Consultation Paper

10/5**

Financial Services Authority

Regulatory fees and levies

– Rates proposals 2010/11 and feedback statement on Part 1 of CP09/26

February 2010

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The Financial Services Authority invites comments on the proposals made in this Consultation Paper.

Some of the proposals require comments by **12 March 2010** and others by **12 April 2010.** We indicate clearly in the paper which deadlines apply to which proposals.

Ideally, we would appreciate responses by email to CP10_05@fsa.gov.uk.

Alternatively, please send comments on **Section1, 2** and **3** in writing to:

Peter Cardinali (Ref: CP10/5)
Finance Planning & Management Information - Fees Policy
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Or fax comments to: 020 7066 5597

Comments on **Sections 4 and 5** should be sent in writing to:

Sonal Vyas (Ref: CP10/5)
Conduct Policy – Redress Policy, FOS & FSCS
Financial Services Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Or fax comments to: 020 7066 0029

It is the FSA's 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.

Copies of this Consultation Paper are available to download from our website – www.fsa.gov.uk. Alternatively, paper copies can be obtained by calling the FSA order line: 0845 608 2372.

1 Executive summary

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 October or November we consult on any proposed changes to the underlying policy for FSA fees or FOS and FSCS levies (see (1) above). In the following February we consult on the proposed changes to (2), (3), (4), (5) and any additional policy proposals under (1).

1.3 In November 2009 we published CP09/26[1] covering (1) above which included the proposals arising out of the strategic review of the FSA fees regime and other policy proposals at that time.

1.4 This Consultation Paper (CP) is in the February phase and its publication coincides with the publication of the FOS and FSCS budgets for 2010/11. This CP includes the Summary Business Plan (SBP) for the FSA, which will enable firms to see the annual funding requirement and the related fees in the context of our key priorities for the coming year. The full FSA Business Plan 2010/11 will be published in March together with the Financial Risk Outlook.

1.5 This CP primarily provides feedback on the strategic review proposals in CP09/26 and sets out consultation proposals on the fees and levy rates we intend to raise for the FSA, the FSCS based on initial indicative amounts, and the FOS in 2010/11. We

1 Regulatory fees and levies: policy proposals for 2010/11

make a fees calculator available for firms on our website so fee-payers can assess the impact of the fee and levy proposals, and see what these mean for their 2010/11[2] regulatory charges before receiving our single invoice for regulatory fees and levies. Potential applicants for authorisation can also see the amounts they would be liable to pay in 2010/11. This will make the implications for firms of draft and final fees and levies clearer, and help firms in their budget-planning for the year ahead.

Structure of this paper

1.6 In this chapter we set out a summary of:

- our feedback on the responses we received on the proposals made in the internal strategic review of the FSA fees regime. This was consulted on in Part 1 of CP09/26; and
- key proposals in this CP, timetable for consultation and next steps.

1.7 The rest of the CP has five sections:

- **Section 1:** This details our feedback on the responses we received on the proposals made in the internal strategic review of the FSA fees regime, which was consulted on in Part 1 of CP09/26. Chapter 2 covers the new 'A' fee-block minimum fee and Chapter 3 covers the move to straight line recovery of costs allocated to 'A' fee-blocks. Chapter 4 describes the feedback to the responses received concerning the proposed changes to the tariff base for intermediary firms. We asked for in principle views in Part 2 of CP09/26 (Chapter 8).
- **Section 2:** Chapter 5 sets out our Summary Business Plan for 2010/11. Chapter 6 details the timetable of administrative arrangements for paying fees in 2010/11. Chapters 7-11 describe how we have determined the FSA's AFR for 2010/11 and our proposals to recover this from fee-payers. There are also details of how financial penalties are returned to the industry. Chapter 12 explains our proposals for UK Listing Authority's (UKLA) revised vetting fees for equity prospectuses for 2010/11.
- **Section 3:** Chapters 13 sets out our proposals to recover the costs of establishing a new Consumer Financial Education Body (CFEB). Chapters 14-17 explain our additional fees policy proposals.
- **Section 4:** Chapter 18 consults on the proposed 2010/11 FSCS management expenses levy limit (MELL) and contains indicative compensation cost levy amounts for each sub-class in 2010/11.
- **Section 5:** Chapter 19 consults on the proposed 2010/2011 general levy tariff for the FOS.

1.8 Our Handbook rules and guidance on fees can be found in the Fees manual (FEES) and its structure can be found in this CP's Annex 4 for ease of reference. Additional background material to proposals in this CP – in particular on

2 The amounts shown will include any applicable discounts but exclude deductions made for financial penalties. Penalty deductions will be finalised in May 2010, once all penalties in 2009/10 have been received.

fee raising arrangements and regulatory fees and levies – are included in our Consolidated Policy Statement (PS09/82).[3]

1.9 The Appendices set out the draft rules we intend to implement in 2010/11 to give effect to this CP's proposals.

Summary of feedback on FSA strategic review proposals

1.10 The strategic review covered all firms in the 13 sub-sets of the 'A' fee-block, which are set out in table 1.4 at the end of this chapter. The proposals arising from the strategic review on which we consulted were: introducing a **new minimum fee** for all firms based on recovering minimum specified regulatory costs; and moving to a **straight line recovery** of costs allocated to fee-blocks to calculate variable periodic fees that most firms pay above the minimum fee.

1.11 The proposals will inevitably result in substantial changes in fees levied. Overall, 40% of firms will see an increase and 60% a decrease in their fees. To raise awareness of the consultation, we held a briefing session for trade associations and made direct contact with firms when we published the CP in November and again as a reminder in December. A special strategic fees calculator was also made available so firms could assess how the proposals would impact them. The consultation closed on 11 January 2010.

1.12 We received 65 responses from trade associations and firms, mainly the largest or smallest firms. Most responses, whether directly from firms or through trade associations, lodged disagreement with proposals where firms or members would see an increase in fees. Relatively few direct responses were received from firms who would see decreases in fees as a result of the new minimum fee. There were no responses from the majority of firms that will see their fees decrease – in some cases significantly – under straight lining.

New minimum fee

1.13 The main issues that respondents raised (most being minimum fee-payers only who will see a substantial increase), is our justification for increasing their minimum fee from current levels to £1,000 and the impact on their business model of accommodating this change. In particular the issue was raised by general insurance brokers (+122%) and mortgage brokers (+34%) who carry on this type of business as a single activity. Where such activities are combined with retail intermediary business (e.g. IFAs) the outcome is a decrease (-50%).

1.14 The total amount we recovered from small firms, who only paid minimum fees in 2009/10, would have been £8.6m under the new minimum fee, a reduction of 18% to a level that represents 2% of our total annual funding requirement (AFR) for that period.

1.15 We have given our feedback to the responses to the new minimum fee proposals in Chapter 2. Our justification for introducing the new minimum fee structure is to

3 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).

ensure that all firms make a contribution to specific regulatory costs. We believe that the level of costs we recover through the new £1,000 minimum fee strikes the right balance between not being at a level that would bar entry to financial services, or prevent existing firms from remaining, and does not prejudice the small to medium size firms and medium and large firms.

1.16 A regulated firm's business model must consider the costs of meeting their regulatory obligations. These obligations include contributing to the regulator's costs through the fees levied on it. The firm needs to decide whether in meeting these obligations their business model is viable.

1.17 We have included the new minimum fee structure in our proposed fees for 2010/11, set out in Chapter 9. The new minimum fee for 2010/11 is £1,000, as consulted on in CP09/26. A breakdown of costs covered by this fee (in the new A.0 fee-block) is, as requested by respondents, given in Chapter 8.

1.18 We are also consulting on making smaller non-directive friendly societies an exception to the new minimum fee, as suggested by the Association of Friendly Societies. This is for similar reasons to those applied to the smaller credit unions. All respondents that commented on making smaller credit unions an exception supported this proposal.

