum regulatory costs relating to financial capability will be recovered through either our new minimum fee or through fees levied by the new authority.

## **New minimum fee level**

- 4.8 We believe that the minimum regulatory costs that we are proposing make up the new minimum fee, represent the right amount of our costs that can be recovered on an individual firm basis. Such costs do not relate to either the permitted regulated business they undertake or the size of that business. They effectively relate to the minimum costs of being authorised and therefore avoid the need to levy several minimum fees on fee-blocks and apply a regime of discounts to compensate for doing so. This simplifies and significantly increases transparency as it is clear what the minimum fee covers and why – for both the firm who only pays the minimum fee and those that pay it plus the additional periodic fees arising from the type of permitted business they undertake and the size of that business. It will also be fairer as the basis for calculating it will be the same for all firms.
- 4.9 Based on the 2009/10 costs of the functions being recovered and the number of firms covered the proposed new minimum fee is in the region of £1,000.
- 4.10 Of the 8,993 firms that currently only pay minimum fees, 25% will pay the same or see a change of £40 or less, 35% will pay less and 40% will pay more. The main group paying more will be firms that only carry out permitted business falling under A.19 (General insurance mediation), these represent 87% of the firms paying more.

- 4.11 Table 4.1 at the end of this chapter compares the new fee with the existing fee for each individual fee-block. It also sets out some examples of where firms currently pay more than one minimum fee. Those in more than one fee-block currently pay 100% of the highest minimum fee and 50% of every other. The table compares the combined current fee with the new fee. Firms can also assess the impact on their individual combinations through the Stage 1 Fees Calculator which will be made available on our website by the end of November.
- 4.12 The regulatory costs that make up the new minimum fee amount for the February 2010 Stage 2 consultation will also be based on our 2010/11 budget and the number of authorised firms at that time. This may result in a materially different amount to the £1,000 quoted in this Stage 1 consultation.
- 4.13 We propose that the new minimum fee will be levied on incoming EEA firms and incoming Treaty firms that have established branches in the UK in full – we do not propose to give any discounts as is the case for their variable periodic fees.
- Q2: Do you agree with our proposal to create an A0 fee-block into which all firms will contribute and the basis for calculating the new minimum fee?

## Exceptions

- 4.14 We are proposing that the smaller Credit Unions, those that currently pay minimum fees of £160 and £540, represent an exception and should not be subject to the new minimum fee. We propose they will continue to pay their minimum fee at these current levels subject to any increases proposed in future fee consultations.
- 4.15 There is currently a third level of minimum fees for Credit Unions – £1070, this amount is actually more than the new minimum. We are therefore proposing these Credit Unions will pay the new minimum fee and will be subject to any increases proposed in future fee consultations relating to the new minimum fee structure.
- 4.16 We believe these mutual organisations are an exception because they offer basic savings and loan facilities to their members, many of whom cannot obtain such services from mainstream banks and building societies. There are 438 such Credit Unions and we propose that the unrecovered minimum regulatory costs that will arise from maintaining their minimum fees at £160 and £540 should be recovered from the other firms in A.1 fee-block (Deposit acceptors).
- 4.17 We acknowledge that this results in a cross-subsidy. However, given the social value of the services Credit Unions provide and the impact on these smaller Credit Unions if we applied the new minimum fee to them, we believe it is justifiable. The amount that will be recovered from the A.1 fee-block as a result of this cross-subsidy will be approximately £342,000 which represents 0.3% of the £124.2m AFR recovered

from the A.1 fee-block in 2009/10. We also acknowledge that this will result in larger Credit Unions subsidising smaller Credit Unions. However, other Credit Unions are much larger than the smaller Credit Unions and can pay the variable periodic fee in addition to the new minimum fee due to their size, so we believe that they should be treated the same as the other deposit takers in the A.1 fee-block.

Q3: Do you agree with our proposal to treat smaller Credit Unions as an exception allowing them to pay a reduced minimum fee and the unrecovered minimum regulatory costs be applied to A.1 fee-block?

Q4: Do you believe there are any other firms that should be treated as an exceptional case? If so what is the basis for making them an exception and recovering the unrecovered minimum regulatory costs?

**Table 4.1: Impact on each individual fee-block and a sample of combinations (firms in more than one fee-block)**

Fee-block		Existing minimum fee		New minimum fee (£)	Change in minimum fee	Number of Firms	
			Amount (£)				
<i>Impact on firms in only one fee-block</i>							
A.1	Deposit acceptors (Level 1)		160	1000	525%	15	0.2%
A.1	Deposit acceptors (Credit Unions – Level 1)		160	160	0%	369	4.1%
A.1	Deposit acceptors (Level 2)		540	1000	85.2%	4	0.0%
A.1	Deposit Acceptors (Credit Unions – Level 2)		540	540	0%	69	0.8%
A.1	Deposit acceptors (Level 3 including Credit Unions)		1070	1000	-6.5%	11	0.1%
A.2	Home finance providers & administrators		525	1000	90.5%	4	0.0%
A.3	Insurers – general (only)		430	1000	132.6%	152	1.7%
A.4	Insurers – life (only)		430	1000	132.6%		
A.5	Managing agents at Lloyd's		580	1000	72.4%	5	0.1%
A.7	Fund managers		1210	1000	-17.4%	78	0.9%
A.9	Operators, Trustees and Depositories of CISs etc		1890	1000	-47.1%	28	0.3%
A.10	Firms dealing as principal		2310	1000	-56.7%	6	0.1%
A.12	Advisory arrangers, dealers or brokers (holding client money/assets)		1960	1000	-49.0%	42	0.5%
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding client money/assets)		1850	1000	-45.9%	363	4.0%
A.14	Corporate finance advisers		1335	1000	-25.1%	96	1.1%
A.18	Home finance providers, advisers and arrangers		745	1000	34.2%	202	2.2%
A.19	General insurance mediation		450	1000	122.2%	3099	34.5%

Fee-block		Existing minimum fee		New minimum fee (£)	Change in minimum fee	Number of Firms	
			Amount (£)				
<b>Impact on firms in more than one fee-block (samples)</b>		<b>Effect of minimum fee discounts</b>					
A.19	General insurance mediation	100%	450				
A.3	Insurers – general	50%	215				
			<b>665</b>	<b>1000</b>	<b>50.4%</b>	<b>22</b>	<b>0.2%</b>
A.12	Advisory arrangers, dealers or brokers (holding client money/assets)	100%	1960				
A.7	Fund managers	50%	605				
			<b>2565</b>	<b>1000</b>	<b>-61.0%</b>	<b>77</b>	<b>0.9%</b>
A.12	Advisory arrangers, dealers or brokers (holding client money/assets)	100%	1960				
A.9	Operators, Trustees and Depositories of CISs etc	50%	945				
			<b>2905</b>	<b>1000</b>	<b>-65.6%</b>	<b>48</b>	<b>0.5%</b>
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding client money/assets)	100%	1850				
A.19	General insurance mediation	50%	225				
			<b>2075</b>	<b>1000</b>	<b>-51.8%</b>	<b>731</b>	<b>8.1%</b>
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding client money/assets)	100%	1850				
A.18	Home finance providers, advisers and arrangers	50%	372.50				
A.19	General insurance mediation	50%	225				
			<b>2447.50</b>	<b>1000</b>	<b>-59.1%</b>	<b>1255</b>	<b>14.0%</b>
A.18	Home finance providers, advisers and arrangers	100%	745				
A.19	General insurance mediation	50%	225				
			<b>970</b>	<b>1000</b>	<b>3.1%</b>	<b>1736</b>	<b>19.3%</b>
Others <sup>(i)</sup>						581	6.5%
<b>TOTAL</b>						<b>8993</b>	<b>100.0%</b>
<p><sup>(i)</sup> We set out above the more common combinations where firms are in more than one fee-block. There are many other combinations and in this line we have given the number of firms they cover.</p>							

# 5 New 'A' fee-block periodic fee proposals

*(FEES 4 Annex 2R Part 1 and Part 3, draft rules in Appendix 1)*

- 5.1 In this chapter we set out our detailed proposals for consultation on introducing a new periodic fee structure for recovery, above the new minimum fee, of allocated costs to the 'A' fee-block.
- 5.2 Firms affected by these proposals are those that are permitted to undertake regulatory business that is covered by the 13 sub-set 'A' fee-blocks listed in Table 2.1 in Chapter 2. These proposals also affect incoming EEA firms and incoming Treaty firms which have established branches in the UK. Their periodic fees are calculated on the same basis as UK based firms but are subject to certain discounts. As discussed in Chapter 9 we are planning to review the levels of these discounts and consult on revised discounts in our February 2010 Fees CP.

## **Policy intent of new periodic fee structure proposals**

- 5.3 As discussed in Chapter 3, our review identified a number of concerns with the current periodic fee structure for recovering allocated costs above the minimum fee. We are therefore proposing to introduce a new structure to ensure that:
  - distribution of recovery of allocated costs from firms within fee-blocks is directly linked to the size of the permitted business they undertake (straight line recovery);
  - there is a framework in place that enables the operation of any moderation, should it be required to be transparent; and
  - any moderation from straight line recovery is on an exceptions basis only supported by stated rationale.

## Straight line recovery

- 5.4 We will continue to use our existing cost allocation framework, which we believe is effective at allocating the right level of **aggregate** costs to fee-blocks. Through this process we differentiate how much of our costs are allocated to individual fee-blocks. The level of allocated costs to fee-blocks reflects the resources needed to meet our strategic objectives as set out in our annual Business Plan. This process is described in detail in Chapter 3 paragraphs 3.11 to 3.18.
- 5.5 For recovering the allocated costs to fee-blocks we are proposing to adopt a straight line recovery policy. This means that the fees will be directly linked to the amount of permitted business, covered by the fee-block, which is undertaken by the specific firm. The greater the amount of specific permitted regulated business a firm undertakes (above that covered by the new minimum fee) the more it will contribute to the supervisory and non-supervisory costs of that fee-block.
- 5.6 We are not currently proposing to change the tariff data used to measure the size of business. However, in Chapter 8 we are seeking views from firms, in principle, to change the tariff data for the following fee-blocks from number of Approved Person to income:
- A.12 – Advisory arrangers, dealers or brokers (holding or controlling client money or assets, or both);
  - A.13 – Advisory arrangers, dealers or brokers (**not** holding or controlling client money or assets, or both); and
  - A.14 – Corporate finance advisors.
- 5.7 Under our two-stage consultation process (described in Chapter 1) we have recalculated the recovery of the proportion of the 2009/10 AFR, which relates to the 13 sub-set ‘A’ fee-blocks that will be affected by this proposal, on the basis of straight line recovery. This amounts to £410m and a breakdown is given in Table 2.2 in Chapter 2.
- 5.8 The Stage 1 proposed tariff rates under straight line recovery are set out for each fee-block in the draft instrument at Appendix 1 and in Table 5.2 at the end of this chapter. By applying these rates to their tariff data for 2009/10, firms can calculate what their 2009/10 fee would have been if we had adopted this approach this year. To assess the impact on their future fees they can compare this with the actual fees they are paying in 2009/10.
- 5.9 We encourage firms to calculate the impact of these proposals as part of the consultation process which we are undertaking now, ahead of the February 2010 consultation on the periodic fee rates that will be based on the AFR for 2010/11. The February consultation will take into account the responses to this consultation on the proposed move to straight line recovery. The 2010/11 periodic rates we consult on in February will reflect the impact of any change in the method of recovery as well as any change in the AFR for 2010/11.
- 5.10 A Stage 1 Fees Calculator will be available to firms by the end of November.

5.11 We recognise that our proposal to adopt straight line recovery policy will impact the amount of fees firms will pay compared to the current structure. Table 5.1 below shows the overall number of firms that will pay more and less fees as a result of our proposals and what proportion of the current AFR is recovered from them.

**Table 5.1: Overall impact of proposal to move to straight line recovery**

Firms	Number of firms		Fees recovered	Proportion of 2009/10 AFR
Pay more	322	2%	£262m	64%
Pay less	10,925	54%	£137m	33%
Pay same <sup>(i)</sup>	8,993	44%	£11m	3%
<b>Total</b>	<b>20,240</b>	<b>100%</b>	<b>£410m</b>	<b>100%</b>

<sup>(i)</sup> Covers firms who only pay a minimum fee and which have not been impacted by the new straight line policy on the variable periodic fee. The impact of the new minimum fee on firms that only pay a minimum fee is illustrated in Table 4.1 in Chapter 4.

5.12 The extent of the change will depend on which fee-blocks firms are in (they can be in several) and the degree of moderation from a straight line recovery (i.e. tapering-off) that currently applies to a specific fee-block – which varies greatly. In general there will be a shift of cost recovery from the smaller/medium size firms to the larger firms, reflecting the greater impact they impose on our statutory objectives.

5.13 In Annex 4 we have included the following tables in order to show the effect of straight line recovery on the periodic fee compared to the fees that firms are paying in 2009/10 using the existing structure. It should be noted that for all these tables the proposed straight line calculations are based on the existing minimum fee structure as their purpose is to show changes in periodic fees:

- **Table A** shows for each fee-block the number of firms that are in the fee-block, the proportion of those firms that will pay more, less or the same fees as a result of straight line recovery compared to current 2009/10 fees. It also shows the range of increase/decrease for each fee-block.
- **Table B** presents the impact data in Table A in a series of graphs, with one for each fee-block except in the case of A.3 (Insurers – general) and A.4 (Insurers – life) which have two each because they both have two types of tariff data.
- **Table C** represents a group view and takes the largest increase within a fee-block and compares it to the overall increase that applies to the whole group it is a member of. Only high and medium high firms are included. Any medium low or low impact firms also in the group are most likely to show decreases in fees.

5.14 While the degree of increases that some individual firms will experience at the single fee-block level is significant, at a group level it can be much less significant, since within a group there can be firms that are smaller and will see a reduction in fees to off-set the increases for their larger firms in the same group. We accept that not all large firms are part of such groups. However, the effect can also apply to a single

large firm in several fee-blocks, where although the fee-block that accounts for most of its permitted business is attracting an increase, in other fee-blocks where it is undertaking less permitted business, it is experiencing a decrease in fees.

Q5: Do you agree with our proposed adoption of a straight line recovery policy?

## **Moderation framework**

- 5.15 We are proposing that the straight line recovery policy should be flexible enough to accommodate a targeted recovery of costs within a fee-block, on an exceptions basis, where such exceptions can be justified. This exceptional moderation can be either side of the straight line recovery and would be achieved through applying a premium or discount to the measures (tariff data) of the amount of specific permitted business firms undertake within the fee-block where recovery will be moderated from a straight line.
- 5.16 We are proposing a standardised tariff band structure with each fee-block having five tariff bands. The width of each is determined by aligning them to the cut-off points for the ARROW risk impact categorisation of low, medium low, medium high and high. This has been done on the basis of the ARROW metrics used to determine the impact categories although these do not always correlate to the tariff data we use for fees purposes. The ‘fifth’ band comes from splitting the low impact band to reflect that it covers such a large number of firms.
- 5.17 Table 5.2 at the end of this chapter shows how we have applied current tariff data to define the impact risk based framework. In terms of simplification our proposals will result in five tariff bands calculated on the same basis for all 13 relevant ‘A’ fee-blocks. This compares with existing tariff bands that range from four to eight depending on the fee-block and are all calculated on a different yet undefined basis. The total number of bands will therefore reduce from 92, with the width of each calculated on a different basis to 65 with the width of each calculated on one defined basis.

Q6: Do you agree with our proposed moderation framework and its operation to accommodate exceptional moderation from a straight line recovery?

## **Exceptions**

- 5.18 We have moved to our new intensive approach to the supervision of higher impact firms. In the case of A.1 (Deposit acceptors) fee-block firms this has been particularly targeted at the high impact systemically important firms. Our supervision enhancement programme costs have already been weighted to this fee-block. This level of supervision increases our costs substantially so we have applied these premiums to this fee-block to ensure that recovery of those costs is targeted at the top end of this fee-block. We are proposing A.1 as an exception from straight line recovery.

5.19 As indicated in Table 5.2 we are applying a premium to the tariff data of all firms that fall into the medium high band at 25% and all firms that fall into the high band at 65%.

Q7: Do you agree with our proposal to treat A.1 (Deposit acceptors) as an exception applying a premium to the top two tariff bands (higher impact firms)?