Move to straight line recovery for variable periodic fees

1.19 Respondents from larger firms and their trade associations who did not support the proposals raised the following issues:

- Our proposals did not take into account the supervisory resources applied to individual firms and/or their individual risk profile (probability of individual firms failing in addition to size of business as a proxy for impact on our objectives if they failed).
- They believe that 'economies of scale' (tapering-off) still applies to large firms and they do not accept that there is a linear relationship between a firm's size and the cost of regulating it. The firms do not believe sufficient evidence has been provided to show that 'economies of scale' no longer apply. Many ask that more analysis is done to demonstrate this, and in the meantime that the proposals should be deferred or phased in of a period.

1.20 These respondents were mainly larger fund managers, insurers (mostly general insurers), general insurance brokers, retail investment and mortgage intermediaries. These respondents will see large fee increases under straight lining.

1.21 We set out our feedback on responses received in Chapter 3.

1.22 We agree that straight line recovery within fee-blocks does not take into account individual costs of direct supervision of firms or their full risk profile. It is not intended to. However, when allocating supervisory costs to fee-blocks, we consider the risk profile of the firms supervised. The greater the number of high risk firms (in terms of impact and probability of failure) there are in a specific fee-block conducting business, the larger the activity and associated costs. We take a similar approach with non direct supervisory costs, such as policy development. We believe

our cost allocation framework is effective at allocating the right level of **total** costs to fee-blocks. Through this, it takes into account firms' risk profile (impact and probability), thereby reducing the possibility of cross-subsidy between sectors.

1.23 We recognize that recovering costs within fee-blocks either on a time/materials basis or using firm's full risk profiles (i.e. impact of failure and probability of failure) would reflect a more firm-specific way of cost recovery. However, this would give us significant operational challenges and costs – these are outlined in Chapter 3. These operational issues would need to be addressed before we could consider implementing such a change programme. However, we do not rule out that such approaches could be used. We believe the change to straight lining is a step in the right direction as it makes the existing fees framework suitable for recovering non-firm direct supervisory costs. However, we are not in a position to move to either approach for the foreseeable future.

1.24 We do not accept that we have not provided sufficient evidence to support "economies of scale' no longer applying. Our evidence is based on the fact that we focus our supervisory resources in line with our risks assessment framework[4]. When we decide how many resources to apply to a firm or group of firms we use their impact score in our ARROW risk assessments. The impact score is largely based on 'size' and the higher the score (medium-low, medium-high and high) the more resources we allocate to the firm or group. We believe this is enough evidence to support our point that 'economies of scale' do not apply, as well as our recent move to intensive high-quality supervision for the higher impact larger firms in all sectors. We do not see any benefit in delaying bringing recovery of costs within fee-blocks in line with our current practice, and in line with how we plan to focus our resources.

1.25 We believe that business size, as a proxy measure of impact on our objectives should a firm fail, is an objective, transparent, fair and simple measure that can be applied across all firms in a fee-block. The move to straight line recovery for all fee-blocks also reflects our move to intensive, high-quality supervision. This strategy applies to all sectors. We have introduced this change in supervision in response to the lessons learnt from the financial crisis.

1.26 We are therefore including straight lining in the periodic fees for 2010/11, and these are consulted on as part of Chapter 9.

Tariff base for intermediary firms

1.27 In CP09/26, we also asked for in principle views on changing the tariff base for investment and life insurance brokers, dealers and advisers in fee-blocks A.12, A.13 and A.14 (corporate finance). Their fees are based on a headcount of 'approved persons' (APs), authorised to carry out customer-facing financial activities. The system worked well for the fees regime until the different customer functions were merged into a single CF30 category in October 2007. Since then it has become difficult to allocate individual APs to fee-blocks. It is difficult to consistently refer back to obsolete customer functions, as this puts a burden on both our and firms' administrative resources. As an income-based measure may be fairer and more efficient, we asked for

4 The FSA's risk-assessment framework (August 2006).

views on issues we should address as a basis for detailed proposals in the October/November 2010 fees CP, with implementation planned from 2011/12.

1.28 Several respondents were unconvinced about an income-based measure. They commented that it may decrease efficiency and productivity by increasing fees for firms with higher than average ratios of income per AP – firms which, with more to invest in compliance and research, might present lower regulatory risks. There were practical concerns about the consistency of reporting on UK-regulated income, especially with many firms offering a range of services and trading internationally. There was scepticism about our own willingness to be pragmatic in accepting firms' best endeavours to apportion their income. It was suggested that the arguments for adopting a pragmatic approach to estimating income could apply equally to a headcount. Merging the three fee-blocks with CF30 as the standard tariff base might be more straightforward.

1.29 These are significant points which we will take into account when preparing our proposals for decision in the autumn. The CF30 function covers investment management as well as the activities in the three fee-blocks so cannot be applied without adjustment. It may nevertheless present a way forward. We will accordingly work with the industry to explore two options for consultation in the autumn: an income measure and a headcount measure across a consolidated A.12-A.14 fee-block.

Summary of key proposals

Regulatory fees and levies rates: overall change from last year

1.30 Overall, we expect that the proposals we are making for fees and levies, together with the compensation costs that the FSCS is likely to include as part of its levy, mean that the industry, as a whole, will pay broadly the same as in 2009/10.

1.31 Table 1.1 below shows how we expect anticipated changes in the FSA, FSCS and FOS fees and levies to affect the total amount of money those organisations will need to raise from fee-payers next year. At individual fee-payers level, however, there are likely to be wide variations around the average increase. More information can be found on allocating FSA costs and the impact on periodic fees in chapters 8 and 9.

Table 1.1 – Comparison of FSCS, FOS and FSA fees and levies from 2009/10 (Budget) to 2010/11 (proposed)

Cash impact on firms of fees and levies	Proposed 2010/11 (£m)	Budget 2009/10 (£m)	Increase/ (Decrease) (£m)	Increase/ (Decrease) (%)	Refer to:
FSA – Annual Funding Requirement (AFR)	454.7	*413.8	40.9	9.9%	Chapter 7
Financial Penalty discounts	(30.8)	(26.5)	(4.3)	16.2%	Chapter 10
FSA fees	423.9	387.3	36.6	9.4%	Chapters 8&9
Financial Capability	32.9	*21.7	11.2	51.0%	Chapter 13
FSCS – total	505.4	562.0	(56.6)	(10.1%)	Chapter 18
FOS – general levy	17.7	17.7	0	0%	Chapter 19
Net cash cost to firms	**979.9**	**988.7**	**(8.8)**	**(0.9)%**	

1.32 The FSA's annual funding requirement (AFR) has increased by £40.9m. A significant part of this increase is due to ongoing increased expenditure on improved supervisory activities which, in the main, affects the higher impact firms. Important elements of the increase in costs relates to higher headcount and improvements to our operational platform to support our staff.

1.33 This is resulting in a 9.9% AFR increase. However, we will apply a higher amount of financial penalties in 2010/11 for firms' benefit than in 2009/10. At the time of this CP's publication, the amount of penalties collected during 2009/10, which is to be off-set against 2010/11 fees, was £30.8m. This means that the overall increase is reduced to 9.4%.

1.34 This is the first year when the cost of Financial Capability has been shown separately. Firms will now see this as a separate line on their consolidated invoice. This has been done in anticipation of a new organisation being established, which will take responsibility for this work. Full details of our proposals can be found in Chapter 13.

1.35 The FSCS figure includes the interest payable by deposit takers in respect of any loans advanced by the Bank of England and HM Treasury (HMT) to fund defaults by deposit takers in 2008.

1.36 The details on the FSA's fee, the FOS's general levy and the FSCS's management expenses levy limit proposals published in this CP allow individual fee-payers to make their own assessment of how they will be affected. The fees calculator, which can be found at: www.fsa.gov.uk/Pages/Doing/Regulated/Fees/calculator/ will help fee-payers to understand their liability for those FSA fees and FOS and FSCS levies now being consulted on. The FSCS levy proposals are published in their Plan and Budget 2010/11.

Fee-payers should be aware that the final FSA fees for 2010/11 – which will be made by our Board at its May 2010 meeting – could vary materially from those in this paper. This is because we will not have complete data until the end of March 2010 on actual costs for 2009/10 and actual fee-block populations, fee income and fee tariff data.

Fee-payers should also note that estimates referred to in Chapter 18 of future levies for the FSCS are based on assumptions of claims volumes and amounts. While these are forecast according to the best available information at the time, actual numbers of claims can be volatile and unforeseeable.

In addition, the actual amount raised by the overall FSCS levy depends on any amounts carried forward from the previous financial year and the value of recoveries made by the FSCS. The FSCS levy figures in Chapter 18 are indicative only and may change significantly when they are finalised in March 2010.

UKLA revised vetting fees for equity prospectuses

1.37 The Rights Issue Review Group was set up in the summer of 2008 to look at measures that could be taken to make raising equity capital more efficient and orderly. It was chaired jointly by the FSA and HMT and its report 'A Report to the Chancellor of the Exchequer: by the Rights Issue Review Group' was published on the 24 November 2008. The report made a number of recommendations and looked at whether there

could be greater use of 'shelf registration' for equity share issues. Following this review, UKLA agreed to consult on its fee tariff for equity registration to ensure that companies' choices are more neutral – this is covered in Chapter 12. We propose to reduce the vetting equity registration documents fee from £4,400 to £3,520.

Establishment of a Consumer Financial Education Body

1.38 In Chapter 13, we consult on proposals to recover the costs of establishing a new Consumer Financial Education Body (CFEB) which will enhance public understanding and knowledge of financial affairs from 2010/11. This would be required under the Financial Services Bill, currently under consideration by Parliament. The proposals affect firms in the 'A' fee-blocks, apart from A.20. There are no implications for the FOS or FSCS levies.

1.39 CFEB would be funded in part by separating out our internal financial capability budget. If the Bill is passed on schedule and CFEB is established by the time our Board makes the fee rules in May, we would recover these costs through a separate levy which largely mirrors the FSA fee structure. If CFEB is not established, the costs would remain within the FSA, and recovered through our fees as normal, though separately identified as financial capability on invoices. Under either scenario, the budget – and hence the total fees – would remain the same.

Special Project Fees Solvency II

1.40 In 2008/09 we introduced a special project fee (SPF) to recover part of our project development costs related to the Solvency II internal model approval process (IMAP) work for insurers. We indicated that it was also likely that we would also charge further SPFs up to implementation. In Chapter 14 we now propose to recover £13m in 2010/11 from the 125 largest general-insurers (fee-block A.3) and the 75 largest life insurers (fee-block A.4), and The Society of Lloyd's (fee-block A.6). The amount charged to each group will not be capped.

1.41 In addition to the IMAP SPF, we established a policy to use an SPF to recover other Solvency II implementation costs. These costs arise from a number of related work streams needed to put us in a position to successfully implement the Solvency II Directive in the UK (referred to as non-IMAP). We now propose to recover £16m of non-IMAP costs. Overall, we are proposing to recover a total of £29m in 2010/11 for Solvency II implementation costs.

Passporting – discounts for EEA firms with branches in the UK

1.42 Discounts applied to inward-passporting EEA and treaty firms vary according to the fee-block. In Chapter 15 propose to reduce discounts applied to the A.1 fee-block (deposit acceptors) and A.3 fee-block (general- insurers). This is because discounts applied to these fee-blocks are disproportionate to the resources we commit to managing and supervising the firms that fall within these fee-blocks.

1.43 The Payment Services Directive was implemented in the UK from 1 November 2009. We propose that inward-passporting authorised payment institutions providing payment services from UK establishments are offered a discount to reflect our

limited role as host state. We propose that a discount of 40% on the variable periodic fees charged to inward-passporting EEA payment institutions is offered.

Transaction reporting – targeted recovery of IS costs

1.44 We issued a policy clarification in CP09/26 about the definition of the term 'contract' as the tariff base for fee-block A.20. Following feedback from firms, we have concluded that the rule as presently drafted in FEES 4 Annex 9 Part 1, does not state the position as clearly as it should. So, we propose in Chapter 16 to redraft this. At the same time, we are correcting a drafting error that we identified while reviewing the rule. The rule refers to 'securitised' derivatives, however it should refer to 'securities' derivatives.

1.45 These are drafting amendments which have no impact on the fees paid by firms.

Reclaim funds

1.46 We said in CP09/8[5] we would consult on recovering the £170,000 costs of setting up the new reclaim funds regime, in our February 2010 fees consultation paper. From August 2009, reclaim funds became authorised and regulated by us. In Chapter 17 we set out proposals for recovering these costs from reclaim funds and from only UK banks and building societies in the A.1 fee-block (deposit acceptors).

Consultation periods

1.47 We indicate the relevant closing date for responses alongside each proposal in all chapters. To help fee-payers identify the proposals most relevant to them, Table 1.2 sets out which fee-payers are likely to be affected by the proposals in this CP and the deadline for submitting responses.

1.48 A fees calculator will be available on our website to help firms calculate the impact of the proposals given in this CP on their fees. This will show how the minimum fee and the move to straight lining affects them, and will also take into account the allocation of the 2010/11 AFR, shown in Chapters 7 and 8. The fees calculator also takes into account FSCS and FOS levies, where they apply.

Next steps

1.49 In the light of consultation responses and subject to FSA Board approval, we set out when the proposals in this CP will be finalised through made rules in Table 1.2.

1.50 In Table 1.3, we also set out when the proposals in CP09/26, published in November 2009 (closing date for responses was 11 January 2009[6]), will be finalised.

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5 Regulating Reclaim funds (February 2009).

6 With the exception of the consultation on changes to the Modified Eligible Liabilities (MELs) formula for the tariff base for banks and building societies where the closing date was 7 December 2009 and these rules have been finalised and published in Handbook Notice 95 (December 2009).

1.51 We plan to publish policy statements, including feedback on the responses to the consultation, in the same month the final rules are approved by the FSA Board or shortly thereafter.

1.52 Fee-payers will be invoiced from March 2010 for on-account payments (see Chapter 6) and other firms will be invoiced from June onwards, on the basis of the new fees, levies and policy changes.

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.

Table 1.2: Summary of deadlines for responses to this CP and when proposals and rules will be finalised

Issue	Fee-payers likely to be affected	Reference	Deadline for responses	Rules finalised
FSA:				
Periodic fee rates	Authorised firms	Chapter 9	12 April 2010	May 2010
	All fee-payers except authorised firms.	Chapter 11	12 March 2010 and 12 April 2010	March 2010 and May 2010
Application fee rate changes – UKLA	Firms in fee-block E who are issuers of securities that have been admitted to the Official List (as defined under section 74 of FSMA)	Chapter 12	12 March 2010	March 2010
Establishment of Consumer Finance Education Body	Authorised firms	Chapter 13	12 April 2010	May 2010
Special Project Fees Solvency II – definition of population	Firms in fee-blocks A.3 (General insurers) and A.4 (Life insurers) affected by Solvency II Directive and in addition fee-block A.6 (The Society of Lloyd's)	Chapter 14	12 April 2010	May 2010
Passporting – discounts	EEA firms with branches in the UK	Chapter 15	12 April 2010	May 2010
Recovering IS development costs for the Alternative Investment Identifier (Aii) code	Firms in following fee-blocks: A.10 Firms dealing as principal A.12 Advisers, arrangers, dealers or brokers (holding or controling client money or assets, or both) A.13 (Advisers, arrangers, dealers or brokers (not holding or controlling client money or assets, or both) UK exchanges in fee-block B	Chapter 16	12 April 2010	May 2010
Reclaim funds	Firms in A.1 fee-block C deposit	Chapter 17	12 April 2010	May 2010
FSCS:				
Management expenses levy limit	Firms subject to the FSCS	Chapter 18	11 March 2010	March 2010
FOS:				
General levy	Firms subject to the FOS	Chapter 19	12 April 2010	May 2010