**Table 5.2: Moderation framework**

Fee-block		Tariff-base		Moderation: Discount (-) and Premium (+) levels				
				Low Impact		Medium Low Impact	Medium High Impact	High Impact
				Band 1	Band 2	Band 3	Band 4	Band 5
A.1	Deposit acceptors	MELs (essentially UK deposits held) £ms	Moderation	0%	0%	0%	plus 25%	plus 65%
			Band width	>10 – 140	>140 – 630	>630 – 1,580	>1,580 – 13,400	>13,400
			Rate	31.63	31.63	31.63	37.95	45.86
A.2	Home finance providers and administrators	Number of new home finance contracts etc	Moderation	0%	0%	0%	0%	0%
			Band width	>50 – 130	>130 – 320	>320 – 4,570	>4,570 – 37,500	>37,500
			Rate	1.23	1.23	1.23	1.23	1.23
A.3	Insurers – general	Gross premium income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>0.5 – 10.5	>10.5 – 30	>30 – 245	>245 – 1,900	>1,900
			Rate	405.61	405.61	405.61	405.61	405.61
		Gross technical liabilities £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1 – 12.5	>12.5 – 70	>70 – 384	>384 – 3,750	>3,750
			Rate	20.55	20.55	20.55	20.55	20.55
A.4	Insurers – life	Adjusted gross premium income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1 – 5	>5 – 40	>40 – 260	>260 – 4,000	>4,000
			Rate	548.18	548.18	548.18	548.18	548.18
		Mathematical reserves £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1 – 20	>20 – 270	>270 – 7,000	>7,000 – 45,000	>45,000
			Rate	16.73	16.73	16.73	16.73	16.73
A.5	Managing agents at Lloyd's	Active capacity £m	Moderation	0%	0%	0%	0%	0%
			Band width	>50 – 150	>150 – 250	>250 – 500	>500 – 1,000	>1,000
			Rate	88.66	88.66	88.66	88.66	88.66
A.7	Fund managers	Funds under management £m	Moderation	0%	0%	0%	0%	0%
			Band width	>10 – 150	>150 – 2,800	>2,800 – 17,500	>17,500 – 100,000	>100,000
			Rate	9.60	9.60	9.60	9.60	9.60

Fee-block		Tariff-base		Moderation: Discount (-) and Premium (+) levels				
				Low Impact		Medium Low Impact	Medium High Impact	High Impact
				Band 1	Band 2	Band 3	Band 4	Band 5
A.9	Operators, Trustees and Depositories of CISs etc	Gross income £m	Moderation	0%	0%	0%	0%	0%
			Band width	>1 – 4.5	>4.5 – 17	>17 – 145	>145 – 750	>750
			Rate	1,064.38	1,064.38	1,064.38	1,064.38	1,064.38
A.10	Firms dealing as principal	Number of traders	Moderation	0%	0%	0%	0%	0%
			Band width	3	4 – 5	6 – 30	31 – 180	>180
			Rate	3,111.51	3,111.51	3,111.51	3,111.51	3,111.51
A.12	Advisory arrangers, dealers or brokers (holding client money/assets)	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2 – 5	6 – 35	36 – 175	176 – 1,600	>1,600
			Rate	360.97	360.97	360.97	360.97	360.97
A.13	Advisory arrangers, dealers or brokers (not holding client money/assets)	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2 – 3	4 – 30	31 – 300	301 – 2,000	>2,000
			Rate	1,314.68	1,314.68	1,314.68	1,314.68	1,314.68
A.14	Corporate finance advisers	Number of approved persons	Moderation	0%	0%	0%	0%	0%
			Band width	2 – 4	5 – 25	26 – 80	81 – 199	>199
			Rate	1,293.48	1,293.48	1,293.48	1,293.48	1,293.48
A.18	Home finance providers, advisers and arrangers	Annual income £000's	Moderation	0%	0%	0%	0%	0%
			Band width	>100 – 180	>180 – 1,000	>1,000 – 12,500	>12,500 – 50,000	>50,000
			Rate	6.37	6.37	6.37	6.37	6.37
A.19	General insurance mediation	Annual income £000's	Moderation	0%	0%	0%	0%	0%
			Band width	>100 – 325	>325 – 10,000	>10,000 – 50,750	>50,750 – 250,000	>250,000
			Rate	2.27	2.27	2.27	2.27	2.27



Part 2:  
Other FSA fees  
policy issues

# 6 Proposals for consultation

6.1 This chapter sets out two proposals for consultation:

- UK Listing Authority (UKLA) – valuation date for market capitalisation.
- Modified eligible liabilities (MELs) – change in formula for banks and building societies.

## **UKLA – valuation date for market capitalisation**

*(FEES 4 Annex 7R, draft rule in Appendix 3)*

- 6.2 We propose to amend the periodic fee rules in relation to the Listing Rules to clarify the date on which market capitalisation is valued to calculate the fee. This proposal is relevant to firms in fee-block E (issuers of listed and non-listed securities or their sponsors). It would take effect from 1 April 2010.
- 6.3 In our Consolidated Policy Statement on fees (PS08/5 paragraph 10.9) we stated that annual fees for issuers are tiered according to their size, which we measure by market capitalisation data as at 30 November. We use this because it is broadly the same basis as the London Stock Exchange uses for its fees. It also avoids the need to impose new reporting requirements on issuers.
- 6.4 We have been using 30 November as the valuation date since the fees regime came into effect in December 2001. However, this date is not set out in the relevant periodic fee rules (FEES 4 Annex 7R). We propose to amend the fee rules to reflect our operational practice by clarifying that market capitalisation data is measured as at the last working day of November in the previous FSA financial year to which the annual fee is payable.

Q8: Do you agree with our proposal to amend the rules in FEES 4 Annex 7R to clarify that the valuation date for market capitalisation is the last working day of November in the previous financial year?

## MELs – change in formula for banks and building societies

*(FEES 4 Annex 1 Part 2, draft rules in Appendix 2)*

- 6.5 We propose to simplify and update our rules for calculating the MELs that form the tariff-base for fee-block A.1 (deposit takers). This does not constitute a material change. The reporting process will be considerably simplified, allowing us to delete the detailed formulae from the rules and remove separate guidance for building societies.
- 6.6 At present, we source MELs through a formula derived from the Balance Sheet (BT) return, which firms submit to the Bank of England (BoE). The formula is set out in FEES 4 Annex 1. We extract the data directly from the BoE's database, saving firms from making a separate return to us.
- 6.7 Until 2008, there were separate reporting arrangements for banks and building societies. Banks reported through the BT return. Building societies reported to us through their MSF1 return (FEES 4 Annex 1 also sets out the separate formula derived from the MSF1 – this text is now redundant because we no longer collect the MSF1 for fees purposes). From 31 December 2007, building societies have been completing the BT return and so, to avoid duplication, this has become our source for their MEL figures.
- 6.8 From 1 January 2010, the BoE is replacing the BT return with a new Eligible Liabilities (ELS) return which will be completed by both banks and building societies and they have incorporated our MEL requirements into it. This creates an opportunity to revise and simplify the rules and guidance on MELs for both banks and building societies. Firms will use the data they have provided in the ELS return to calculate their MEL and note the result in a field at the end of the form. This is the figure on which we will base their fees.
- 6.9 The fees for the A.1 fee-block in any year are calculated from the average of the MELs for the final quarter of the previous calendar year. This means that the ELS return, introduced from 1 January 2010, will provide the tariff-base from 2011/12. For 2010/11, we will still have to rely on the 2009 BT data. We need to clarify this because, although in our November 2007 fees CP<sup>13</sup> we gave notice of our intention to use the BT data for building societies, and the old MSF1 form no longer exists, we did not formally consult on the change in 2008. We have therefore inserted a rule applying the BT formula to building societies as well as banks as the tariff-base for 2010/11. Since our existing formula derived from form BT and our original formula for the ELS return omitted market loans made to building societies (line 23G in form BT and line 9B in ELS), our draft rules also restore this omission.

---

13 CP07/19: *Regulatory fees and levies: policy proposals for 2008/09* (November 2007)

- 6.10 The draft rules are in Annex 3. To help firms understand the changes, Table 6.1 quotes the existing MEL formulae and guidance for banks and building societies from FEES 4 Annex 1. Table 6.2 sets out the definitions that will be used in the ELS return.
- 6.11 Since the ELS return is coming into use from 1 January 2010, we have reduced the consultation period on these questions to one month and are requesting responses by 7 December 2009.
- Q9: Do you agree that the separate formulae for MELs for banks and building societies in FEES 4 Annex 1 should be replaced by the single amended formula, derived from the Bank of England's BT return, as the tariff-base for 2010/11?
- Q10: Do you agree that the formula in Item B of the Bank of England's ELS return should from January 2010 replace the formula on MELs for banks and building societies set out in FEES 4 Annex 1, providing the tariff-base from 2011/12?

**Table 6.1: Modified eligible liabilities: calculations**

Current formulae in FEES 4 annex 1
<p><i>Banks (references to form BT):</i></p> <p><b>Part 1:</b></p> <p><b>Liabilities</b></p> <p>In sterling:  <math>\pounds 2 + \pounds 3 + \pounds 4 + \pounds 5A + \pounds 5B + \pounds 6B + \pounds 6C + \pounds 6D + \pounds 6E + \pounds 6F + \pounds 6G + \pounds 6H + \pounds 6J + \pounds 8 + \pounds 10 + 60\% \text{ of } \pounds 11A + \pounds 44</math></p> <p>plus</p> <p>In foreign currency, one-third of:  <math>E2 + E3 + E4 + E5A + E5B + E6B + E6C + E6D + E6E + E6F + E6G + E6H + E6J + E8 + E10 + 60\% \text{ of } E11A + E44 + C2 + C3 + C4 + C5A + C5B + C6B + C6C + C6D + C6E + C6F + C6G + C6H + C6J + C8 + C10 + 60\% \text{ of } C11A</math>: less</p> <p><b>Assets</b></p> <p>In sterling:  <math>\pounds 21B + 60\% \text{ of } \pounds 22A + \pounds 23D + \pounds 23E + \pounds 23F + \pounds 30A + \pounds 30B + \pounds 32AA1 + \pounds 32AA2</math></p> <p>plus</p> <p>In foreign currency, one-third of:  <math>E21B + 60\% \text{ of } E22A + E23D + E23E + E23F + E30A + E30B + E32AA1 + E32AA2 + C21B + 60\% \text{ of } C22A + C23D + C23E + C23F + C30A + C30B + C32AA1 + C32AA2</math></p> <p><b>Part 2:</b></p> <p><b>Non-resident office offset</b></p> <p>The fee base is adjusted by deducting from the amount calculated in accordance with part 1 above, the Non-Resident Office Offset amount obtained by subtracting item <math>\pounds 45D</math> plus one-third of both <math>\pounds 45D</math> and <math>\pounds 45D</math> from the sum of item <math>\pounds 45BA</math>, plus one-third of both <math>\pounds 45BA</math> and <math>\pounds 45BA</math> in the Form BT. The Non-Resident Office Offset amount, if it would otherwise have been a negative number, is zero.</p>
<p><i>Building societies (references to form MSF1):</i></p> <ul style="list-style-type: none"> <li>• Deposit liabilities (including debt securities up to five years original maturity) (that is, the amounts in sterling (in column 1) and one-third of foreign currency referenced amounts (in columns 2 and 3) for items <math>B1.1+B1.2+B2.0a+B2.0b+B2.10+B2.13+B2.14+B2.15+B2.16</math>)</li> </ul> <p><b>LESS amounts in respect of:</b></p> <ul style="list-style-type: none"> <li>• <b>Sterling repo liabilities with the Bank of England</b> (that is, ONLY the amounts in sterling (in column 5) for item B2.5a)</li> <li>• <b>Balances held with the Bank of England</b> (excluding cash ratio deposits) (that is, the amounts in sterling (in column 1) and one-third of foreign currency referenced amounts (in columns 2 and 3) for item B6.2a, less the amounts in sterling (in column 1) and one-third of foreign currency referenced amounts (in columns 2 and 3) for item OW1.1)</li> <li>• <b>Market loans to banks, building societies</b> (balances with and loans to, plus CDs, Commercial paper) (that is, the amounts in sterling (in column 1) and one-third of foreign currency referenced amounts (in columns 2 and 3) for items <math>B6.3.a+B6.4.a+B6.4b+B6.5a+B6.5b+B6.12a</math>)</li> <li>• <b>Investments with banks and building societies</b> (bonds, notes and other debt instruments up to five years original maturity) (that is, the amounts in sterling (in column 1) and one-third of foreign currency referenced amounts (in columns 2 and 3) for items <math>B6.6a1+B6.6a2+B6.10a1+B6.10a2</math>)</li> </ul>

**Table 6.2: Form ELS – definitions**

<b>1</b>	<b>Deposits</b> The amount of the liabilities in respect of deposits (other than those evidenced by an instrument falling within item 2 below) made with United Kingdom offices of the reporting institution.
<b>1A</b>	<b>Deposits by the Bank of England</b>
<b>1B</b>	<b>Deposits of greater than two years original maturity</b> Deposits made with the reporting institution on terms to the effect that repayment cannot be required before the end of the period of two years, beginning with the day on which the deposit is made (other than in exceptional circumstances outside the control of the depositor, specified at the time the deposit is made).
<b>2</b>	<b>Debt securities issued (with original maturity at most five years)</b> The amount of the reporting institution's liabilities in respect of certificates of deposit, commercial paper, bonds, notes and other similar instruments issued by United Kingdom offices of the reporting institution on terms requiring repayment not later than five years from the date of issue.
<b>3</b>	<b>Liabilities under sale and repurchase agreements (repos), other than to the Bank of England</b> The amount of the reporting institution's liabilities to make payments for the purchase of, or otherwise in return for the transfer to it of, securities or other assets under retransfer agreements entered into by United Kingdom offices of the reporting institution, other than any such agreements entered into with the Bank of England.
<b>4</b>	<b>Items in suspense</b> The amount of all items in suspense held by the United Kingdom offices of the reporting institution.
<b>5</b>	<b>Credit items in course of transmission to UK MFIs</b> The amount of credit items in the course of transmission by United Kingdom offices of the reporting institution to the Bank of England, any other United Kingdom office of the reporting institution or a United Kingdom office of any other Bank or Building Society.
<b>6</b>	<b>End-of-day repos in RTGS with Bank of England</b> The amount of the reporting institution's liabilities to make payments for the purchase of securities or other assets under sale and repurchase agreements entered into by United Kingdom offices of the reporting institution with the Bank of England in connection with the Real Time Gross Settlement system operated by the Bank of England, which the Bank of England has allowed to remain outstanding overnight.
<b>7</b>	<b>Net foreign currency liabilities</b> The amount (if any) by which the total liabilities of the United Kingdom offices of the reporting institution denominated in currencies other than sterling (as reported in 7A) exceed the total assets of those offices denominated in such currencies (as reported in 7B).
<b>7A</b>	<b>Total foreign currency liabilities</b> The total liabilities of the United Kingdom offices of the reporting institution denominated in currencies other than sterling.
<b>7B</b>	<b>Total foreign currency assets</b> The total assets of the United Kingdom offices of the reporting institution denominated in currencies other than sterling.
<b>8</b>	<b>Deposits placed at the Bank of England (including amounts payable under finance leases)</b> (a) The amount of any deposits made by United Kingdom offices of the reporting institution with the Bank of England (other than cash ratio deposits made with the Bank of England pursuant to Schedule 2 to the Bank of England Act or any such deposits made prior to the commencement of the Bank of England Act and any other deposits which the institution may from time to time be required by or pursuant to the provisions of any enactment to make with the Bank of England). (b) Amounts payable by the Bank of England to United Kingdom offices of the reporting institution under the terms of any finance lease.