Table 1.3: For CP09/26 – summary of when proposals and rules will be finalised

Issue	Fee-payers likely to be affected	Reference	Rates finalised
Proposed new minimum fee structure (Stage 1 consultation)	Firms in the A fee-blocks which were covered by the FSA fees strategic review detailed in Table 1.5 below	Chapter 4	May 2010
Proposed adoption of a straight line recovery policy for variable periodic fees (Stage 1 consultation)	Firms in the A fee-blocks which were covered by the FSA fees strategic review detailed in Table 1.5 below	Chapter 5	May 2010
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)	Chapter 6	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)	Chapter 6	Finalised in December 2009[7]
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 controling client money or assets, or both) A.13 (Advisers, arrangers, dealers or brokers (not holding or controlling client money or assets, or both) UK exchanges in fee-block B	Chapter 7	May 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 (not holding or controlling client money or assets, or both) A.14 Corporate finance advisers	Chapter 8	Not applicable (In principle views ahead of consultation)

7 Feedback and final rules published in Handbook Notice 95 (December 2009).

Table 1.4: Firms affected by the FSA fees strategic review proposals consulted on in CP09/26

Fee-blocks		
A.1	Deposit acceptors	**Included in the review.** *NB: Also affects incoming EEA firms and incoming Treaty firms which have established branches in the UK*
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) Advisory arrangers, dealers or brokers (not 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)	
A.14	Corporate finance advisers	
A.18	Home finance providers, advisers and arrangers	
A.19	General insurance mediation	
		Not included in the review
A.6	The Society of Lloyd's	The Society of Lloyd's
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 UKLA
F.	Unauthorised mutuals	Registered but not authorised under FSMA.
G.1	Firms registered under the Money-Laundering Regulations 2007	Activities not authorised under FSMA. Where applicable firms were covered under the review of the 'A' fee-blocks
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.		

FSA fees strategic review – feedback

2 New minimum fee for ‘A’ fee-block

2.1 In this chapter we provide feedback on responses to the proposals we made in CP09/26 (Chapter 4) to introduce a new minimum fee structure as part of our recovery of allocated costs to the ‘A’ fee-block.

2.2 Firms affected by the 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 1.4 in Chapter 1. The proposals also affect incoming EEA firms and incoming treaty firms which have established branches in the UK.

What we proposed

Regulatory functions covered by the new minimum fee

2.3 A new minimum fee to recover the costs of the following minimal regulatory functions:

- ***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 part of the CCC costs is included as this service is one of the ways we meet our public awareness objective – the Financial Capability Strategy. By including these costs in the minimum fee all firms make a contribute to the cost of meeting this objective, which they benefit from through consumers’[8] improved financial capability of.

8 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.

- *Unrecovered authorisation costs:* Costs of authorising firms and vetting approved persons that are not recovered by application fees. Application fees for authorisation are fixed at such a level that balances the recovery of the processing costs whilst not proving an entry barrier. Under the FSMA we are not allowed 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 when vetting individuals as Approved Persons. Including these costs in the minimum fee ensures that all firms contribute to these processes, which benefits 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 contribute to these processes, which benefits them by helping to maintain market confidence.

2.4 In Chapter 13 we set out our proposals for funding the Consumer Finance Education Body (CEFB). The CEFB funding of £32.9m for 2010/11 does not include the costs of the consumer contact centre part of the CCC. Therefore these costs will continue to be recovered through the new minimum fee of £1,000. The Bill that proposes to establish the CEFB, if enacted, will also remove our public awareness objective and therefore this approach will be reviewed for 2011/12.

New A.0 fee-block

2.5 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 population on 1 April, the start of the financial year that the minimum fee is to be levied.

New minimum fee amount - £1,000

2.6 The new minimum fee would be in the region of £1,000 based on the net costs of these regulatory functions in 2009/10 of £19.7m and the number of authorised firms at that time of 20,240. We highlighted that for this Stage 2 consultation the new minimum fee amount would be based on our 2010/11 budget and number of authorised firms at this time.

2.7 Only one minimum fee would be payable annually regardless of the number of fee-blocks a firm is in.

Exceptions

2.8 Smaller credit unions, that in 2009/10 paid minimum fees of £160 and £540, would be an exception and not be subject to the new minimum fee of £1,000. They will continue to pay their minimum fee at the 2009/10 levels, subject to any increases proposed in future fee consultations.

2.9 We proposed these mutual organisations would be 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. The unrecovered minimum regulatory costs that will arise from maintaining their minimum fees at £160 and £540 would be recovered from the other firms in A.1 fee-block (deposit acceptors), including the larger credit unions. 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 proposed that the resulting cross-subsidy is justifiable.

Policy intent

2.10 The policy intent for introducing this new minimum fee structure was to 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.

Feedback

2.11 We asked four questions on the new minimum fee proposals:

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

Q2: Do you agree with our proposal to create an A0 fee-block into which all firms will contribute and is basis for calculating the new minimum fee?

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?

2.12 A total of 54 respondents commented on the new minimum fee proposals made up of:

- 14 trade associations
- 12 large firms
- 28 small firms

2.13 'Large firms' means those that pay variable periodic fees above the minimum fee but who will also be seeing increases in these following the move to straight line recovery. We feedback on this separately in Chapter 3. 'Small firms' mean those firms that, on the whole, only pay minimum fees.

2.14 CP09/26 (Table 4.1 Chapter 4) set out the impact of the new minimum fee proposals on each individual fee-block and on a sample basis, the impact of the combined effect on firms in more than one fee-block. The latter has been included to show the effect of how some firms, who are in common groupings of multiple fee-blocks, will see overall decreases or lower increases as a result of being in one or more of the multiple fee-blocks. This happens because under the current minimum fee arrangements firms pay a minimum fee per fee-block paying 100% of the highest and 50% of each additional fee-block minimum fee. Under the new minimum fee structure a firm will only pay one minimum fee regardless of whether they are in more than one fee-block. The table only covered the 8,993 small firms in 2009/10 who only pay minimum fees.

2.15 Table 2 .1 below summarises the impact data from CP09/26 that relates to the fee-blocks which respondents represented and where the increases and decreases are significant and affect more than 100 firms in a fee-block.

Table 2.1: Extract new minimum fee impact data from CP09/26

Fee-block	Total minimum fees 2009/10	Increases or decrease compared to new £1,000 min fee (%)	Number of firms out of 8,993 who in 2009/10 only paid minimum fees and proportion of the total (%)	
Impact on firms only in one fee-block				
A.13 Advisory arrangers, dealers or brokers (**not** holding client money) [includes Independent Financial Advisers (IFAs)]	£1,850	-45.9	363	4.0
A.18 Home finance providers, advisers and arrangers [includes mortgage brokers]	£745	+34.2	202	2.2
A.19 General insurance mediation [includes general insurance brokers]	£450	+122.2	3,099	34.5
Impact of the above but where firms carry out more than one fee-block activity				
Firms in A.13 and A.19 fee-blocks	£2,075	-51.8	731	8.1
Firms in A.13, A.18 and A.19 fee-blocks	£2,447	-59.1	1,255	14.0
Firms in A18 and A.19 fee-blocks	£970	+3.1	1,736	19.3

2.16 Firms only in A.19 as a single fee-block will see the largest increase at +122.2% which represents 34.5% of the 8,993 firms who only paid minimum fees in 2009/10. For firms who also carry on other intermediary activities alongside A.19 the new minimum fee will result in an overall decrease of 59.1% or 51.8% or an increase of 3.1% (£30), depending on the mixture of intermediary activities undertaken. These firms represent in total 41.4% of the 8,993 firms who only paid minimum fees in 2009/10.

Overall responses

2.17 Eight trade associations supported the proposals whose membership, in the main, fall into the fee-blocks that will see deceases in their minimum fees as a result of

the new minimum fee. These included investment/fund managers (A.7: 17.4% decrease) and advisers, arrangers or brokers either holding or not holding client money or customer assets (A.12: 49% decrease and A.13: 45.9% decrease). Five trade associations did not support the proposals, and they in the main, fall into the fee-blocks that will see increases in their membership's minimum fees as a result of the new minimum fee. These include general and life insurers (A.3/A.4: 132.6%increase); mortgage brokers (A.18: 34.2% increase); and general insurance brokers (A.19: 122.2% increase). However, as Table 2.1 above shows, for intermediary firms that combine A.18 and/or A.19 activities with A.13 activities the collective impact is a 59.1% or 51.8% decrease in their minimum fees or an increase of 3.1% (£30). This is because this new one single minimum fee replaces the levy of a minimum fee for each fee-block a firm is in. One trade association that supported the new minimum fee proposals also suggested that one business sector they represent should be made an exception (see paragraph 2.24 below).

2.18 Five large firms supported the proposals. These covered firms in fee-blocks that will see both increases and decreases in minimum fees. These include mortgage providers (A.2: 90.5% increase), general and life insurers (A3/A4: 132.6% increase) and advisers, arrangers or brokers either holding or not holding client money or customer assets (A.12: 49% decrease and A.13: 45.9% decrease).

2.19 Of the 28 small firms who responded, five supported the proposals. These were mainly firms that fall within A.13, who will see decreases in their minimum fees of 45.9%. The 23 small firms who did not support the new minimum fee were mainly those that fall within the A.19 fee-block and who will see increases of 122.2%.

2.20 We set out below our feedback on the responses received on the following questions which covered the structure and amount of the new minimum fee:

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

Q2: Do you agree with our proposal to create an A0 fee-block into which all firms will contribute and its basis for calculating the new minimum fee?

2.21 In providing our feedback to responses we focus on the key issues raised by the respondents who did not support the proposals. These can be grouped under four headings:

- how the costs of the proposed regulatory functions covered by the new minimum fee are structured and the extent to which they apply to all firms;
- phasing the introduction of the new minimum fee over a number of years;
- comparison with EU regulators; and
- impact on retail advisers decisions whether to be directly authorised or as appointed representatives of another firm or 'network'.

2.22 In the following box we summarise the responses and our feedback.

How the costs of the proposed regulatory functions covered by the new minimum fee are structured and extent to which they apply to all firms

Consultation responses

The issues raised under this heading by the five trade associations who did not support the new minimum fee can be summarised as follows (not all issues were raised by all trade associations):

- The FSA has not presented a clear and explicit case for justifying how it arrived at the proposed figure; it is not clear what proportion of the £1,000 is represented by the different regulatory functions proposed for inclusion or why all firms should make an equal contribution. In the case of the latter they give as an example that it is unreasonable to suggest that the Customer Contact Centre (CCC) costs should be borne equally by firms of different size – a firm with five million customers would expect a larger volume of interactions with the CCC than a firm with 1,000 customers.
- The FSA has not provided any evidence that the cost of regulating mortgage brokers (A.18) and general insurance brokers (A.19) has increased in proportion to the fee increase.
- Firms should pay the full costs of their authorisation as where firms, following authorisation fail, and damage the market's reputation then the remaining firms pay double as they have subsidised the failed firms' authorisation and suffer the reputational cost of them failing. A review is called of the policy for not recovering all authorisation costs from applicants.

The five larger firms who did not fully support the new minimum fee proposals did, however, in the main support the concept. They agreed with our proposal of including costs identified, but argued that further supervision costs related to smaller firms should also be included – one firm suggested a £2,000 minimum fee could be justified. One firm argued that we should not reduce the amount of the AFR recovered through minimum fees to reflect increased baseline costs. Several firms highlighted the point that whilst further cross-subsidy of the smaller firms was being introduced, the variable periodic fees were significantly increasing at the same time for the larger firms.

The 23 small firms who did not support the new minimum fee proposals were in the main general insurance brokers (A.19 fee-block). Sixteen firms highlighted that for firms which have an annual income from this business of £100,000 or less, the increase from £450 to £1,000 (122.2%) was unfair and in the current economic climate, unreasonable. They stated that the increase will jeopardise the ability of such intermediaries to continue providing a niche, more personalised service to customers, and in the longer term reduce how much customer choice is currently available. Another small firm emphasises that no average income figures were given in CP09/26 for the firms in A.19 so the actual impact cannot be assessed.

Our feedback

Our policy intent for the new minimum fee, which was included in Chapter 4 of CP09/26 is restated in paragraph 2.10 in this chapter.

What the minimum fee covers and why costs apply to all firms equally

In CP09/26, we set out why we included the minimum regulatory functions that were proposed to be recovered through the new minimum fee. We reiterate these reasons in paragraph 2.3 of this chapter. Those regulatory functions either apply to all firms such as regulatory reporting and the firm contact centre (part of the Customer Contact Centre – CCC) or all firms benefit, such as the consumer contact centre (also part of the CCC), the unrecovered authorisation costs and the costs of policing the perimeter, for the reasons stated. The costs of these regulatory functions are relatively easy for us to identify accurately as the teams carrying out these functions, in the main, do not carry out any other regulatory function and we can easily apportion a share of the support overheads.

In Chapter 8 we give a breakdown of the regulatory functions' costs for the new minimum fee that we are consulting on for 2010/11, which makes up the A.0 fee-block.

The reason behind the new minimum fee is that it recovers specified minimum regulation costs which are clearly defined, based on a stated rationale and applied consistently across all firms and to which all firms contribute equally. It is not our intention for the minimum fee to include a share of all regulatory costs. It is our intention however, that the level of minimum fee that arises, which includes sharing specific regulatory costs across all firms equally, is reasonable. This means it strikes the right balance between being too high – which would unnecessarily impede competition, – and being too low – which would prejudice existing fee-payers. The proposed £1,000 new minimum fee replaces an unequal range of minimum fees that did not represent the incremental costs of regulating the smallest organisation that could be admitted into a fee-block. It also gave rise to irregularities where the amounts did not reflect the relative risk to our statutory objectives and, of the different types of permitted regulated business by the range of fee-blocks the minimum fee was levied against (see Chapter 3 of CP09/26).

The new £1,000 minimum fee does not take risk into account. However, by being transparent on what it does cover and by reducing the overall amount recovered through minimum fees, it represents a level we believe strikes the right balance between not impeding competition and not prejudicing existing fee-payers. We accept that the regulatory functions covered by the new minimum fee do not apply equally to all firms or that firms equally benefit from them. For firms that only pay the minimum fee, this is a trade-off against paying the full costs of being regulated (we do not have processes or systems that are robust enough to identify costs at an individual firm level for the purposes of levying fees). For the larger firms, who have always been effectively subsidising the firms who only pay minimum fees, the level of subsidy is consistently applied across all firms and is not more or less for different fee-blocks as is the case under the current minimum fee structure.

Relationship between increase in fees for A.18 and A.19 and increase in costs of regulating these sectors

The increases and the decreases in the minimum fees that firms are seeing reflect the move to this overall policy intent. It does not reflect any increase in the cost of regulating mortgage brokers or general insurance brokers. In the same way it does not reflect any decrease in the cost of regulating firms who are advisers, arrangers or brokers either holding client money or assets (A.12/A.13 fee-blocks) that will see a decrease in their fees.

We should recover fully our authorisation costs

We levy application fees to authorise any new entrants on the basis of the anticipated complexity of the application. For example – the application fee for A.19 fee-block general insurance mediation is £1,500, for A.7 fund management it is £5,000 and for accepting deposits (a bank) under A.1 it is £25,000. We reviewed these fees in 2006 and consulted on the outcome in CP07/3 [9]. Through this consultation we changed our policy of recovering our processing costs from one based on fixed proportions between applicants and authorised firms (through periodic fees), to one based on a fair apportionment. This will ensure the stability of the amounts payable for entry to FSA regulation and keep any adverse effects the application fee may have on competition year on year to a minimum.

As we explained in CP09/26 under FSMA we are not permitted to charge application fees for vetting Approved Persons. In 2008/09[10] the applications for Approved Persons were 40,997.

More costs should be included in the minimum fee

Regulatory reporting – the cost of collecting, validating and carrying out first line checks on regulatory returns – is the supervisory cost included within the new minimum fee. However, we have not included the further assessment and 'investigation' costs arising from our first line checks in the minimum fee. This is because the minimum fee is paid for by medium and larger firms, as well as those small firms that only pay the minimum fee, so the 'next step' supervisory costs would be much higher for the medium/large firms. These further costs would be spread equally across all firms (small, medium and large). We believe it would be a disproportionate for small firms to pay the same share of these costs as medium and large firms. As indicated above the new minimum fee is not intended to recover all the costs of regulating small firms.