<b>9A</b>	<p><b>Market loans to UK Banks, other than the Bank of England</b></p> <p>(a) The amount of any deposits made by United Kingdom offices of the reporting institution with, and loans made by such offices to, United Kingdom offices of other UK banks (including certificates of deposit and commercial paper which are:</p> <p>(i) held by United Kingdom offices of the reporting institution; and</p> <p>(ii) issued by United Kingdom offices of other UK banks;</p> <p>but excluding any instrument which falls within item 11 below).</p> <p>(b) Amounts payable to United Kingdom offices of the reporting institution by United Kingdom offices of any other UK banks under the terms of any finance lease.</p> <p>(c) The amount of cheques passed by United Kingdom offices of the eligible institution to United Kingdom offices of other UK banks for collection.</p>
<b>9B</b>	<p><b>Market loans to UK Building Societies</b></p> <p>As 9A, but where the counterpart is a UK building society rather than a UK bank.</p>
<b>10A</b>	<p><b>Claims under sale and repurchase agreements (reverse repo) on UK Banks, other than the Bank of England</b></p> <p>The amount of the reporting institution's claims to receive payments for the sale of, or otherwise in return for the transfer by it of, securities or other assets under retransfer agreements entered into by United Kingdom offices of the reporting institution with United Kingdom offices of other UK banks, excluding the Bank of England.</p>
<b>10B</b>	<p><b>Claims under sale and repurchase agreements (reverse repo) on UK Building Societies</b></p> <p>As 10A, but where the counterpart is a UK Building Society rather than a UK Bank other than the Bank of England.</p>
<b>10C</b>	<p><b>Claims under sale and repurchase agreements (reverse repo) on the Bank of England</b></p> <p>As 10A, but where the counterpart is the Bank of England rather than a UK Bank other than the Bank of England.</p>
<b>11A</b>	<p><b>Debt securities issued by UK Banks, other than the Bank of England, of original maturity at most five years</b></p> <p>The value of the preference shares, bonds, notes and other similar debt instruments (other than certificates of deposit and commercial paper, but including subordinated loan capital not represented by the issue of securities) issued by a United Kingdom office of any other UK Bank (excluding the Bank of England) on terms requiring redemption or repayment not later than five years from the date of issue, which are held by United Kingdom offices of the reporting institution for its own account.</p>
<b>11B</b>	<p><b>Debt securities issued by UK Building Societies, of original maturity at most five years</b></p> <p>As 11A, but where the counterpart is a UK Building Society rather than a UK bank.</p>
<b>12</b>	<p><b>Debit items in course of collection from UK MFIs</b></p> <p>The amount of debit items in the course of collection by United Kingdom offices of the reporting institution from the Bank, any other United Kingdom office of the reporting institution or a United Kingdom office of any other reporting institution.</p>
<b>13A</b>	<p><b>Deposit liabilities to non-resident offices</b></p> <p>Liabilities of the United Kingdom offices of the reporting institution to its non-resident offices which fall within item 1 or item 3.</p>
<b>13B</b>	<p><b>Net liabilities to non-resident offices</b></p> <p>The amount (if any) by which the reporting institution's total sterling liabilities to its non-resident offices (as reported in 13BA) exceed the reporting institution's total sterling claims on its non-resident offices (as reported in 13BB).</p>
<b>13BA</b>	<p><b>Total liabilities to non-resident offices</b></p> <p>Total liabilities of the United Kingdom offices of the reporting institution to its non-resident offices.</p>

<b>13BB</b>	<b>Total claims on non-resident offices</b> Total claims of the United Kingdom offices of the reporting institution on its non-resident offices.
<b>13E</b>	<b>Non-resident offset for Eligible Liabilities</b> The amount (if any) by which the reporting institution's sterling deposit liabilities to non-resident offices exceed the institution's net sterling liabilities to non-resident offices. These should be defined by the following equation: (£13A - £13B), as long as this is positive.
<b>13M</b>	<b>Non-resident offset for Modified Eligible Liabilities</b> These should be defined by the following equation: (£13A + (1/3)*F13A) - (£13B + (1/3)*F13B), as long as this is positive.
<b>A</b>	<b>Eligible Liabilities</b> These should be defined by the following equation: (£1 - £1A - £1B) + £2 + £3 + £4 + 0.6*£5 + F7 - £9A - £9B - £10A - £10B - £11A - £11B - 0.6*£12 - £13E
<b>B</b>	<b>Modified Eligible Liabilities</b> These should be defined by the following equation: (£1 + £2 + £3 + £4 + 0.6*£5 + £6 - £8 - £9A - £9B - £10A - £10C - £11A - 0.6*£12) + (1/3)*(F1 + F2 + F3 + F4 + 0.6*F5 + F6 - F8 - F9A - F9B - F10A - F10C - F11A - 0.6*F12) - £13M

Note: In B, 'F' signifies foreign currencies, expressed in sterling.

# 7 Fees policy clarifications

7.1 We are issuing two policy clarifications relating to:

- the tariff-base for recovering additional IS development costs for Alternative Instrument Identifier (AII) code; and
- the treatment of transferred life insurance contracts in calculating tariff data for fee-block A.4.

## **Tariff-base for recovering additional IS development costs for AII code**

*(FEES 4 Annex 9)*

7.2 We have received queries about the tariff-base for the special projects fee (SPF) which was set up to recover the additional IS development costs of enhancements to our market surveillance system so it can accept on-exchange derivative transaction reports identified using the AII code. This SPF is targeted at a number of firms within the following fee-blocks:

- **A.10:** firms dealing as principal;
- **A.12:** advisers, arrangers, dealers and brokers able to hold and/or control client money/assets;
- **A.13:** advisers, arrangers, dealers and brokers unable to hold and/or control client money/assets; and
- **B:** UK exchanges.

7.3 The queries relate to the interpretation of FEES 4 Annex 9. This states that the fee will be calculated on ‘relevant contracts’, defined as ‘all transactions entered into by firms’, whereas our invoices refer to the ‘number of contracts entered into’. Some firms have suggested that a transaction consists of a bundle of contracts and the rule therefore implies a smaller figure than the invoices, therefore yielding lower fees.

- 7.4 We do not agree with this interpretation of our rule. Our market surveillance system has been developed to implement reporting under the Markets in Financial Instruments Directive (MiFID) using ISIN codes as the primary instrument identifier. We consulted in CP07/19 and CP08/2 on how we proposed to recoup the costs of the system changes for implementing the AII code, which will apply solely to certain on-exchange derivatives. As we do not currently receive AII transaction reports, we rely on data that is supplied by and consistent between the AII exchanges. This data presents the number of contracts traded by each member firm. We believe that the total number of contracts traded is representative of the number of transactions undertaken by a member firm and is therefore a fair measure of the relative benefit that use of the AII code would be to that firm. This is what we meant when we referred to volumes of transactions.
- 7.5 We acknowledge that the text may be interpreted in a way that we had not intended. However, when read in conjunction with our policy papers it is clear that we intended the definition of ‘relevant contracts’ to refer to the contracts themselves, and not the transactions into which they are bundled. Any ambiguity would be removed if it read as follows: ‘For the purposes of this annex “relevant contracts” are the total number of contracts included in all trades’. That is the sense in which this rule should be interpreted.

Q11: Do you agree that our policy clarification makes it clear that, in FEES 4 Annex 9, our intention is to measure the volume of trades, not the number of trades, and that the relevant contracts are the total number of contracts included in all trades?

## **Treatment of transferred life insurance contracts in calculating tariff data for fee-block A.4**

*(FEES 4 Annex 1, draft guidance in Appendix 3)*

- 7.6 Some life insurance companies have asked us to clarify how they should treat assets transferred from other companies when calculating their tariff data in fee-block A.4.
- 7.7 The tariff-base for these firms is derived from Adjusted Gross Premium Income (AGPI) and Mathematical Reserves. The definition of AGPI in FEES 4, Annex 1, Part 2 includes ‘new regular premium business’ and ‘new single premium business’. The question is whether business transferred under Part VII of FSMA 2000 (Control of Business Transfers) constitutes new business for fees purposes. Part VII of FSMA enables insurers to transfer portfolios of liabilities and assets between each other. The process requires court approval, to ensure that the interests of all parties are safeguarded.

## *AGPI*

- 7.8 In the context of fees paid under fee-block A.4, the relevant business includes contracts of life insurance. These represent new business to the receiving firm, although they will be existing business for the transferor firm. There are two possible interpretations of the definition of ‘new regular premium business’ in FEES 4 Annex 1:
- if it relates to new business for the receiving firm, then the transferred business would need to be included in the calculation of AGPI, pushing up the firm’s liability for fees;
  - if it relates to new business for the industry as a whole, then the transferred assets would count as existing business and would be excluded from the calculation, reducing the receiving firm’s liability for fees.
- 7.9 Our view is that the definition of AGPI was intended to capture new business to the industry as a whole and so the second of these interpretations is correct. Business transferred under Part VII of FSMA should be excluded from the calculation insofar as it is not business new to the industry.
- 7.10 The logic behind our interpretation is that the transferor will have paid a fee on the contracts when they were originally set up and a fee should not be paid twice on the same ‘new’ business. Our interpretation is consistent with the exclusion of reassurances accepted from the existing definition of new business in Annex 1. In the case of Part VII transfers, these reassurances would cover any bulk reinsurance that had taken place before the transfer. There would have been no change to the terms and conditions of the policyholders since payment of the reinsurance premium puts the receiving company on risk although the gross liability remains with the original company until the policies are transferred. Similarly, where there is no reinsurance, we do not require firms to report it either as new business or premium income when they submit Forms 46 and 47 to us, but only as a business transfer-in. Again, this keeps it outside the definition of new business.
- 7.11 The objective of transferring assets under Part VII is to protect the interests of all concerned. Therefore, provided the court agrees that the contracts should remain unchanged, the policyholders’ terms and conditions will remain intact and the contracts cannot reasonably be described as ‘new’.
- 7.12 The proviso, however, is critical. If for example the court directs that new contracts of insurance should be taken out between the policyholders and the transferee, then these are no longer identical to the business on which the original fee was charged. They are new to the industry and should be included in the calculation of AGPI.
- 7.13 Of course, this applies only to contracts set up before the financial year to which the calculations relate. In other words, if the transferring firm created the contracts in the current financial year, they are new to the industry and must be included in the AGPI calculation by the transferee.

### *Mathematical reserves*

- 7.14 One firm has asked whether the new business should also be excluded from its mathematical reserves. There is no case for this. The mathematical reserves should cover all of a firm's business, so transfers under Part VII would as a matter of course increase its reserves and must be reported. Since the question has been raised, we refer to it in our Guidance to ensure there is no risk of misunderstanding.

### *Guidance*

- 7.15 We propose inserting Guidance along the lines set out above into the Rule. The text is in Appendix 3.

Q12: Do you agree that our proposed Guidance clarifies the way life insurance firms should treat assets transferred under Part VII in the calculation of their tariff data in fee-block A.4?

# 8 For discussion: tariff-base for intermediary firms

- 8.1 We are considering changing the basis on which we charge fees from investment and life insurance brokers, dealers and advisers. These intermediary firms range from investment advisers to stockbrokers, including some professional firms, such as accountants and solicitors that handle investment business as part of their wider remit. The firms are in the following FSA fee-blocks:
- **A.12:** advisers, arrangers, dealers and brokers able to hold and/or control client money/assets;
  - **A.13:** advisers, arrangers, dealers and brokers not able to hold and/or control client money/assets; and
  - **A.14:** corporate finance advisers.
- 8.2 Fees for these activity groups are based on a headcount of ‘approved persons’ who have been authorised by us to carry out customer-facing investment advisory activities. We are considering replacing this with a measure based on income. If we proceeded, we would adopt a similar measure for the Financial Ombudsman Service (FOS).
- 8.3 We are therefore seeking views from the industry on the principle of moving to an income measure and the issues we should address. This has been informed by feedback we received from trade and professional bodies in a workshop we held in August 2009.
- 8.4 Fee-block A.10 (firms dealing as principal) is based on a headcount, but of traders not approved persons. Since the issues relating to this fee-block are different from those arising in A.12 – A.14, we are not investigating alternatives to this tariff-base at present. We may review the options for consultation at a later date.

## Background

- 8.5 The headcount of approved persons has been used in fee-blocks A.12 – A.14 since the FSA was established, building on the system of ‘registered individuals’ used for many years by our predecessor bodies. When we originally proposed setting up fee-blocks in 2000, we sought views on whether to continue with the headcount

measure or replace it with income. The consensus was for the headcount. In 2004 we put forward proposals to replace it with an income measure, but following feedback from respondents and a survey of 1,500 firms, we decided not to change the tariff-base. One of the main reasons for retaining headcount at this time was its sensitivity to the activities undertaken. Approved persons were authorised under a number of customer functions. Only some of these were relevant to fee-blocks A.12 – A.14 so those individuals authorised for the non-relevant functions were discounted from the total.

- 8.6 The system worked well for the fees regime until MiFID merged the different customer functions into a single CF30 category in October 2007. Since then it has become increasingly difficult to identify the correct number of approved persons for fee-charging purposes. We have to refer back to the obsolete customer functions, putting a considerable burden both on our and firms' administrative resources. This will become more problematic as familiarity with the old system fades. We would like to establish a fairer and more efficient way of calculating the fees for these fee-blocks. Any changes would not affect the costs recovered from these fee-blocks as a whole, although they might have an impact on the fees levied on individual firms.
- 8.7 In 2008, we decided to move the equivalent levy of the Financial Services Compensation Scheme (FSCS) from a headcount to 'eligible' income from 2010/11. Consequently, firms are now setting up systems to report to us on their income and should be able to adapt these systems to report on income for us and the FOS.
- Our metric would be a broader definition of 'regulated' rather than 'eligible' income and the FOS levy would be based on the income subject to its jurisdiction. Since 'eligible' income should be a subset of 'regulated' income, we believe many firms' systems may already be capturing total regulated income in order to calculate the portion that needs to be reported for the FSCS.
  - We have broken down the FSCS contribution groups into sub-classes, which in the case of A.12 – A.13, required firms to distinguish between investment and life/pension activities, but we are not contemplating a similar redesign of the FSA/FOS fee-blocks. As a result, much of the discussion about allocating costs to activities for the FSCS would not be relevant in the present context.

## **Issues for consideration in introducing an income measure**

- 8.8 The key feature of the FSCS system is that, to keep implementation simple, we have allowed senior management to take a 'pragmatic' approach to apportioning their firms' income. For example, if a firm establishes that a certain proportion of its annual income is derived from regulated activities, it might apply that figure to all invoices as a multiplier. This avoids getting into the details that have concerned firms in the past, especially the need to account separately for every strand of income and change the presentation of invoices.

- 8.9 In our workshop with trade and professional bodies we received feedback that encouraging firms to be pragmatic was attractive in principle, but there was scepticism about how pragmatic we ourselves would be when checking the results. Representatives suspected that we might in practice demand an extensive audit trail, challenging previous years' reports if insufficient detail was available and possibly claiming a backlog of fees if we decided firms had been understating their regulatory income. In particular, bodies representing small firms were concerned that their members might feel obliged to go to the expense of getting their methodologies audited to protect themselves. All representatives emphasised that we must be prepared to recognise firms' best endeavours if a pragmatic approach was to work.
- 8.10 We accept that these are fair points. Firms must feel confident that we will not attempt to second-guess them if they can demonstrate that they have genuinely made their 'best endeavours' to establish a rational, objective and internally consistent basis for their calculations. Our approach will be tested when the income measure becomes operational for FSCS next year, and our experience with FSCS fees will inform the development of any proposals we put forward for the FSA and FOS.
- 8.11 The practical issues relating to separating out the different elements in firms' income streams were discussed in detail in the papers relating to the FSCS levy last year and also in our feedback on our earlier proposals in 2004.<sup>14</sup> We believe that most of the practical concerns anticipated can be resolved through our 'pragmatic' approach.

#### *Defining relevant income*

- 8.12 The definitions of relevant income for our fees and the FOS levy would draw upon the guidance in fee-blocks A.18 and A.19 and the guidance we have already developed for the FSCS. In essence, we would be looking for the net amount of income from brokerages, fees, commissions and related income regarding the regulated activities currently prescribed for fee-blocks A.12, A.13 and A.14. As with the existing tariffs, the figure would include business expenses but exclude rebates to customers, fees or commission passed to other firms. If we proceed to work up a proposal, we will define the net income in greater detail.

#### *Separating relevant income data*

- 8.13 Distinguishing regulated from other income in a business environment may be problematic for some firms, as it might not reflect the way they monitor staff time, present invoices or maintain accounts. For example:
- wholesale firms whose primary focus is investment management might have difficulty setting the dividing line between advice and management, and identifying investment income from activities conducted in the UK rather than merely reported in the UK;

---

14 PS08/11: *FSCS funding – tariff changes, final rules and feedback to CP08/8* (November 2008); CP08/8: *FSCS funding – tariff changes* (April 2008); PS04/21: *Regulatory fees relating to mortgage and insurance mediation regulation – Feedback on CP04/4 and CP04/9 and made text* (October 2004).

- professional firms, such as accountants and solicitors who provide holistic services, might find it difficult to put a figure on the proportion of time directly attributable to financial or investment advice in any one case;
- solicitors might find it difficult to distinguish mainstream from non-mainstream activities; and
- regulated investment advice may form a relatively small, and not readily identifiable, proportion of the activity of some professional corporate finance advisers, so focusing on the regulated elements of specific cases might require systems to report in excessive detail and there might be inconsistency over interpretation.

8.14 Over-prescription could create serious practical problems and costs for firms. We would follow the principles set out for the FSCS in PS08/11 to encourage a pragmatic approach to the allocation of costs. For example:

- we do not consider it necessary for firms to identify regulated activities in client invoices;
- if firms are unable to separate out income streams arising from regulated activities, then it would be acceptable to apply a multiplier based on the overall split of their business over a period they are able to justify as representative; and
- similar considerations apply if international firms find it difficult to put a precise figure on income generated within the UK, or if firms are unclear how to attribute income generated through platforms.

8.15 We would retain the option for firms to report on whole income if they consider that a breakdown would not be cost effective.

8.16 We believe our pragmatic approach avoids the need for detailed reporting of the activities of approved persons, since firms will be able to take a view of the proportion of their business normally generated by regulated activities. We appreciate that firms will need reassurance that the methodologies they apply will be recognised by us as offering consistent and objective information as a basis for levying fees.

#### *High income/low margin firms, including execution-only firms*

8.17 We are concerned that the minimum fees paid under the headcount method by some high income/low margin firms – especially execution-only firms – may not in practice contribute adequately towards the costs we incur in regulating them. Other firms may be bearing the burden and for this reason an income measure would be fairer.

8.18 Some representatives at our workshop with trade and professional bodies argued that, as a group, execution-only firms present relatively low regulatory risks and so a straight income measure that levied fees at the same rate as higher risk advisory

firms might be disproportionate. They suggested weighting the levy with a risk factor. As we explain in Chapter [ ], we have subsequently decided as a result of the internal strategic review not to directly apply risk factors to our fees regime, so we do not propose to pursue this solution.

- 8.19 In fee-blocks A.12 and A.13, we apply a deduction of 10% to the fees of professional firms because we recognise that they are both lower risk and lower impact. A similar model might be appropriate for execution-only firms, provided a consistent and unambiguous definition can be agreed. In practice, however, since few firms are purely execution-only, it is unlikely that many would prove eligible for such a concession.

### *Retail Distribution Review (RDR)*

- 8.20 Firms in fee-blocks A.12 – A.13 are affected by the reforms to the retail investment market that we are introducing through the RDR. There is no direct relationship between the RDR and the discussion about the tariff-base for these fee-blocks. For example, the RDR proposes important changes in remuneration, requiring firms to phase out earnings from commission paid by providers for new business and rely instead on charges agreed with their clients. For some firms, this may mean radical reviews of their charging structures, but that would not have any impact on the definition of an income measure for fees. The measure would be based on the regulated activities from which the income was derived and the RDR does not propose any changes to these or the associated permissions.
- 8.21 Nevertheless, firms will be changing their charging structures to comply with the RDR, and we may also have new regulatory reporting requirements. Introducing new reporting requirements for fees will be less onerous if they are integrated into the specifications for the systems development projects which firms across the industry will be conducting.
- 8.22 This has implications for the timetable. When we consulted on the RDR in June 2009, we told advisers that we are likely to require them to make the necessary changes to be able to operate adviser charging by the end of 2012, and that we would publish a policy statement in the first quarter of 2010 setting out the final text of the Handbook rules so that firms could be certain of our requirements. We also said that we would include RDR issues in the review of regulatory reporting that we propose to consult on in the first quarter of 2010. Therefore, by the time we issue our cyclical fees CP in October 2010, firms will have a clear picture of the changes they will need to make to their internal data systems and their regulatory reporting systems. That would be an appropriate moment to consider any adjustments required to fit an amended fees regime into the emerging systems.

## Timing

- 8.23 If we develop this proposal, we consider 2012/13 to be the earliest year in which we could introduce an income measure for these fee-blocks. This would allow firms to:
- factor our fees requirements into the reporting requirements of the RDR; and
  - allow firms time to put the fees systems in place, applying the measure to income relating to the 2010/11 financial year.
- 8.24 Assuming we decide to proceed with an income measure, we anticipate the following process:
- February 2010: feedback on comments received in response to this CP.
  - October 2010: publication of worked up policy proposals and draft rules (for 1 April 2012) for consultation.
  - February 2011: feedback on comments and confirmation of rules so that firms can incorporate our requirements into system developments.
  - October 2011: update for consultation on any developments since February.
  - February 2012: indicative fee rates published for consultation.
  - May 2012: confirmation of fee rates in combined policy statement on fees.

## Next steps

- 8.25 We have presented the arguments in this chapter and would now welcome views on the following questions:
- Q13: Do you agree that an income measure along the lines discussed in this CP is in principle viable as a tariff-base for fee-blocks A.12 – A.14?
- Q14: Do you consider that the issues we have discussed in the CP are appropriate and/or are there any others you believe we should take into account when considering an income measure for fee-blocks A.12 – A.14?
- Q15: Do you support our suggested timetable for implementing an income measure from 2012/13 in fee-blocks A.12 – A.14?

# 9 Future fees policy consultations

9.1 In this chapter we give notice of some fees policy proposals that we anticipate consulting on over the coming year:

- money guidance service;
- passporting – discounts for EEA firms with branches in the UK;
- credit rating agencies;
- the Electronic Money Directive; and
- the FSCS funding model review.

## Money guidance service

9.2 We expect to consult on fees proposals in February 2010 to recover the costs of establishing a new consumer education and information body to deliver our financial capability strategy, including a national money guidance service, from 2010/11.

9.3 In July 2009, a White Paper, *Reforming financial markets*,<sup>15</sup> announced the government's intention to strengthen our work on financial capability. The government proposes to legislate to require us to establish an independent consumer education and information authority. This body will carry forward our work on the financial capability strategy, including national rollout of the money guidance service being tested in the pathfinder operating in the North-east and North-west of England.

9.4 We anticipate that legislation to implement the proposals will be introduced this autumn. We expect it to set out provisions for setting up the new body, its levy-raising powers, its relationship with the FSA, and the transitional arrangements for ensuring the effective continuation of our financial capability programme. We do not know when the legislation will come into effect but, subject to the findings of the pathfinder evaluation, we are committed to rolling out a national money guidance service from

---

15 CM7667: *Reforming financial markets* (HM Treasury, July 2009)

spring 2010, whether under our existing public awareness function, or as part of the remit of the new body. This may necessitate an increase in the funding requirement for financial capability for 2010/11.

- 9.5 To promote transparency and prepare for the eventual establishment of the proposed new body, we will therefore present financial capability as a separate line in invoices to firms from 2010/11. As well as the money guidance service, this will include the costs of our existing financial capability strategy which we expect eventually to pass over to the new body if it is set up as anticipated. This will give individual firms a clear picture of the proportion of their fees attributed to financial capability.
- 9.6 Four fee-blocks do not contribute to financial capability costs on the ground that they would derive no benefit from improved financial capability among consumers, and these would continue to be excluded:
- Fee-block A.20 – volume of contracts (applicable firms are included in FEES 4 Annex 9). These fees, paid by firms and market operators in respect of certain securitised derivatives, are exclusively directed towards recovery of the development costs of the SABRE AII computer system.
  - Fee-block C – collective investment schemes. The operators of collective investment schemes already contribute through their periodic fees in the A.9 fee-block.
  - Fee-block E – issuers of securities. While recognised exchanges are contributing towards the costs of the national financial capability strategy, the listed companies themselves are not part of the regulated financial sector.
  - Fee-block F – unauthorised mutuals. Our responsibilities are limited to registering unauthorised mutuals and recording documents on their behalf.

## **Passporting – discounts for EEA firms with branches in the UK**

- 9.7 We expect to consult in the February 2010 CP on the discounts applied to inward-passporting EEA and Treaty firms with branches in the UK. These vary between fee-blocks and currently range from 5% to 100%. We have devoted considerable resources to managing and supervising inward-passporting branches, particularly deposit-takers and general insurers, over the last two years. Some of the historical discounts may no longer be proportionate to the work that we do and so we are reviewing the discount rates across the board.

## **Credit rating agencies**

- 9.8 The EU Regulation for Credit Rating Agencies will shortly come into force. The Treasury will be consulting on the UK implementation of this regulation later this year. We will include in the Treasury consultation paper our plans for the fees policy to recover the costs of supervising and registering these firms.

## **Electronic Money Directive**

- 9.9 The EU's second Electronic Money Directive (2EMD) for the prudential regulation of e-money issuers is expected to be published later this year, for implementation by spring 2011. E-money issuers are in fee-block A.1 (deposit takers). The objectives of 2EMD are to align regulation more closely with the risks arising from e-money issuance, establish appropriate safeguards for consumers, reduce barriers to entry in the market, promote competition and expand the range of the choices offered to consumers. In January 2009, the Treasury issued a CP on its proposed approach towards the negotiations over the 2EMD. Early next year it will consult on the detailed implementation of the 2EMD within the UK. In the second quarter of 2010 we will follow this up by consulting on the regulatory regime, including our proposals for levying fees from e-money issuers to cover the costs of regulation.

## **The FSCS funding model review**

- 9.10 We last undertook a comprehensive review of the FSCS funding model in 2006/7. In light of the financial crisis and potential changes to UK and European legislation, we plan to start another review this year. The review will take another fundamental look at the allocation of levies among different types of firms, including the method of apportionment of these levies. We intend to consult during the financial year 2010/11.

# 10 Topics for information

10.1 In this chapter we present information on some topics that firms may wish to be aware of:

- change in terminology in listing rules;
- sale and rent back; and
- the Payment Services Directive (PSD) – indicative periodic fee rates for 2010/11.

## **Change in terminology in listing rules**

*(FEES 4 Annex 7)*

10.2 In FEES 4 Annex 7, the term ‘primary listing’ is to be replaced with ‘premium listing’ from April 2010 to reflect changes that are being made to the Listing Rules following consultation in 2008.<sup>16</sup> These will come into effect from April 2010. The revised terminology will not affect the allocation of firms to this category or the basis on which fees are charged. Invoices that are issued before the Listing Rules change and refer to ‘primary listing’, should be interpreted as including a reference to ‘premium listing’.

## **Sale and rent back**

10.3 In February 2009, we consulted on proposals to establish an interim regime to regulate sale and rent back (SRB).<sup>17</sup> In September we issued CP09/22 on the full regime.<sup>18</sup> Both papers included proposals for FSA, FOS and FSCS fees. The consultation period on the full regime is still open, with a deadline of 30 November 2009, so firms that are in or are considering entering the SRB market should take the opportunity to review our proposals and comment if they have any views.

---

16 CP08/21: *Consultation on amendments to the listing rules and feedback on DP08/1* (December 2008).

17 CP09/6: *Regulating sale and rent back: an interim regime* (February 2009).

18 CP09/22: *Regulating sale and rent back: the full regime* (September 2009).

- 10.4 SRB is an arrangement under which individuals, usually because they are facing financial difficulties, sell their home at a discount in order to achieve the right to remain in the property as a tenant. Since it is a home financing transaction, we have included SRB within the definition of ‘home finance’ and allocated SRB providers and administrators to fee-block A.2 (home finance providers and administrators), and SRB intermediaries to fee-block A.18 (home finance providers, advisers and arrangers). The details of our proposed fees are set out in CP09/22. Comments are invited by 30 November 2009.

## **Payment Services Directive (PSD) – indicative periodic fee rates for 2010/11**

*(FEES 4 Annex 11)*

- 10.5 This section provides an estimate of the periodic fees we anticipate levying from the following payment services providers in 2010/11:
- Authorised payment institutions (PIs) who have successfully applied to us for registration since 1 May 2009. These are allocated to fee-block G.3 and are liable to an additional variable periodic fee on top of the minimum fee of £400, based on the income derived from regulated payment services activities in the UK. The methodology for reporting income was explained in PS09/8.
  - Firms already authorised under FSMA and allocated to fee-block A.1 (deposit acceptors), except for credit unions. Those firms that provide payment services by virtue of their part IV permission will be allocated to fee-block G.2 for these purposes. To avoid additional reporting requirements, we will use as a proxy for their payment services activities the MELs that form the tariff-base for fee-block A.1. We expect payment services to account for less than 1% of the costs of the fee-block.
- 10.6 Inward passporting European Economic Area (EEA) firms will be subject to the same tariff-base as UK-authorized PIs in fee-block G.3, but with a percentage discount on periodic fees. The amount of the discount has not yet been fixed and we will consult on it in our February 2010 CP. There will be no additional periodic FSA fees for UK firms passporting outward.

### *Background*

- 10.7 Payment services activities were brought under the scope of our regulation from 1 November 2009 by the European Union’s PSD, implemented in the UK by the Payment Services Regulations 2009 (PSRs). In PS09/8, we set out the application fees for firms wishing to undertake payment services activities in the UK (Chapter 8) and the framework for the periodic fees we will be levying from 1 April 2010 (Chapter 21). To prepare for the new regime, we invited firms to apply for registration from 1 May 2009.

10.8 At that time, we were able to set the basic periodic fees for 2010/11:

- a flat periodic fee of £400 for small payment institutions (small PIs) and small e-money issuers; and
- a minimum periodic fee of £400 for authorised PIs.

We were unable to give any indication of the variable fees that would be payable by the larger payment services providers. As the application process had been operative for less than a month, no firms had registered with us and so we had no data to work with.

10.9 We are now in a position to model some indicative rates, although we still do not know the total population of firms across which the costs of PSD will be spread. However:

- we do know the number of firms already authorised in fee-block A.1;
- firms that started to provide payment services after 25 December 2007 were obliged to register with or be authorised by us by 1 November 2009;
- those that had been providing the services before 25 December 2007 have until 25 December 2010 to register and 1 May 2011 to be authorised and we do not know how many will come forward in the long run.

While important gaps remain, we believe the base of known applicants is sufficient to prepare guideline fees estimates:

- 327 small PIs who will pay the minimum fee (including small e-money issuers);
- 68 authorised PIs who will pay variable rates on top of the minimum fee; and
- 403 firms in fee-block A.1.

10.10 The total cost to be recovered through periodic fees each year is made up of two elements:

- The ongoing cost of administering the payment services regime – ie direct supervision of firms, collecting/analysing regulatory returns, handling of queries by the Contact Centre, etc.
- Recovery of the costs of the project that set up the payment services regime, including the development of IS systems. The project does not end until 31 March 2010, but the bulk of the expenditure has now been incurred and the total is estimated at £6.5m. This will be recovered over a period of three to five years from 2010/11. To avoid putting a disproportionate burden on the smaller number of firms that will be eligible for fees in the first year, we have made assumptions about the total that will be eligible in the third year and adjusted the figures to spread the costs across the whole period.

### *Estimated periodic fees*

- 10.11 Using the information currently available, we have prepared estimates that show the fees firms may be liable to pay for payment services in 2010/11. For firms in fee-block A.1, this will be an addition to their normal A.1 tariff. For authorised PIs, the fees will be in addition to the £400 minimum.

**Table 10.1: Estimated variable fees for payment services 2010/11**

Tariff data: income (£)	Likely fee (£)
100k	900
250k	1,350
1m	3,650
10m	14,600
50m	23,000
500m	117,500

- 10.12 We will levy periodic fees on a quarterly pro-rata basis for small PIs, authorised PIs and small e-money issuers that apply during the financial year.
- 10.13 These are our best estimates, provided to help firms with their financial planning. In February, we will consult on firm proposals, derived from modelling the more extensive information that will be available to us by then.



# Compatibility statement and cost benefit analysis

- 1 When we issue rules for consultation, we are required by section 155(2)(c) of the Financial Services and Markets Act (FSMA) to explain why we believe our proposals are compatible with our general duties under section 2 of FSMA and our statutory objectives which are set out in sections 3 to 6 of FSMA. This is known as a ‘compatibility statement’.
- 2 This annex contains the compatibility statement regarding FSA fees policy proposals. Section 155(9) of FSMA exempts us from having to carry out cost benefit analysis on our fees policy proposals.

## **Compatibility with our statutory objectives**

- 3 The fees policy proposals and draft rules we are consulting on build on our earlier consultations on the policy framework for our funding arrangements, and we believe that the current proposals are compatible with our general duties in section 2 of FSMA.
- 4 In discharging our duties we are required to act in a way that is compatible with our four statutory objectives (market confidence, public awareness, protection of consumers and reduction of financial crime).

## **FSA fees policy proposals**

- 5 As we have stated in previous consultations on fees, our fee raising arrangements support each of our statutory objectives because they provide the resources that allow us to meet them. They are not intended in themselves to act as vehicles to achieve our statutory objectives.

## **Compatibility with the principles of good regulation**

- 6 We have outlined in previous fees consultations how our general policy framework has been influenced by the ‘have regard’ factors in section 2(3) of FSMA (also known as the ‘principles of good regulation’). Below, we consider how the proposals in this CP take account of these principles. As this CP is presented in two parts, we set out our compatibility with the principles of good regulation accordingly.

### **Part 1: Internal strategic review of FSA fees**

- 7 Part 1 of the CP sets out our proposals to enhance the framework for calculating our fee rates. For these proposals, the following principles of good regulation are particularly relevant.

#### *The need to use our resources in the most efficient and economic way*

- 8 Our fee rates are set to recover our costs in carrying out our responsibilities under FSMA and associated legislation. We endeavour to carry out this work in the most efficient and economic way possible, concentrating on areas of activity that pose the greatest risk to our statutory objectives. Our priorities for each financial year are set out in our annual Business Plan, mitigating the risks identified in our Financial Risk Outlook. The Business Plan includes our budget for the forthcoming year which is the basis for our Annual Funding Requirement (AFR) which we recover through fees levied on firms. The AFR for 2009/10 was £435.5m.
- 9 In the CP we are consulting on the underlying policy proposals to enhance the framework for calculating our fee rates. The proposals to introduce a new minimum fee rate and a straight line variable periodic fee rate will assist firms to understand our fee structure and help us to simplify and calculate the fee payments more efficiently.

#### *The burden to be imposed should be proportionate to the benefits*

- 10 To investigate whether the burden of a proposal is proportionate to the benefits that are expected to arise from its imposition, we normally carry out a cost benefit analysis. As explained above, rules relating to fees are excluded from this requirement. However we believe we have taken care in framing our proposals to impose burdens that are proportionate to the benefits.
- 11 Under this principle we normally set out our reasons why we believe our budgeted expenditure is proportionate, given the scale of the activities needed to address the risks to our objectives that we highlight in our Business Plan and Financial Risk Outlook. However, as explained above this Stage 1 consultation is consulting on the underlying policy to the proposals to enhance the framework for calculating our fee rates and those fee rates are based on our 2009/10 AFR to illustrate the impact of the proposals.

- 12 As discussed in Chapter 3 we believe that our cost allocation framework is effective in allocating the right level of aggregate costs to fee-blocks, ensuring that the total fees paid by the fee-payers within a fee-block equal the costs of the resources we allocate in regulating them.
- 13 Our proposals for recovering fee-block allocated costs from firms within the fee-blocks will ensure that:
  - firms will be levied a minimum fee that is based on the recovery of clearly defined minimum regulatory costs and the resulting fee is applied equally to all firms with exceptions made only where it can be justified to do so (see Chapter 3);
  - firms will be levied a variable periodic fee that is consistently based on the size of permitted business they undertake within a fee-block (straight line recovery) and where any moderation from this basis is by exception which is supported by stated rationale (see Chapter 4).
- 14 The new calculation method will result in a shift of cost recovery from the smaller/medium size firms to the larger firms, reflecting the greater impact they impose on our statutory objectives.