Impact on small firms

We accept that for some firms the new minimum fee represents a substantial increase. Small general insurance brokers that only pay the minimum fee in the A.19 fee-block, in particular, have made it very clear that they believe the increase to be unreasonable and unjustified (trade associations representing this sector have made similar statements). We have explained above why we believe that the new minimum fee structure provides a fairer and more transparent way of ensuring that small firms make a reasonable contribution to the costs of regulation whilst being reasonable to the medium and larger firms who would have to fund the shortfall if the minimum fee was less. A regulated firm's business model needs to consider the costs of meeting the regulatory obligations that the firm accepts by being authorised. Those obligations include contributing to the regulator's costs through the fees levied on it. The firm must decide whether in meeting these obligations their business model is viable. The point at which firms in A.19 pay variable periodic fees above the £1,000 minimum fee is an income of £100,000 or more from the permitted activity (represented by the income tariff data submitted by firms). The average income for firms that only pay the minimum fee is approximately £30,000. On average therefore the £1,000 new minimum fee represents 3% of these firms' income.

9 Regulatory fees and levies 2007/08 (February 2007).

10 FSA Annual Report 2008/09 (June 2009) - extracted from table 4.1 on core regulatory transactions page 53.

Phasing the introduction of the new minimum fee over a number of years

Consultation responses

Trade associations and small firms called for a phasing in of the move to the new minimum fee if the proposals were to be implemented.

Our feedback

The increase level for firms that only pay minimum fees is significant for some fee-blocks. Table 2.1 (above) shows this is clearly the case for A.18 and A.19 fee-blocks. Where these activities are combined with A.13 (including IFAs), there can be overall decreases or much lower increases. In those cases the 'gains' and 'losses' shift up to the variable periodic fee payers in those fee-blocks. By phasing increases in minimum fees, larger firms will pay more variable periodic fees for longer, benefiting the smaller firms in their fee-block. Similarly, by phasing decreases in minimum fees, larger firms will pay less for longer, at the detriment of the small firms in their fee-block. We do not believe that phasing of the new minimum fee across the board would be fair to the small firms who will benefit in this transition period.

We have considered phasing for firms that only fall into one fee-block and where the increases are substantial – A.18 and A.19. We also concluded not to phase on this basis because the larger firms would see the unrecovered minimum regulatory costs in the A.0 fee-block shifted up. They would then be recovered through their variable periodic fees and larger firms are already seeing significant increases in their fees as a result from the move to straight line recovery (see Chapter 3). Selected phasing would also increase the costs of administering the collection of minimum fees.

Overall we believe that phasing would undermine what we are seeking to achieve – to address the current anomalies and make the minimum fee regime fairer, transparent and simpler.

Comparison with EU regulators

Consultation responses

A trade association representing general insurance brokers commented that insurance intermediaries are only included within the FSA's regulatory scope due to the Insurance Mediation Directive. They acknowledge that CP09/26 is not concerned with the FSA's budget but do not think a £1,000 minimum fee is reasonable when the existing £450 is more than adequate compared to the EU. They support this argument with a survey that shows the EU regulator levies under the Insurance Mediation Directive to be considerably less than our fees. For example, Germany is €250, Ireland is €135 and the Netherlands with a fixed fee of €827 plus a fee per individual of €160 depending on numbers.

Our feedback

The independent research we commissioned, which was published alongside CP09/26, focussed on the funding methods used by other regulators. This identified eight approaches to regulatory funding (where regulation is funded by the industry as opposed to their government), none of which are radically different from our existing arrangements. The research did not compare the actual levels of fees levied across the 108 regulators covered. However, we do acknowledge that fee levels will differ between regulators. This can be due to a number of factors:

- The objectives that each regulator is set or sets for itself. Our objectives are statutory objectives that are set through FSMA.
- The risks to the regulator's objectives that are posed by the sectors it regulates, the structure of those sectors and the firms that operate within them. These would differ for each regulator, as would the strategic priorities of the regulator for mitigating these risks and the resources applied to do so. In our annual Financial Risk Outlook, we set out what we believe are the risks to our objectives in the year ahead. In our Business Plan, we set out our strategic priorities for mitigating those risks, including our annual budget for funding this work.
- Whether the regulator is fully or partly funded by the industry (with the balance covered by central or local government). We are fully funded by the industry we regulate.
- The cost recovery methodology used by the regulator. This includes how much the cross-subsidy applies from one sector to another or between participants within a sector, and how transparent they are in explaining how the methodology operates. We have explained in detail in CP09/26 how our cost allocation to sectors (fee-blocks) and recovery operates and our proposals for making the recovery fairer, simpler and more transparent. We stated in Chapter 3 of CP09/26 that our cost allocation framework is effective at allocating the right level of our costs to sectors. This allocation takes into account total resources applied to firms within a sector and their risk profile (impact and probability). This reduces the possibility of cross-subsidy across sectors. For example, we keep allocation of costs to intermediaries separate from product providers.

Any comparison between regulators should take such factors into account, and not just the level of fees levied.

2.23 One trade association observed that some of the statements in Chapter 4 of CP09/26 regarding impact of the proposals are misleading and/or should be clarified:

- **Comment:** 'Paragraph 4.6 suggests that the proportion of the annual funding requirement (AFR) recovered through minimum fees will reduce from 7% to 5%. However, this includes the cost of the minimum fee that is paid by all firms, not those who only pay the minimum, and the figure is therefore irrelevant because the rest is picked up in variable periodic fees.'

  Clarification: The general statement we made in CP09/26 that under the new minimum fee proposals the overall proportion of our AFR recovered through minimum fees will reduce from £30.3m (7%) to £19.7m (5%) relates to the total fees recovered from minimum fees, which include both firms that only pay minimum fees and those who pay minimum and variable periodic fees. We do not believe this statement was irrelevant because it gives the overall change as it includes smaller firms who although they pay variable periodic fees will also benefit from the new minimum fee where it reduces in their fee blocks. However, based again on 2009/10 costs the total amount paid by the 8,993 firms, who in 2009/10 only pay minimum fees, the amount recovered from these firms would reduce from £10.5m to £8.6m under the new minimum fee which represents an 18% reduction.

- **Comment:** 'Paragraph 4.10 shows that 25% of firms will pay less under the proposal, but that 40% of firms will pay more. If those that pay less only pay a little less, and those that pay more pay a great deal more, this is a misleading presentation of the true impact. In any event, as paragraph 4.12 indicates, those that would have paid less might find that a large increase in regulatory fees in 2010/11 means that they merely pay less of an increase.'

  Clarification: Paragraph 4.10 refers to the 8,993 firms which in 2009/10 only paid minimum fees – 25% will pay the same or see a change of £40 or less, 35% will pay less and 40% will pay more. Paragraph 4.11 follows and directs the reader to Table 4.1 which shows increase level for each fee-block and the number of firms affected for all 8,993 firms except 581 (6.5%) firms. This is because if we were to list all these combinations it would not add anything meaningful. In paragraph 4.12 we highlighted the fact that if the new minimum fee was taken further, it would be based on the then unknown budget for 2010/11, and therefore could be materially different from the £1,000 which was proposed in CP09/26. In Chapter 9 we are consulting on the new minimum fee which has been calculated on the budgeted costs of the regulatory functions for 2010/11 and the population of firms anticipated in April 2010. The fee currently stands at £1,000.

2.24 We set out below our feedback on the responses received to the following questions which covered exceptions:

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?

Consultation responses – Q3

Almost all respondents who commented on Q3 supported the proposal to treat smaller credit unions as an exception. In particular the four trade associations who represent banks, building societies and credit unions in the A.1 fee-block (deposit acceptors) supported the proposal that the unrecovered costs in the A.0 fee-block, resulting from this exception, should be recovered from the A.1 fee-block. It should be noted that larger credit unions will also be contributing to recovering the unrecovered costs.

Two of these trade associations and one large firm highlighted that the exception should be kept under review.