*The international character of financial services and the desirability of maintaining the competitive position of the UK*

- 15 When we set our fees, we consider the fact that many financial services firms are globally mobile and that regulatory costs – both direct (fees) and indirect (compliance) – can be one of the influences affecting decisions about location. By ensuring the calculation of our fees is based on weighting our costs allocation, as far as possible, towards the fee-blocks that take up our resources and recover those costs from firms within the fee blocks through a consistently applied framework, we ensure that they do not present barriers to mobility, while our discounts (other than the new minimum fee) for passporting firms facilitate cross-border trade.
- 16 We do not consider that the changes on which we are consulting will have any significant effect on competition and innovation.

## **Part 2: Other fees policy issues**

- 17 Part 2 of the CP covers various issues that have emerged on fees policy and aims to clarify ambiguous points, raise topics for further discussion and inform future fees proposals. For the proposals in this part of the CP, the following principles of good regulation are particularly relevant.

*The need to use our resources in the most efficient and economic way*

- 18 By working with the Bank of England on the returns from banks and building societies and the introduction of a single return for both banks and building societies, we have been able to simplify an area of complexity within our rules. We have also helped firms to improve their understanding of our rules by specifying the valuation date for market capitalisation in the listing rules.
- 19 We do not consider that the changes on which we are consulting will have any significant effect on the other principles.

*Most appropriate method*

- 20 In discharging our general duties, we are required to act in a way that we consider most appropriate for the purpose of meeting our objectives.
- 21 We believe that our fees policy proposals are the most appropriate means of raising the funding required to maintain our statutory objectives because they are:
- consistent and build upon existing fee-raising arrangements, which have operated since N2 (1 December 2001 – when the FSA gained its powers);
  - are targeted towards the most appropriate firms;
  - are influenced by our risk-based approach to achieving our statutory objectives; and
  - are compatible with the legal framework provided by both FSMA and our Handbook.

# List of questions on which we are consulting or seeking in principle views

Consultation questions requiring response	Relevant chapters
Q1: Do you agree with the inclusion of the regulatory function costs that we propose to recover through the new minimum fee?	Chapter 4
Q2: Do you agree with our proposal to create an A0 fee-block into which all firms will contribute and the basis for calculating the new minimum fee?	Chapter 4
Q3: Do you agree with our proposal to treat smaller Credit Unions as an exception allowing them to pay a reduced minimum fee and the unrecovered minimum regulatory costs be applied to A.1 fee-block?	Chapter 4
Q4: Do you believe there are any other firms that should be treated as an exceptional case? If so what is the basis for making them an exception and recovering the unrecovered minimum regulatory costs?	Chapter 4
Q5: Do you agree with our proposed adoption of a straight line recovery policy?	Chapter 5
Q6: Do you agree with our proposed moderation framework and its operation to accommodate exceptional moderation from a straight line recovery?	Chapter 5
Q7: Do you agree with our proposal to treat A.1 (Deposit acceptors) as an exception applying a premium to the top two tariff bands (higher impact firms)?	Chapter 5
Q8: Do you agree with our proposal to amend the rules in FEES 4 Annex 7R to clarify that the valuation date for market capitalisation is the last working day of November in the previous financial year?	Chapter 6
Q9: Do you agree that the separate formulae for MELs for banks and building societies in FEES 4 Annex 1 should be replaced by the single amended formula, derived from the Bank of England's BT return, as the tariff-base for 2010/11? <b>Responses required by 7 December 2009.</b>	Chapter 6
Q10: Do you agree that the formula in Item B of the Bank of England's ELS return should from January 2010 replace the formula on MELs for banks and building societies set out in FEES 4 Annex 1, providing the tariff-base from 2011/12? <b>Responses required by 7 December 2009.</b>	Chapter 6
Q11: Do you agree that our policy clarification makes it clear that, in FEES 4 Annex 9, our intention is to measure the volume of trades, not the number of trades, and that the relevant contracts are the total number of contracts included in all trades?	Chapter 7
Q12: Do you agree that our proposed Guidance clarifies the way life insurance firms should treat assets transferred under Part VII in the calculation of their tariff data in fee-block A.4?	Chapter 7

Consultation questions requiring response	Relevant chapters
Q13: Do you agree that an income measure along the lines discussed in this CP is in principle viable as a tariff-base for fee-blocks A.12 – A.14?	Chapter 8
Q14: Do you consider that the issues we have discussed in the CP are appropriate and/or are there any others you believe we should take into account when considering an income measure for fee-blocks A.12 – A.14?	Chapter 8
Q15: Do you support our suggested timetable for implementing an income measure from 2012/13 in fee-blocks A.12 – A.14?	Chapter 8

# Research on how other regulators raise fees – summary of approaches identified

Approach	Key characteristics	Analysis
1 Transaction Levy	A fee is applied to transactions that are undertaken within a particular industry, which may be applied at a set % of the transaction value.	<ul style="list-style-type: none"> <li>• The goal of almost all models is to achieve an allocation across firms, which is a reasonably accurate reflection of the costs of supervision.</li> <li>• Other potential goals including affordability and incentivising particular behaviours are secondary.</li> <li>• Although shown as eight separate models, the majority of organisations and particularly those that operate across a number of industry sub-sectors apply a range of approaches to achieve the desired result.</li> <li>• Although the FSA already applies a range of these techniques, there are some notable differences including:               <ul style="list-style-type: none"> <li>o Some regulators apply a risk based premium for firms which are deemed to have adopted particularly high-risk strategies;</li> <li>o Relatively little cross-subsidisation takes place;</li> <li>o Other regulators appear to use proxy measures to allocate fees in a way which is simpler for those in industry to understand; and</li> <li>o The extent of consultation with industry open an annual basis is typically higher in FSA than with other regulators.</li> </ul> </li> </ul>
2 Cost Allocation	Costs of regulation are recharged on the basis of an estimate (or actual measured) cost incurred in supervision of particular institutions, or groups of institutions.	
3 Standard Annual Fee	A flat fee is charged in order to allow participants to operate within a particular market, regardless of size.	
4 Volume Related Annual Fee	Organisations pay an annual fee, usually agreed at the outset of the year, based on a particular volume related metric. This is a particularly common method, however the exact metric chosen varies widely from regulator to regulator.	
5 Charge Directly for Core Services	Regulators charge a fee for their inspections in order to cover costs, in much the same way is done for an annual financial audit. Fees frequently banded to size of organisation being supervised.	
6 Risk Assessment	Institutions categorised into premium categories according to their risk profiles, which are used to flex regulatory charges up or down.	
7 Fine Income	Amounts received from fines for breaches of industry code of conduct are used to cover costs of regulation.	
8 Revenue from other activities	Regulatory body also provides other services, for which a fee is charged, which ultimately covers the cost not just of that service provision, but also of that organisation's regulatory activities.	
Source: PA Consulting Group May 2009 (full report published alongside this Consultation Paper)		



# Impact of proposed straight line recovery detailed in Chapter 5

**Table A**

This table shows for each fee-block the number of firms that are in the fee-block and the proportion of those firms that will pay more, less or the same fees as a result of straight line recovery compared to current 2009/10 fees. It also shows the range of increases/decrease for each fee-block.

	A.1 Deposit acceptors		A.2 Home fin providers		A.3 Insurers – general		A.4 Insurers – life	
	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms
Pay same fees	540	61%	162	44%	82	20%	119	43%
Pay more fees	65	7%	4	1%	29	7%	11	4%
Pay less fees	277	31%	202	55%	293	73%	148	53%
Total	882	100%	368	100%	404	100%	278	100%
<b>Range of change</b>								
Maximum increase	7%		116%		172%		22%	
Maximum decrease	-11%		-67%		-82%		-49%	

	A.5 Lloyd's agents		A.7 Fund managers		A.9 Opps/Trustees		A.10 Deal as principal	
	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms
Pay same fees	18	27%	942	40%	496	69%	222	45%
Pay more fees	12	18%	49	2%	20	3%	103	21%
Pay less fees	36	55%	1,362	58%	199	28%	165	34%
Total	66	100%	2,353	100%	715	100%	490	100%
<b>Range of change</b>								
Maximum increase	37%		370%		1%		12%	
Maximum decrease	-29%		-68%		-3%		-18%	

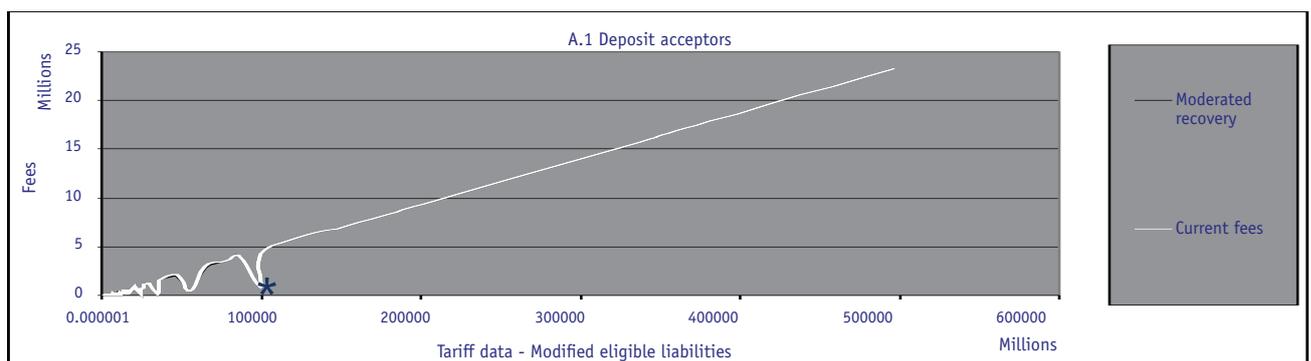
	A.12 Adv'rs/dealers h&c		A.13 Adv'rs/dealers only		A.14 Corp fin advisers		A.18 Home fin advisers	
	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms	Number of firms	Proportion of firms
Pay same fees	581	32%	2,901	43%	327	36%	5,709	85%
Pay more fees	68	4%	87	1%	9	1%	13	0%
Pay less fees	1,186	65%	3,816	56%	564	63%	1,012	15%
Total	1,835	100%	6,804	100%	900	100%	6,734	100%
<b>Range of change</b>								
Maximum increase	59%		8%		23%		25%	
Maximum decrease	-48%		-6%		-10%		-28%	

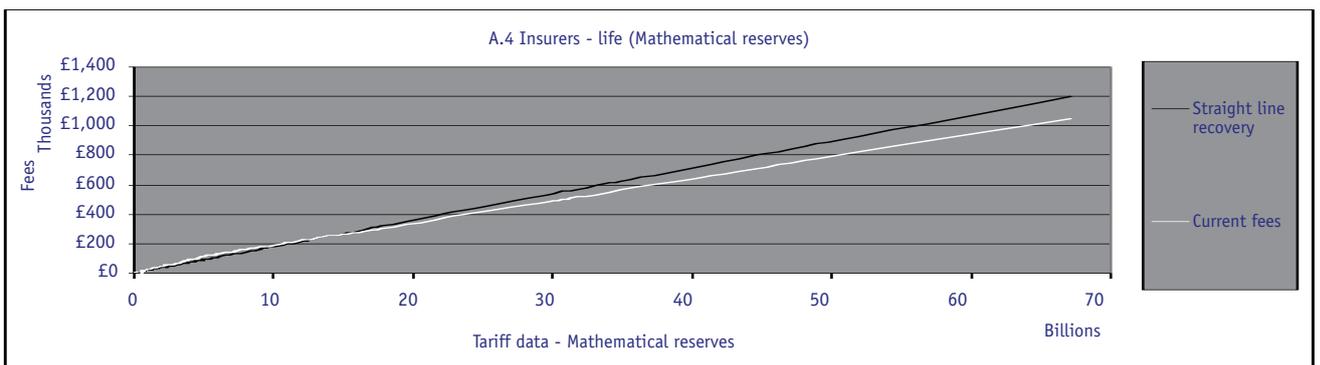
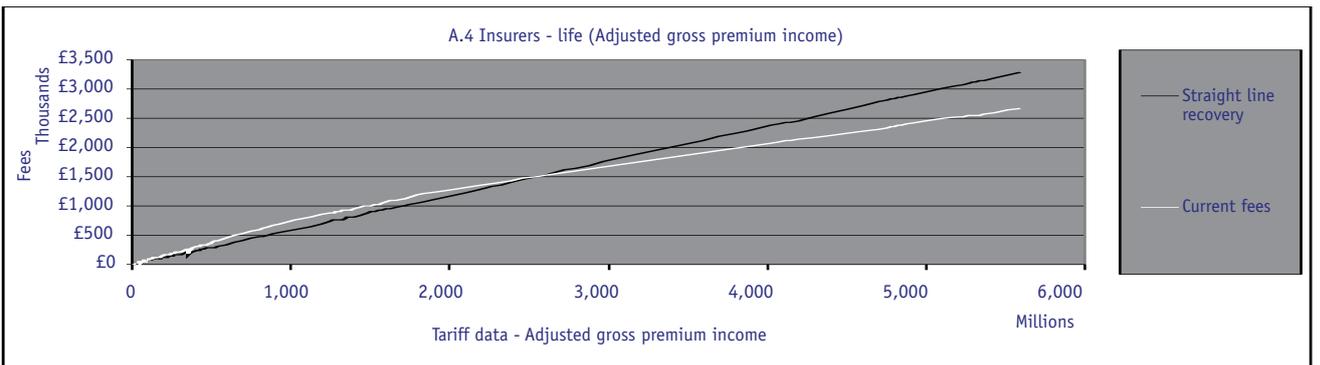
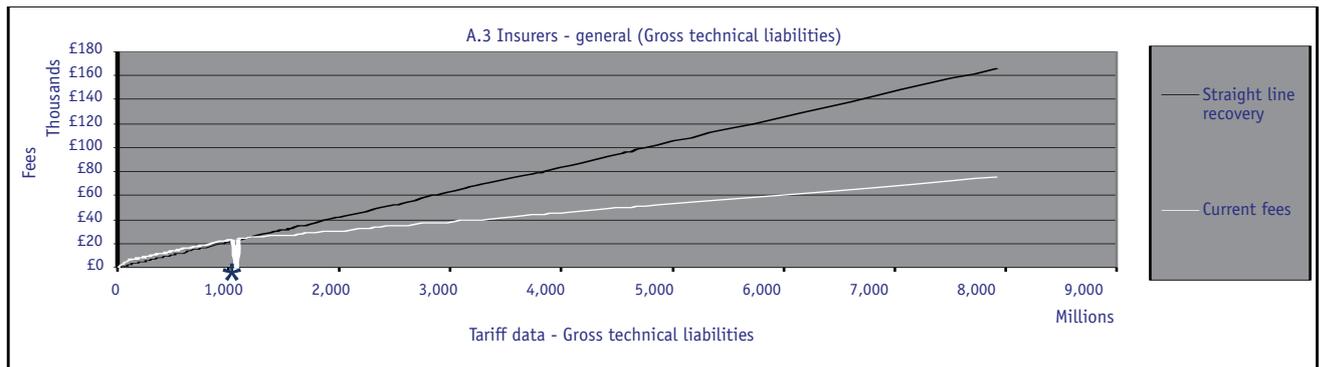
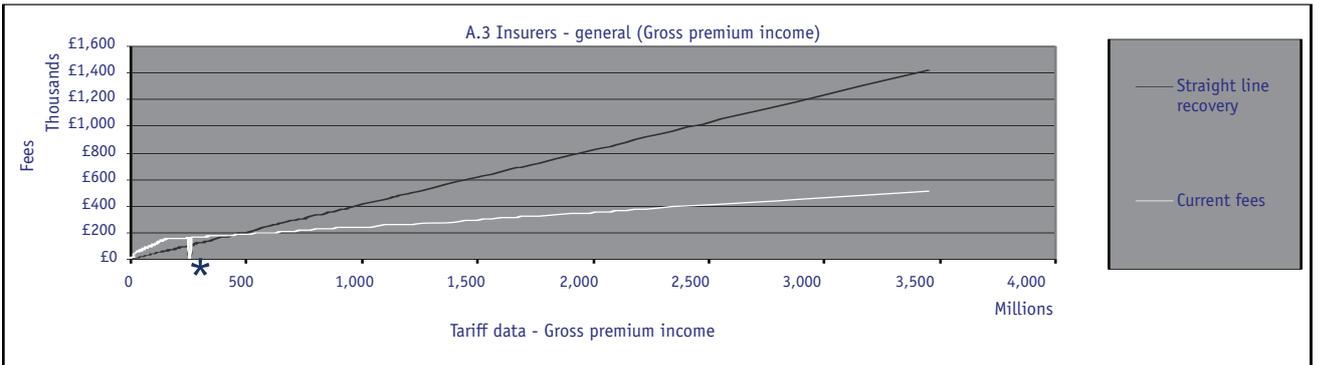
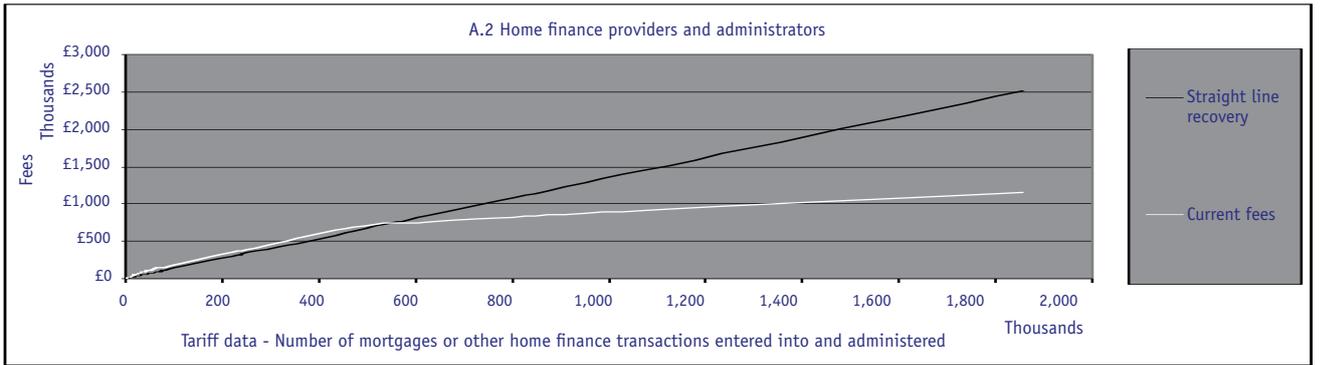
	A.19 Gen ins mediation	
	Number of firms	Proportion of firms
Pay same fees	10,266	69%
Pay more fees	76	1%
Pay less fees	4,603	31%
Total	14,945	100%
<b>Range of change</b>		
Maximum increase	206%	
Maximum decrease	-47%	

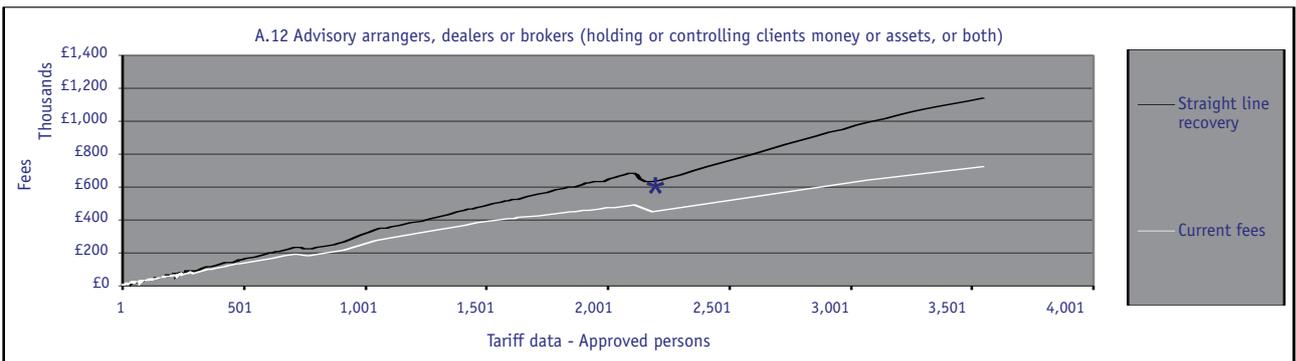
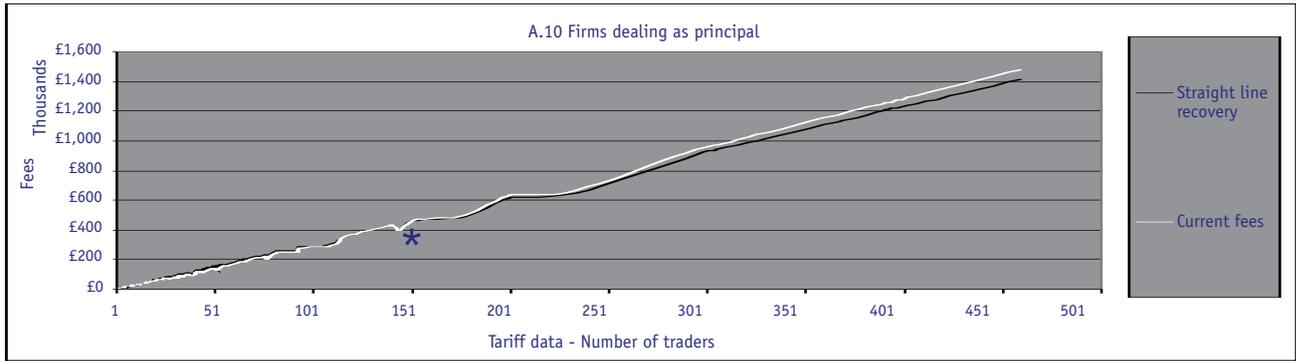
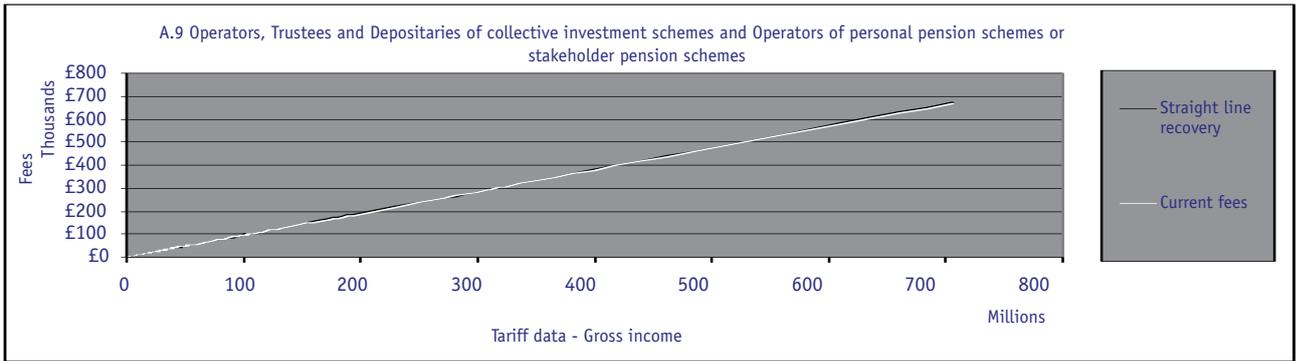
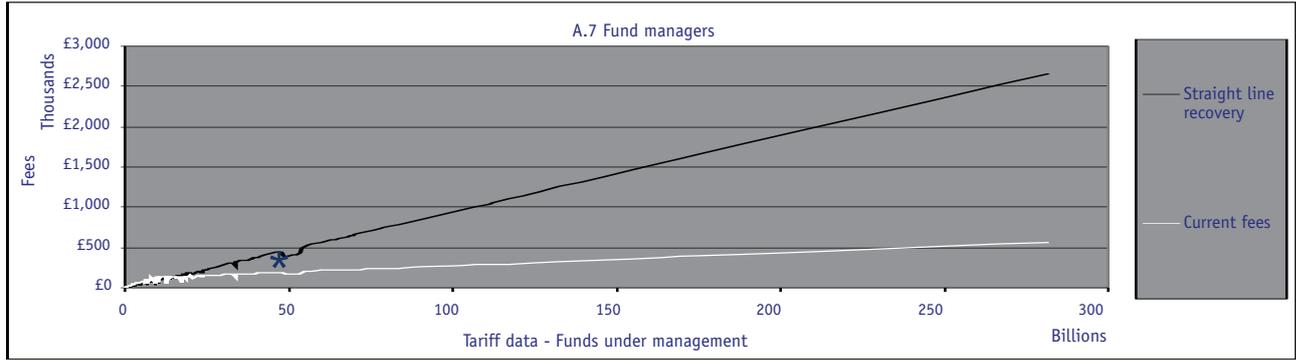
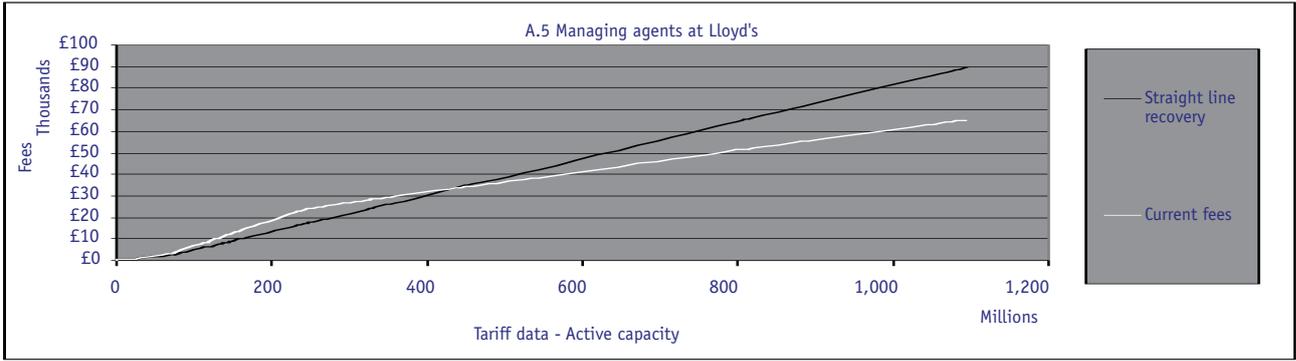
## Table B

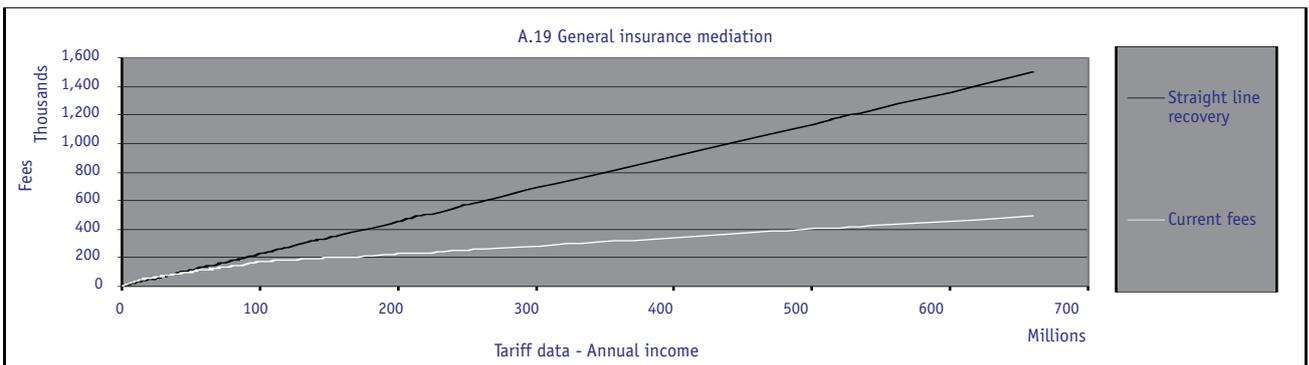
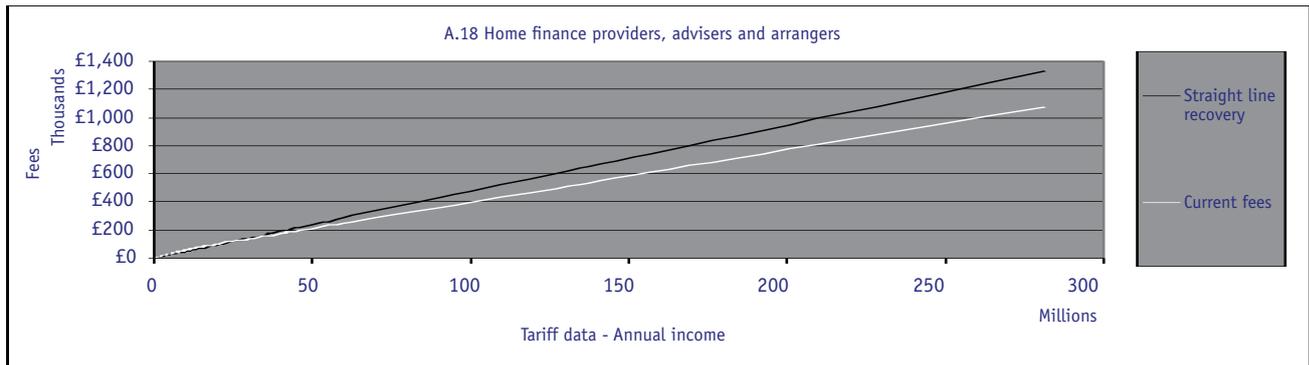
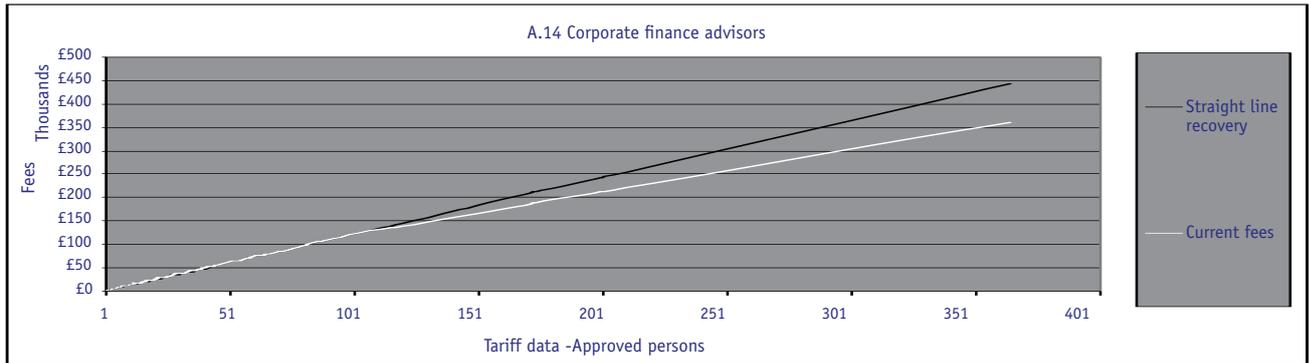
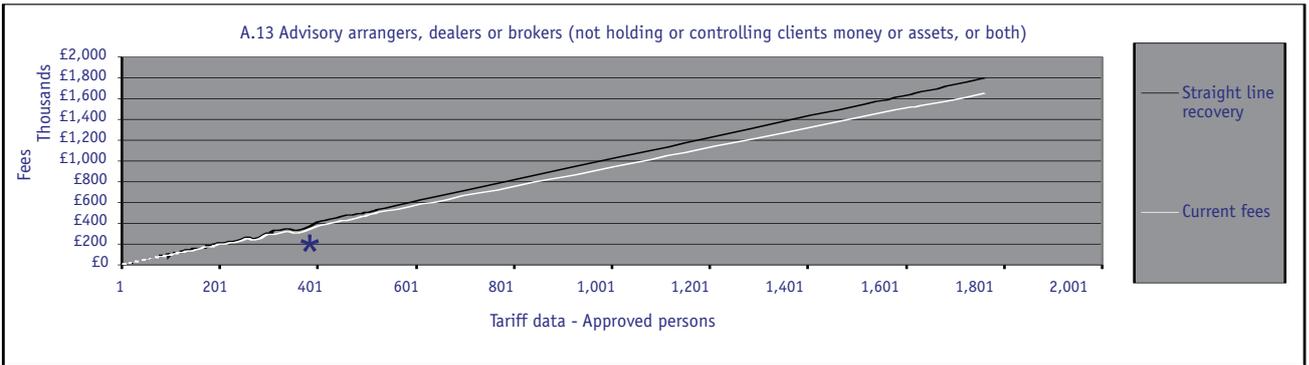
This presents the impact data in Table A as a series of graphs with one for each fee-block except in the case of A.3 (Insurers – general) and A.4 (Insurers – life) which have two each because they both have two types of tariff data.

'Dips' in some graphs reflect the discounts that apply, for example, to EEA passported in branches and fund managers who do not 'hold and control client money or assets'.









**Table C**

This table represents a group view and takes the largest increase within a fee-block and compares it to the overall increase that applies to the whole group it is a member of. Only high and medium high firms are included. Any medium low or low impact firms also in the group are most likely to show decreases in fees.

Fee-block		Largest increase at firm level	Group change inclusive of largest firm increase
A.1	Deposit acceptors	7%	6%
A.2	Home finance providers and administrators	116%	11%
A.3	Insurers – general	172%	50%
A.4	Insurers – life	22%	14%
A.5	Managing agents at Lloyd’s	37%	-14%
A.7	Fund managers	370%	10%
A.9	Operators, Trustees and Depositaries of collective investment schemes and Operators of personal pension schemes or stakeholder pension schemes	1%	18%
A.10	Firms dealing as principal	12%	8%
A.12	Advisory arrangers, dealers or brokers (holding or controlling clients money or assets, or both)	59%	10%
A.13	Advisory arrangers, dealers or brokers ( <b>not</b> holding or controlling clients money or assets, or both)	8%	-1%
A.14	Corporate finance advisors	23%	16%
A.18	Home finance providers, advisers and arrangers	25%	11%
A.19	General insurance mediation	206%	155%

It should be noted that for all the tables and graphs in this Annex the proposed straight line calculations are based on the existing minimum fee structure as their purpose is to show changes in periodic fees. Impact of changes in minimum fees is shown in Table 4.1 in Chapter 4.