One trade association (not representing firms in A.1 fee-block) in agreeing that credit unions are socially useful were keen to understand the criteria we use to determine which firms are socially useful and asked whether FSMA provides a definition.

Our feedback

We will keep under review treating smaller credit unions as an exception to the £1,000 new minimum fee. Maintaining minimum fees at 2009/10 levels for 2010/11 is, as stated in CP09/26, subject to any increases proposed in future consultations.

We have no criteria for determining which firms are socially useful and there is no definition of social utility in FSMA. Our policy intent is that the new minimum fee structure should be consistently applied across all firms, allowing for exceptions where they can be justified. We believed that treating smaller credit unions as an exception was justified for the reasons stated in CP09/26 and reiterated in paragraph 2.9 above. There has been support for this exception but we do not envisage that social value is the only basis for this.

Consultation responses – Q4

Respondents proposed that the following be treated as an exception to the new minimum fee:

- The Association of Friendly Societies (AFS) propose that non-directive friendly societies should be an exception as like credit unions they support people with limited financial resources to improve their economic status many of whom would not otherwise have access to financial services. This is recognised by government and accounts in part for tax relief on some friendly society products.
- The Society of Pension Consultants SPC) proposes that pension administration firms (PAFs) should be an exception. This has been proposed as PAFs are only subject to FSA regulation due to the unintended consequences of the UK's implementation of the Insurance Mediation Directive (IMD) although they make very little call on FSA's resources. However, as they are included in fee-block A.19, their minimum fee would be increased by 122.2%.
- The Institute of Insurance Brokers (IIB) suggests that small general insurance (GI) brokers will be substantially affected and should therefore an exception for a specific period with a reasonable increase over subsequent years. Unrecovered costs to be recovered from variable periodic fee-payers in the same fee-block (A.19). The IIB proposed this because these small firms tend to be proprietor run, providing valuable insurance advisory services to their local communities, or they may be secondary intermediaries offering insurance as an optional extra. Also, these firms are under financial pressure due to the current economic climate and are mostly unable to pass on their increased costs to their customers.
- One firm proposed that insurance risk managers should be an exception. Such firms are not insurance brokers but 'manage' the insurance affairs of there clients for a fee – unlike brokers they do not sell insurance to them but buy on their behalf. They believe such firms should be treated differently from insurance brokers. They are a very low potential risk in comparison and FSA fees should reflect this.

Our feedback

Non-directive friendly societies (NDFS)

We agree with the AFS that there are similarities between NDFS's and smaller credit unions. We are therefore consulting on making NDFS's an exception to the new minimum fee and

so for 2010/11 they will continue to pay the 2009/10 minimum fee of £430. There are 94 NDFS and we propose that the unrecovered minimum regulatory costs that will arise from maintaining their minimum fee at £430 should be recovered from the other firms in the A.4 fee-block (insurers – life). The amount to be recovered from the A.4 fee-block as a result of this cross-subsidy will be approximately £53,580 representing 0.1% of the proposed 2010/11 annual funding requirement (AFR) of £48.6m. See Chapter 9.

Pension Administration Firms (PAFs)

We do not accept that PAFs fall within the scope of the IMD due to the unintentional consequences of the UK's implementation of this directive.

These firms are third party administrators who are contracted by trustees of occupational pension schemes to carry out the day to day running of pension schemes. Although their activities are mostly unregulated, they do carry out regulated activities, such as helping occupational pension trustees to make claims under insurance contracts. This brings them within the IMD's scope and therefore in need of FSA authorisation. Some PAFs have structured their services so that authorisation is unnecessary, but others will need FSA authorisation.

The SPC's propose to make PAFs an exception because they make very little call on FSA's resources and will see a significant increase in their fees under the A.19 fee-block. We do not accept that this is a basis for an exception – many firms could argue that they only do a small amount of regulated business. As discussed above, the new minimum fee is not aimed at recovering the actual costs of regulating small firms, but is aimed at ensuring that all firms contribute to minimal specified regulatory costs on a consistent basis.

Small general insurance (GI) brokers

As indicated concerning PAFs, we do not accept that undertaking a small amount of regulated business or it being carried out in conjunction with unregulated business is a basis for an exception. The services these firms provide may well be valued by their customers but they are not in the same position as some customers of credit unions or a NDFS. We also do not accept that these small firms are under any more financial pressure due to the economic conditions as any other type of small firm.

Insurance risk managers

These firms fall under FSA regulation and have the same permitted activities as general insurance brokers. They buy insurance on their client's behalf (this comes under their permitted activities) and receive remuneration for carrying this out. In terms of regulated business and fees they are no different from small general insurance brokers. As indicated above we do not accept that these firms should be an exception.

Stage 2 consultation

2.25 Overall we are proposing no fundamental change to the new minimum fee structure. We continue to believe that the proposals will make minimum fees fairer, more transparent and simpler. We are therefore including the new minimum fee in the periodic fees for 2010/11 and these are consulted on as part of Chapter 9 of this CP.

Value for money/accountability

2.26 When we conducted the internal strategic review of our fees regime, informal views taken from the industry raised concerns regarding value for money and accountability. We highlighted in CP09/26 (Chapter 3) that this aspect fell outside the scope of the strategic review. The review focussed on how we allocate and recover costs; it did not centre on the amount we raise, what we spend it on and why. This is covered by our Business Plan, which sets out the budget for meeting our strategic priorities. We also publish the Performance Account, which provides detailed information on our performance and adds to the information provided in our Annual Report.

2.27 Respondents to the strategic review proposals also raised issues regarding value for money and/or accountability. For the same reasons we have not provided feedback on those comments.

3 Straight line recovery for 'A' fee-block variable periodic fees

3.1 In this chapter we provide feedback on the responses to the proposals in CP09/26 (Chapter 5) to introduce a new variable periodic fee structure for recovery, above the new minimum fee, of allocated costs to the 'A' fee-block

3.2 Firms affected by the proposals are those that are permitted to undertake regulatory business that is covered by the 13 sub-set 'A' fee-blocks listed in Table 1.4 in Chapter 1. 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. In Chapter 15 of this CP we consult on proposals to reduce the discounts applied to the A.1 fee-block (deposit acceptors) and A.3 fee-block (insurers – general).

What we proposed

Straight line recovery

3.3 We will continue to use our existing cost allocation framework, which we believe is effective at allocating the right level of total 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 was described in detail in CP09/26 (Chapter 3, 3.11 - 3.18).

3.4 In order to recover the allocated costs to fee-blocks we proposed adopting a straight line recovery policy. This means 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 firm direct supervisory and non-direct firm supervisory costs allocated to that fee-block.

3.5 We did not propose to change the tariff data used to measure the size of business for the different fee-blocks. However, in CP09/26 (Chapter 8) we asked for views in principle on changing the tariff data for the three intermediary fee-blocks, where the

current tariff data is Approved Persons, to one based on income. In Chapter 4 of this CP we provide our feedback on the responses received and set out next steps

Moderation framework

3.6 We proposed 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 by applying a premium or discount to the rates applied to the tariff data (measure of size) for the specific permitted business firms undertake within the fee-block where recovery will be moderated from a straight line.

3.7 We have proposed a standardised tariff band structure, and each fee-block has five tariff bands. The width of each is determined by aligning them to the cut-off points for the ARROW [11] 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 the fact it covers such a large number of firms.

3.8 Table 3.1 at the end of this chapter replicates the table in CP09/26 (Chapter 5) which shows how we have applied current tariff data to define the impact risk based framework.

Exceptions

3.9 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. As this level of supervision increases our costs substantially, we have used the moderation framework to target the recovery of these costs at the top end of this fee-block.

3.10 We proposed the A.1 fee-block was an exception and that a premium should be applied to the tariff data of all firms that fall into the medium-high band at 25% and that all firms that fall into the high band at 65%. This will ensure that that recovery of those costs is targeted at the top end of this fee-block.

Policy intent

3.11 The reasons we proposed introducing a new variable periodic fee structure for recovering costs allocated to fee-blocks was set out in CP09/26 (Chapter 3). We outlined the results of the strategic review of the methodology for allocating our

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

annual funding requirement (AFR) to fee-blocks and for recovering the costs allocated to fee-blocks from firms that carry out the permitted regulatory activities covered by them.