# Location of fees and levy rules and guidance in the FSA Handbook

All rules and guidance on regulatory fees and levies are consolidated in the Fees manual (FEES) in our Handbook. The table below shows the organisation of rules and guidance in FEES.

Our powers to make rules for the payment of fees are in FSMA, at paragraph 17 of Part 3 of Schedule 1. Section 99 of FSMA sets out our power to make fee rules for the UK Listing Authority.

**Table A: Location of fees rules in the Fees Sourcebook (FEES)**

Chapter and annexes	Summary of fees rules and guidance
<b>FEES 1</b>	<b>Application and Purpose</b>
<b>FEES 2</b>	<b>General Provisions</b>
<b>FEES 3</b>	<b>Application, Notification and Vetting fees</b>
Annex 1R	Authorisation fees payable
Annex 2R	Application and notification fees payable in relation to collective investment schemes
Annex 3R	Application fees payable in connection with Recognised Investment Exchanges and Recognised Clearing Houses
Annex 4R	Application and tranche fees in relation to listing rules
Annex 5R	Document vetting and approval fees in relation to listing and prospectus rules
Annex 6R	Fees payable for a waiver (or concession) or guidance on the availability of either in connection with rules implementing Basel Capital Accord
<b>FEES 4</b>	<b>Periodic fees</b>
Annex 1R	Activity groups, tariff-bases and valuation dates applicable
Annex 2R	Fee tariff rates, permitted deductions and EEA/Treaty firm modifications
Annex 3R	Transaction reporting fees
Annex 4R	Periodic fees in relation to collective investment schemes
Annex 5R	Periodic fees for designated professional bodies
Annex 6R	Periodic fees for recognised investment exchanges and recognised clearing houses
Annex 7R	Periodic fees in relation to the Listing Rules
Annex 8R	Periodic fees in relation to the Disclosure Rules

<b>Chapter and annexes</b>	<b>Summary of fees rules and guidance</b>
Annex 9R	Periodic fees in respect of securitised derivatives for the period from 1 April to 31 March 2009
Annex 10R	Periodic fees for MTF operators payable in relation to the period 1 April 2009 to 31 March 2010
Annex 11R	Periodic fees in respect of payment services carried on by fee-paying payment services providers under the Payment Services Regulations
<b>FEES 5</b>	<b>Financial Ombudsman Service Funding</b>
Annex 1R	Annual Fees
<b>FEES 6</b>	<b>Financial Services Compensation Scheme Funding</b>
Annex 1R	Management Expenses Levy Limit

Note: Fees for unauthorised mutuals – the ‘registrant-only’ fee-block – sit outside our Handbook. Details can be accessed on the web at: [www.fsa.gov.uk/Pages/Doing/small\\_firms/MSR](http://www.fsa.gov.uk/Pages/Doing/small_firms/MSR)

Draft rules and guidance –  
Fees (Strategic Review)  
Instrument 2010

## **FEES (STRATEGIC REVIEW) INSTRUMENT 2010**

### **Powers exercised**

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following provisions of the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 156 (General supplementary powers); and
    - (b) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
  - (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).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

### **Commencement**

- C. This instrument comes into force on 1 June 2010.

### **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 (Strategic Review) Instrument 2010.

By order of the Board  
XXX

## Annex

### Amendments to the Fees manual (FEES)

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

4.2.7 R A *firm* (other than an *ICVC* or *UCITS qualifier*) which becomes authorised, or whose *permission* and /or *payment service* activities are extended, during the course of the financial year must pay a fee which is calculated by:

...

(2) calculating the amount for each of those tariffs ~~which is the higher of:~~

(a) ~~the minimum fee specified for the tariff; and~~

(b) ~~by the result of~~ applying the tariff to the projected valuation, for its first year (as provided to the *FSA* in the course of the *firm's* application), of the business to which the tariff relates;

(3) adding together the amounts calculated under (2); ~~and~~

(4) ~~modifying the result as indicated by the table in FEES 4.2.6 R (except that FEES 4 Annex 10 (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant financial year and FEES 4.2.6 R does not apply)-~~ working out whether a minimum fee is payable under Part 1A of FEES 4 Annex 2R and if so how much (except that that minimum fee is not payable again by a firm whose permission is extended if the fee was already payable before the extension);

(5) adding together the amounts calculated under (3) and (4); and

(6) modifying the result as indicated by the table in FEES 4.2.6 R (except that FEES 4 Annex 10 (Periodic fees for MTF operators) deals with a firm that receives permission for operating a multilateral trading facility or has its permission extended to include this activity during the course of the relevant financial year and FEES 4.2.6 R does not apply).

...

4.3.3 R The periodic fee referred to in *FEES* 4.3.1R is (except in relation to the *Society* and *fee-paying payment service providers* ) calculated as follows:

(1) identify each of the tariffs set out in Part 1 of *FEES* 4 Annex 2R which apply to the business of the *firm* for the period specified in that annex;

(2) for each of those tariffs, calculate the sum payable in relation to the business of the *firm* for that period, ~~applying any minimum fee~~

discount as may be applicable (see *FEES* 4.3.16R);

- (3) add together the amounts calculated under (2); ~~and~~
- (4) ~~apply any applicable payment charge or discount specified in *FEES* 4.2.4R, provided that:~~ work out whether a minimum fee is payable under Part 1A of *FEES* 4 Annex 2R and if so how much:
  - (a) ~~for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FSA*; or~~
  - (b) ~~for payment by credit transfer, the amount due is received by the *FSA* on or before the due date.~~
- (5) add together the amounts calculated under (3) and (4); and
- (6) apply any applicable payment charge or discount specified in *FEES* 4.2.4R, provided that:
  - (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FSA*; or
  - (b) for payment by credit transfer, the amount due is received by the *FSA* on or before the due date.

...

#### Minimum fee discount

- |        |   |   |
|--------|---|---|
| 4.3.16 | R | (1) <del>A <i>firm</i> (other than a <i>firm</i> in (2) or a <i>credit union</i>) in more than one fee block must pay at least 50% of the total minimum fee payable in any fee block in which it is a minimum fee payer. [deleted]</del>  |
|        |   | (2) <del>A <i>firm</i> (other than a <i>credit union</i>) liable to pay only minimum fees in each fee block it is in must pay 100% of the highest total minimum fee payable within any one fee block and must pay at least 50% of the total minimum fee payable in any other fee blocks in which it is a minimum fee payer. [deleted]</del> |
|        |   | (3) <del>A <i>credit union</i> in more than one fee block must pay at least 50% of the total minimum fee payable in any fee block, other than fee block A.1, in which they are a minimum fee payer. [deleted]</del>   |

...

FEES 4 Annex 2	R	...
		Part 1

This table shows the tariff rates applicable to each fee block

(1)	For each activity group specified in the table below, the fee is the total of the sums payable for each of the tariff bands applicable to the <i>firm's</i> business, calculated as follows:		
	(a)	<del>the relevant minimum fee; plus</del>	
	(b)	<del>an additional fee calculated by multiplying the value of the <i>firm's</i> tariff base by the appropriate rates rate applying applicable to each tranche of the tariff base, as indicated (Note 1).</del>	
...			
Activity Group	Fee payable		
A.1	<del>Minimum fee (£)</del>	160	
	£ million of Modified Eligible Liabilities (MELs)	Fee (£/£m or part £m of MELs)	
	<del>0—0.5 Band width-</del>	<del>0 Rate</del>	
	<del>&gt;0.5—2 &gt; 10 - 140</del>	<del>additional flat fee of £380 31.63</del>	
	<del>&gt;2—10 &gt;140 - 630</del>	<del>additional flat fee of £530 31.63</del>	
	<del>&gt;10—200 &gt;630 - 1,580</del>	<del>32.31 31.63</del>	
	<del>&gt;200—2,000 &gt;1,580 - 13,400</del>	<del>32.31 37.95</del>	
	<del>&gt;2,000—10,000</del>	<del>32.31</del>	
	<del>&gt;13,400</del>	<del>45.86</del>	
	<del>&gt;10,000—20,000</del>	<del>47.19</del>	
	<del>&gt;20,000</del>	<del>47.19</del>	
		For a <i>firm</i> in A.1 which has a limitation on its <i>permission</i> to the effect that it may <i>accept deposits</i> from <i>wholesale depositors</i> only, <del>the</del> <u>this</u> fee is calculated as above less 30%, ...	
	A.2	<del>Minimum fee (£)</del>	525

	No. of mortgages and/or <i>home finance transactions</i>	Fee (£/mortgage)	
	0—50 <u>Band width</u>	<u>0 Rate</u>	
	51—500 <u>&gt;50 - 130</u>	6.40 <u>1.23</u>	
	501—1,000 <u>&gt;130 - 320</u>	2.37 <u>1.23</u>	
	1,001—50,000 <u>&gt;320 - 4,570</u>	<del>2.37</del> <u>1.23</u>	
	50,001—500,000 <u>&gt;4,570 - 37,500</u>	<del>1.35</del> <u>1.23</u>	
	<u>&gt;500,000 &gt;37,500</u>	<del>0.32</del> <u>1.23</u>	
A.3	<b>Gross premium income (GPI)</b>	Column 1 (General periodic fee)	Column 2 (Solvency 2 Implementation Fee)
	<b>Minimum fee (£)</b>	430	...
	£ million of GPI	Fee (£/£m or part £m of GPI)	
	0—0.5 <u>Band Width</u>	<u>0 Rate</u>	<u>0</u>
	>0.5 — 2 <u>10.5</u>	2.461.92 <u>405.61</u>	
	<del>&gt;2 — 5</del> <u>&gt;10.5 - 30</u>	2.461.92 <u>405.61</u>	
	<del>&gt;5 — 20</del> <u>&gt;30 - 245</u>	2.461.92 <u>405.61</u>	
	<del>&gt;20 — 75</del> <u>&gt;245 - 1,900</u>	799.42 <u>405.61</u>	
	<del>&gt;75 — 150</del> <u>&gt;1,900</u>	799.42 <u>405.61</u>	
	<del>&gt;150</del>	107.36	
	PLUS		
	<b>Gross technical</b>	Column 1	Column 2

	<b>liabilities (GTL)</b>	(General Periodic fee)	(Solvency 2 Implementation fee)
	<b>Minimum fee (£)</b>	0	0
	£ million of GTL	Fee (£/£m or part £m of GTL)	
	<u>0—1 Band Width</u>	<u>0 Rate</u>	0
	<u>&gt;1 – 5-12.5</u>	<u>60.30 20.55</u>	
	<u>&gt;5—50 &gt;12.5 - 70</u>	<u>60.30 20.55</u>	
	<u>&gt;50—100 &gt;70 – 384</u>	<u>60.30 20.55</u>	
	<u>&gt;100—1,000 &gt;384 – 3,750</u>	<u>18.96 20.55</u>	
	<u>&gt;1,000 &gt;3,750</u>	<u>7.59 20.55</u>	
	PLUS		
	Solvency 2 Special Project Fee (the “Solvency 2 fee”)		
	<b>Minimum fee (£)</b>	0	
	...		
	...		
A.4	<b>Adjusted annual gross premium income (AGPI)</b>	Column 1 (General Periodic fee)	...
	<b>Minimum fee (£)</b>	215	...
	£ million of AGPI	Fee (£/£m or part £m of AGPI)	
	<u>0—1 Band Width</u>	<u>0 Rate</u>	0
	<u>&gt;1 – 50 5</u>	<u>740.00 548.18</u>	
	<u>&gt;50—1,000 &gt;5 – 40</u>	<u>740.00 548.18</u>	
	<u>&gt;1,000—2,000 &gt;40</u>	<u>554.56 548.18</u>	

	<u>- 260</u>		
	<del>&gt;2,000</del> <u>&gt;260 - 4,000</u>	<del>380.75</del> <u>548.18</u>	
	<u>&gt;4,000</u>	<u>548.18</u>	
	PLUS		
	<b>Mathematical reserves (MR)</b>	Column 1 (General Periodic fee)	...
	<del>Minimum fee (£)</del>	<u>215</u>	...
	£ million of MR	Fee (£/£m or part £m of MR)	
	<del>0—1</del> Band Width	<del>0</del> Rate	<del>0</del>
	<del>&gt;1 - 10</del> <u>20</u>	<del>42.35</del> <u>16.73</u>	
	<del>&gt;10 - 100</del> <u>&gt;20 - 270</u>	<del>42.35</del> <u>16.73</u>	
	<del>&gt;100 - 1,000</del> <u>&gt;270 - 7,000</u>	<del>22.25</del> <u>16.73</u>	
	<del>&gt;1,000 - 5,000</del> <u>&gt;7,000 - 45,000</u>	<del>22.25</del> <u>16.73</u>	
	<del>&gt;5,000 - 15,000</del>	<del>15.04</del>	
	<u>&gt;45,000</u>	<del>15.04</del> <u>16.73</u>	
	<u>&gt;15,000</u>	<del>15.04</del>	
	PLUS		
	Solvency 2 Special Project Fee (Solvency 2 fee)		
	<del>Minimum fee (£)</del>	<del>0</del>	
	...	...	
A.5	<del>Minimum fee (£)</del>	<u>580</u>	
	£ million of Active Capacity (AC)	Fee (£/£m or part £m of AC)	

	<u>0—50 Band Width</u>	<u>0 Rate</u>
	>50 – 150	<del>122.49</del> <u>88.66</u>
	>150 – 250	<del>116.67</del> <u>88.66</u>
	>250 – <u>500</u>	<del>48.21</del> <u>88.66</u>
	<u>&gt;500 – 1,000</u>	<u>88.66</u>
	<u>&gt;1,000</u>	<u>88.66</u>
...	...	...
A.7	For class 1(C), (2) and (3) <i>firms</i> :	
	<b>Minimum fee (£)</b>	<b>1,210</b>
	£ million of Funds under Management (FuM)	Fee (£/£m or part £m of FuM)
	<u>0—10 Band Width</u>	<u>0 Rate</u>
	>10 – <del>100</del> <u>150</u>	<del>58.27</del> <u>9.60</u>
	<del>&gt;100 – 2,500</del> <u>&gt;150 – 2,800</u>	<del>18.74</del> <u>9.60</u>
	<del>&gt;2,500 – 10,000</del> <u>&gt;2,800 – 17,500</u>	<del>10.43</del> <u>9.60</u>
	<del>&gt;10,000</del> <u>&gt;17,500 – 100,000</u>	<del>1.60</del> <u>9.60</u>
	<u>&gt;100,000</u>	<u>9.60</u>
	...	
...	...	
A.9	<b>Minimum fee (£)</b>	<b>1,890</b>
	£ million of Gross Income (GI)	Fee (£/£m or part £m of GI)
	<u>0—1 Band Width</u>	<u>0 Rate</u>
	>1 – <del>5</del> <u>4.5</u>	<del>991.25</del> <u>1.064.38</u>

	<del>&gt;5 - 15</del> <u>&gt;4.5 - 17</u>	955 <u>1.064.38</u>
	<del>&gt;15 - 40</del> <u>&gt;17 - 145</u>	955 <u>1.064.38</u>
	<del>&gt;40</del> <u>&gt; 145 - 750</u>	940 <u>1.064.38</u>
	<u>&gt;750</u>	<u>1.064.38</u>
A.10	<b>Minimum fee (£)</b>	2,310
	No. of traders	Fee (£/trader)
	<del>0 - 2</del> <u>Band Width</u>	<del>0</del> <u>Rate</u>
	<del>3 - 5</del>	<del>3,937</del> <u>3,111.51</u>
	<del>6 - 10</del> <u>4 - 5</u>	<del>2,677</del> <u>3,111.51</u>
	<del>11 - 50</del> <u>6 - 30</u>	<del>2,677</del> <u>3,111.51</u>
	<del>51 - 200</del> <u>31 - 180</u>	<del>3,283</del> <u>3,111.51</u>
	<del>&gt;200</del> <u>&gt;180</u>	<del>3,283</del> <u>3,111.51</u>
...		
A.12	<b>Minimum fee (£)</b>	1,960
	No. of persons	Fee (£/person)
	<del>0 - 1</del> <u>Band Width</u>	<del>0</del> <u>Rate</u>
	<del>2 - 4</del> <u>5</u>	<del>1,232</del> <u>360.97</u>
	<del>5 - 10</del> <u>6 - 35</u>	<del>590</del> <u>360.97</u>
	<del>11 - 25</del> <u>36 - 175</u>	<del>504</del> <u>360.97</u>
	<del>26 - 150</del> <u>176 - 1,600</u>	<del>255</del> <u>360.97</u>
	<del>151 - 1,500</del>	<del>255</del>
	<u>&gt;1,600</u>	<u>360.97</u>
	<del>&gt;1,500</del>	<del>160</del>
	...	
A.13	For class (2) firms	

	Minimum fee (£)	1,850
	No. of persons	Fee (£/person)
	<u>0—1 Band Width</u>	<u>0 Rate</u>
	2 – 4 <u>3</u>	1,119 <u>1,314.68</u>
	5—10 <u>4 - 30</u>	1,073 <u>1,314.68</u>
	11—25 <u>31 - 300</u>	1,073 <u>1,314.68</u>
	26—500 <u>301 – 2,000</u>	939 <u>1,314.68</u>
	501—4,000 <u>≥2,000</u>	939 <u>1,314.68</u>
	>4,000	939
	...	
A.14	Minimum fee (£)	1,335
	No. of persons	Fee (£/person)
	<u>0—1 Band Width</u>	<u>0 Rate</u>
	2 - 4	1,393 <u>1,293.48</u>
	3—4 <u>5 - 25</u>	1,393 <u>1,293.48</u>
	5—10 <u>26 - 80</u>	1,211 <u>1,293.48</u>
	11—100 <u>81 - 199</u>	1,211 <u>1,293.48</u>
	101—200 <u>≥199</u>	902 <u>1,293.48</u>
	>200	902
	...	
A.18	Minimum fee (£)	745
	£ thousands of Annual Income (AI)	Fee (£/£ thousand or part £ thousand of AI)
	<u>0—100 Band Width</u>	<u>0 Rate</u>
	>100 <u>—1,000 180</u>	6.93 <u>6.37</u>

	<del>&gt;1,000 – 5,000</del> <del>&gt;180 – 1,000</del>	<del>5.60</del> <u>6.37</u>
	<del>&gt;5,000 – 10,000</del> <del>&gt;1,000 – 12,500</del>	<del>5.60</del> <u>6.37</u>
	<del>&gt;10,000 – 20,000</del> <del>&gt;12,500 – 50,000</del>	<del>4.33</del> <u>6.37</u>
	<del>&gt;20,000</del> <del>&gt;50,000</del>	<del>3.71</del> <u>6.37</u>
A.19	<b>Minimum fee (£)</b>	<b>450</b>
	£ thousands of Annual Income (AI)	Fee (£/£ thousand or part £ thousand of AI)
	<del>0 – 100</del> <u>Band Width</u>	<del>0</del> <u>Rate</u>
	<del>&gt;100 - 1,000</del> <u>325</u>	<del>4.66</del> <u>2.27</u>
	<del>&gt;1,000 – 5,000</del> <del>&gt;325 – 10,000</del>	<del>4.30</del> <u>2.27</u>
	<del>&gt;5,000 – 15,000</del> <del>&gt;10,000 – 50,750</del>	<del>2.99</del> <u>2.27</u>
	<del>&gt;15,000 – 100,000</del> <del>&gt;50,750 – 250,000</del>	<del>1.40</del> <u>2.27</u>
	<del>&gt;100,000</del> <del>&gt;250,000</del>	<del>0.57</del> <u>2.27</u>
...		

<u>Part 1A</u>	
(1)	<u>This Part sets out the minimum fee applicable to the <i>firms</i> specified in (3) below.</u>
(2)	<u>The minimum fee payable by any <i>firm</i> referred to in (3) is £1,000 unless it is a <i>credit union</i> that meets the conditions in (4) in which case the minimum fee payable is as set out in (4).</u>

	(3)	<u>A firm (including an incoming EEA firm and an incoming Treaty firm) is referred to in this paragraph if it falls within the following activity groups: A.1;A.2; A.3 (excluding UK ISPVs); A.4; A.5; A.7; A.9; A.10; A.12; A.13; A.14; A.18; and A.19 (Note 1).</u>	
	(4)	<u>The conditions referred to in (2) are that the credit union has a tariff base (Modified Eligible Liabilities) of:</u>	
		(a)	<u>£0 to £0.5million, in which case a minimum fee of £160 is payable;</u> <u>or</u>
		(b)	<u>greater than £0.5million but less than £2.0million, in which case a minimum fee of £540 is payable.</u>
<u>Note 1</u>	<u>In the case of a firm which is required to pay the Solvency 2 Implementation fee (see Part 5) there is an additional minimum fee set out in Part 1.</u>		

...

...

### Part 3

This table shows the modifications to fee tariffs that apply to *incoming EEA firms* and *incoming Treaty firms* which have established branches in the UK.

Activity group	Percentage deducted from the tariff payable under Part 1 applicable to the firm	Minimum amount payable
A.1	...	£100
A.3	...	nil
A.4	...	£100
A.7	...	£100
A.9	...	£100
A.10	...	£100
A.12	...	£100
A.13	...	£100
A.19	...	£100

...		
<u>Note 1</u>	The modifications to fee tariffs payable by an <i>incoming EEA firm</i> or an <i>incoming Treaty firm</i> which has established a <i>branch</i> in the UK apply only in relation to the relevant <i>regulated activities</i> of the <i>firm</i> which are <i>passported activities</i> or <i>Treaty activities</i> and which are carried on in the <i>UK</i> .	
<u>Note 2</u>	<u>The minimum fee described in Part 1A of FEES 4 Annex 2R applies in full and the modifications in this Part do not apply to it.</u>	

Draft rules and guidance –  
Fees (Building Societies)  
Instrument 2009

## **FEES (BUILDING SOCIETIES) INSTRUMENT 2009**

### **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 156 (General supplementary powers); and
  - (2) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

### **Commencement**

- C. This instrument comes into force on 11 December 2009.

### **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 (Building Societies) Instrument 2009.

By order of the Board

XXX

## Annex

### Amendments to the Fees manual (FEES)

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

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

...

Part 2

...

Activity group	Tariff base
A.1	<p><b>MODIFIED ELIGIBLE LIABILITIES</b>  <b>For banks <u>and building societies</u>:</b></p> <p><b>Part 1:</b>            ...</p> <p><b>Assets</b>            In sterling:            £21B + 60% of £22A + £23D + £23E + £23F + <u>£23G</u> + £30A +            £30B + £32AA1 + £32AA2            plus            In foreign currency, one-third of:</p> <p>E21B + 60% of E22A + E23D + E23E + E23F + <u>E23G</u> + E30A            + E30B + E32AA1 + E32AA2 + C21B + 60% of <u>C22A</u> +            C23D + C23E + C23F + C30A + C30B + C32AA1 + C32AA2</p>
	<p><b>Part 2: Non-resident office offset</b>            ...</p> <p><b>Notes:</b>            (1) All references in the above formula are to entries on Form            BT (that is, the Balance Sheet Form completed to provide            information required following the Banking Statistics Review            1997 and returned by <i>banks <u>and building societies</u></i> to the Bank            of England as required by the Bank of England Act 1998).            ...</p>
	...

	<p><b>For building societies:</b></p> <ul style="list-style-type: none"> <li>• <b>deposit liabilities</b> (including debt securities up to five years original maturity) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B1.1+B1.2+B2.0a+B2.0b+B2.10+B2.13+B2.14+B2.15+B2.16)</li> </ul> <p><b>LESS amounts in respect of:</b></p> <ul style="list-style-type: none"> <li>• <b>sterling repo liabilities with the Bank of England</b> (that is, ONLY the amounts in sterling (in column 5) for item B2.5a)</li> <li>• <b>balances held with the Bank of England</b> (excluding cash ratio deposits) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for item B6.2a, less the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for item OW1.1)</li> <li>• <b>market loans to banks, building societies</b> (balances with and loans to, plus CDs, Commercial paper) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B6.3.a+B6.4.a+B6.4b+B6.5a+B6.5b+B6.12a)</li> <li>• <b>investments with banks and building societies</b> (bonds, notes and other debt instruments up to five years original maturity) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B6.6a1+B6.6a2+B6.10a1+B6.10a2)</li> </ul>
	<p><b>Note :</b> All references in the definition for building society MELs are to entries in the MFS1 which is submitted <i>monthly</i> by all <i>building societies</i> to the <i>FSA</i>. For a <i>dormant account fund operator</i> the tariff base is not relevant and the flat fee in <i>FEES 4 Annex 2R</i> is payable.</p>
...	

...

Draft rules and guidance –  
Fees Provisions  
(Amendments) (No2)  
Instrument 2010

## **FEES PROVISIONS (AMENDMENTS) (NO 2) INSTRUMENT 2010**

### **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 99(1) and (2) (Fees);
  - (2) section 101 (Part 6 rules: general provisions);
  - (3) section 156 (General supplementary powers);
  - (4) section 157(1) (Guidance);
  - (5) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
  - (6) paragraphs 1 (General), 4 (Rules) and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI).
- B. The rule-making powers listed above are specified for the purposes of section 153(2) (Rule-making instruments) of the Act.

### **Commencement**

- C. This instrument comes into force on ... 2010.

### **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 Provisions (Amendments) (No 2) Instrument 2010.

By order of the Board  
XXX

## Annex

### Amendments to the Fees manual (FEES)

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

...

- 4.1.3 G Most of the detail of the periodic fees that are payable by *firms* is set out in *FEES 4 Annexes 1 to 11*. *FEES 4 Annex 12 provides guidance on the calculation of certain tariffs*. Most of the provisions of the Annexes will vary from one financial year to another. Accordingly fresh *FEES 4 Annexes* will come into force, following consultation, for each financial year.

...

- 4.3.2 G (1) The amount payable by each *firm* will depend upon the category (or categories) of *regulated activities* or *payment services* it is engaged in (fee-blocks), and on the amount of business it conducts in each category (tariff base). The fee-blocks and tariffs are identified in *FEES 4 Annex 1R* (and guidance on calculating certain of the tariffs is at *FEES 4 Annex 12G*), while *FEES 4 Annex 2R* sets out the tariff rates for the relevant financial year. In the case of *firms* that provide *payment services*, the relevant fee blocks, tariffs and rates are set out in *FEES 4 Annex 11R*.

...

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

...

Part 2

...

Activity group	Tariff base
A.1	<b>MODIFIED ELIGIBLE LIABILITIES</b> <b>For banks:</b> <b>Part 1:</b> <b>Liabilities</b> <del>In sterling:</del> £2 + £3 + £4 + £5A + £5B + £6B + £6C + £6D + £6E + £6F + £6G + £6H + £6J + £8 + £10 + 60% of £11A + £44

	<p>plus In foreign currency, one third of: E2 + E3 + E4 + E5A + E5B + E6B + E6C + E6D + E6E + E6F + E6G + E6H + E6J + E8 + E10 + 60% of E11A + E44 + C2 + C3 + C4 + C5A + C5B + C6B + C6C + C6D + C6E + C6F + C6G + C6H + C6J + C8 + C10 + 60% of C11A: less <b>Assets</b> In sterling: £21B + 60% of £22A + £23D + £23E + £23F + £30A + £30B + £32AA1 + £32AA2</p> <p>plus In foreign currency, one third of: E21B + 60% of E22A + E23D + E23E + E23F + E30A + E30B + E32AA1 + E32AA2 + C21B + 60% of C22A + C23D + C23E + C23F + C30A + C30B + C32AA1 + C32AA2</p> <p><b><u>Item B of Form ELS (Note (1)):</u></b></p> <p><u>(£1 + £2 + £3 + £4 + 0.6*£5 + £6 - £8 - £9A - £9B - £10A - £10C - £11A - 0.6*£12) + (1/3)*(F1 + F2 + F3 + F4 + 0.6*F5 + F6 - F8 - F9A - F9B - F10A - F10C - F11A - 0.6*F12)</u></p> <p><u>- £13M</u></p>
	<p><b>Part 2: Non-resident office offset</b> The fee base is adjusted by deducting from the amount calculated in accordance with part 1 above, the Non-Resident Office Offset amount obtained by subtracting item £45D plus one third of both E45D and C45D from the sum of item £45BA, plus one third of both E45BA and C45BA in the Form BT. The Non-Resident Office Offset amount, if it would otherwise have been a negative number, is zero.</p> <p><b>Notes:</b> (1) All references in the above formula are to entries on Form BT <u>ELS</u> (that is, the <u>Balance Sheet Form Eligible Liabilities Return</u> completed to provide information required following the <u>Banking Statistics Review 1997</u> and returned by <u>banks and building societies</u> to the Bank of England as required by the Bank of England Act 1998). (2) 'E' refers to assets and liabilities denominated in euro (as referred to in column 2 of Form BT) and 'C' refers to assets and liabilities denominated in currencies other than sterling and euro (as referred to in column 3 of Form BT). In accordance with Form BT, assets and liabilities in currencies other than sterling are to be recorded in sterling. (3) (2) The figures reported on the Form BT <u>ELS</u> relate to business conducted out of offices in the <i>United Kingdom</i>.</p>

	...
	<p><b>For building societies:</b></p> <ul style="list-style-type: none"> <li>• deposit liabilities (including debt securities up to five years original maturity) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B1.1+B1.2+B2.0a+B2.0b+B2.10+B2.13+B2.14+B2.15+B2.16)</li> </ul> <p><b>LESS amounts in respect of:</b></p> <ul style="list-style-type: none"> <li>• <b>sterling repo liabilities with the Bank of England</b> (that is, ONLY the amounts in sterling (in column 5) for item B2.5a)</li> <li>• <b>balances held with the Bank of England</b> (excluding cash ratio deposits) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for item B6.2a, less the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for item OW1.1)</li> <li>• <b>market loans to banks, building societies</b> (balances with and loans to, plus CDs, Commercial paper) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B6.3.a+B6.4.a+B6.4b+B6.5a+B6.5b+B6.12a)</li> <li>• <b>investments with banks and building societies</b> (bonds, notes and other debt instruments up to five years original maturity) (that is, the amounts in sterling (in column 1) and one third of foreign currency referenced amounts (in columns 2 and 3) for items B6.6a1+B6.6a2+B6.10a1+B6.10a2)</li> </ul>
	<p><b>Note :</b> All references in the definition for building society MELs are to entries in the MFS1 which is submitted <i>monthly</i> by all <i>building societies</i> to the <i>FSA</i>. For a <i>dormant account fund operator</i> the tariff base is not relevant and the flat fee in FEES 4 Annex 2R is payable.</p>
	...
A.4	<b>ADJUSTED GROSS PREMIUM INCOME AND MATHEMATICAL RESERVES</b> <u>(see FEES 4 Annex 12G)</u>
	...
	<b>Notes</b>
	(1) <del>[deleted]</del> <u>If any business is transferred to a <i>firm</i> (A) from another <i>firm</i> (B) under the procedure set out at Part VII of the <i>Act</i> and such business would have been included in B's tariff</u>

	base for a financial year of the <i>FSA</i> as new regular <i>premium</i> business in the absence of such a transfer, this business must be included in the calculation of A's adjusted gross premium income for that financial year of the <i>FSA</i> even if A's financial year ends on a different date from B's.
	...
	...

...

**4 Annex 7 R Periodic fees in relation to the Listing Rules for the period 1 April 2009 to 31 March 2010**

Fee type	Fee amount
...	
...	<p>(1) For all <i>issuers</i> of <i>securitised derivatives</i>....</p> <p>(2) For all other <i>issuers</i>, fees to be determined according to market capitalisation, as at the last <i>business day</i> of the November prior to the <i>FSA</i> financial year in which the fee is payable, are as set out in Table 2. The fee is calculated as follows:</p> <p>...</p>

...

Table 2

Tiered annual fees for all other issuers

Fee payable	
...	
£ million of Market Capitalisation as at the last <i>business day</i> of the <i>November</i> prior to the <i>FSA</i> financial year in which the fee is payable	Fee (£/£m or part £m of Market Capitalisation as at the last <i>business day</i> of the <i>November</i> prior to the <i>FSA</i> financial year in which the fee is payable)

...	

...

After FEES 4 Annex 11R, insert the following new Annex. The text is not underlined.

**4 Annex 12 G Guidance on the calculation of tariffs set out in FEES 4 Annex 1R Part 2**

The following tables set out guidance on how a *firm* should calculate relevant tariffs

Part 1 – Fee block A.4

<p><b>Adjusted Gross Premium Income and Mathematical reserves – calculation of new regular premium business</b></p> <p>(1) In calculating the new regular <i>premium</i> business element of its Adjusted Gross Premium Income, a <i>firm</i> (A) should not include business transferred from another <i>firm</i> (B) under the procedure set out at Part VII of the <i>Act</i>, during the relevant financial year, provided that such transfer did not involve the creation of new contracts between the policyholders subject to the transfer and A. This is because that business is existing business even though it is new from the point of view of A. This means that if new contracts are created as part of the transfer, such business should be included in the calculation of A’s new regular <i>premium</i> income business.</p> <p>(2) If any business is transferred to a <i>firm</i> (A) from another <i>firm</i> (B) under the procedure set out at Part VII of the <i>Act</i> and such business would have been included in B’s tariff base for a financial year of the <i>FSA</i> as new regular <i>premium</i> business in the absence of such a transfer, this business must be included in the calculation of A’s adjusted gross premium income for that financial year of the <i>FSA</i> even if A’s financial year ends on a different date from B’s.</p> <p>(3) Mathematical reserves should take account of all of A’s business, including all new business transferred from B.</p>
---

**PUB REF: 001856**

The Financial Services Authority  
25 The North Colonnade Canary Wharf London E14 5HS  
Telephone: +44 (0)20 7066 1000 Fax: +44 (0)20 7066 1099  
Website: <http://www.fsa.gov.uk>

Registered as a Limited Company in England and Wales No. 1920623. Registered Office as above.