3.12 Overall we concluded that our cost allocation framework is effective at allocating the right level of **total** costs to fee-blocks, and in doing so, we take firms risk profile into account, which reduces the possibility of cross-subsidy between sectors. The risk profile is a combination of impact risk (the impact on our statutory objectives should that business fail) and probability risk (the probability of that business failing).

3.13 On our current methodology for recovering costs allocated to fee-blocks through variable periodic fees (above the minimum fee) our review concluded that:

- The methodology is based on using the size of permitted business as a proxy for impact risk – the impact on our statutory objectives should the business fail. It was designed to be a measure that could be applied in a consistent way across all firms in a fee block so 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 not designed to take account of the comparative probability of a default risk of individual firms. Also, it was not designed to be a measure that takes the cost of the actual resources applied to individual firms into account.
- Straight line recovery in fee-blocks is currently moderated to ostensibly take account of 'economies of scale', where the rate of increase tapers-off for the larger firms. This is out of line with a methodology not based on actual resources applied to firms. Also, any costs allocated to fee-blocks include a considerable proportion of the overall costs that are not specifically connected to supervising individual firms or groups, e.g. policy development or risk management. Finally, tapering-off varies considerably across fee-blocks. We changed from straight line recovery after consulting on the original policy in 2000/01, when larger firms argued that the rate of increase should taper-off for larger business to take account of 'economies of scale'. Some respondents referred to this practice being operated by the existing (at that time) regulators. Our feedback then 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'
- 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. In the case of the latter we have relatively recently moved to intensive high-quality integrated supervision ('intensive supervision'). In all fee-blocks we are therefore spending more resources on the supervision of higher impact firms (larger firms).

3.14 Overall we concluded that the historic case for tapering-off recovery for larger firms is no longer valid, particularly given our introduction of intensive supervision for higher impact firms (larger firms) across all fee-blocks.

3.15 Introducing a new variable periodic fee structure for recovery, above the new minimum fee, of allocated costs to the 'A' fee-block will 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.

Feedback

3.16 We asked three questions on the proposals:

> Q5: Do you agree with our proposed adoption of a straight line recovery policy?
>
> Q6: Do you agree with our proposed moderation framework and its operation to accommodate exceptional moderation from a straight line recovery?
>
> 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)?

3.17 A total of 40 respondents commented on these proposals, which consisted of:

- 13 trade associations
- 22 large firms
- 5 small firms

3.18 Large firms are those who pay variable periodic fees above the new minimum and who will see increases in those periodic fees following the move to straight line recovery. We give separate feedback in Chapter 2 on the new minimum fee proposals. Small firms are those who, generally, only pay minimum fees.

3.19 In CP09/26 we acknowledged that our proposal to adopt a straight line recovery policy will impact the amount of fees firms will pay compared to the current structure. 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 in cost recovery from the smaller/medium size firms to the larger firms.

3.20 In Annex 4 of CP09/26 we included three tables which showed how straight line recovery affects the periodic fee, compared to the fees that firms are paying in 2009/10 using the existing structure. The tables show the number of firms in each fee-block, the proportion that would pay more, less or the same amount of fees as a result of the straight line proposals. They also showed the range of increase/decrease for each fee-block.

3.21 One table showed the effect of several firms within the same corporate group. Within a group there can be smaller firms who will see a reduction in fees which off-sets the increases for their larger firms in the same group. This 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 attracts an increase, in other fee-blocks where it is undertaking less permitted business, it experiences a fee decrease. We acknowledged that not all firms are in these situations and for large firms with concentrated activity in certain fee-blocks the increases can be substantial.

3.22 In these tables the proposed straight line calculations were based on the existing minimum fee structure as their aim was to only show changes in periodic fees. We made a special strategic fees review fees calculator available on our website which let firms see how the proposed straight line recovery will impact their fees by comparing it with the actual fees they have paid in 2009/10. The fees calculator took both the impact of straight lining and the new minimum fee into account, and also included the overall reduced recovery of our annual funding requirement (AFR) from minimum fees.

3.23 Some firms queried why, when using the strategic review fees calculator, the increase was greater or less than indicated in CP09/26. This was because the tables in CP09/26 excluded the impact of the new minimum fee and the fees calculator included them. We published a further table on our website which compared both, highlighting the differences.

Overall responses

3.24 Of the 22 large firms that responded, 21 were against the move to straight line recovery of allocated costs to fee-blocks. The exception was a large life insurer. Firms against were mainly fund managers, insurers (mostly general), general insurance brokers, retail investment and mortgage intermediaries, all of which will see significant increases in their fees under straight lining as set out in Table 3.2 below.

Table 3.2 Impact on certain fee-blocks

Fee-block	Estimated maximum increases	Comments
A.3 Insurers – general	168%	
A.7 Fund managers	379%	
A.12 Advisory arrangers, dealers or brokers (holding or controlling client money or assets or both)	78%	Mainly non-discretionary investment managers and securities dealers (e.g. stockbrokers).
A.13 Advisory arrangers, dealers or brokers (**not** holding or controlling client money or assets or both)	40%	Mainly Independent Financial Advisers (IFAs)
A.18 Home finance providers, advisers and arrangers	67%	Mainly mortgage brokers
A.19 General insurance mediation	215%	Mainly general insurance (GI) brokers

Note: The estimated impact figures take into account the affect of the new minimum fee and move to straight lining. They show the change in 2009/10 fees had they been based on both the new minimum fee and straight lining. They do not also take into account the 2010/11 annual funding requirement or its allocation to fee-blocks. However, the fee rates in Appendix 2 of this CP and the 2010/11 fees calculator do.

3.25 Five trade associations covering these sectors were also against straight lining. However, another five were in favour, some of which will have members in the fee-blocks in Table 3.2 above.

3.26 The two trade associations that represent banks and investment banks supported the proposals, including the application of a premium to the tariff data of all firms that fall into the medium-high and high bands of the A.1 fee-block (deposit acceptors). The Building Societies Association generally supported the proposals, but also suggested that building societies should be treated as an exception to the application of the premium in A.1 fee-block.

3.27 The five small firms that supported the new minimum fee, which mainly fall into fee-block A.13 and will see a decrease in their minimum fees of 45.9%, also supported the straight line recovery proposals. There were no responses from the majority of firms in the fee-blocks in Table 3.2 above that will see decreases in their fees, some significant, as a result of straight lining.

3.28 The main issues that were raised by the respondents that were against the proposals, were that recovery of costs within fee-blocks based on size of business undertaken (as a proxy for impact risk) and using a straight line method does not take into account:

- actual supervisory resources applied to individual firms or groups;
- the full risk profile of firms, so no distinction is made between well managed firms, who invest considerably in risk management and compliance, and poorly managed firms who do not, but may be a disproportionate drain on our supervisory resources; and
- 'economies of scale' (tapering-off) which they believe continues to apply and do not accept that there is a linear relationship between a firm's size and the cost of regulating it. They do not believe sufficient evidence has been provided to show that 'economies of scale' no longer applies. Most ask that more analysis is done to demonstrate this, and in the meantime proposals should be delayed or phased in over a period.

3.29 Some respondents accepted that the financial crisis necessitated increased resources being allocated to the larger, high impact banks and straight lining could apply to the banking sector. However, they do not believe that this applies to other sectors as they were not the cause of the financial crisis.

3.30 We have set out below our feedback to the responses received to the following questions, which covered the move to straight lining and the moderation framework and firstly feedback on the key common issues raised by respondents who did not support the proposals:

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

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

Consultation responses

The proposals do not take actual supervisory resources applied to individual firms or groups or their risk profile into account.

Our feedback

We agree this is the case for recovering the allocated costs to fee-blocks. However, we do consider the risk profile of supervised firms when allocating supervisory costs to fee-blocks. The greater the number of high risk firms (impact and probability of failure) there are in a specific fee block conducting business, the larger the activity and associated costs. For non-direct firm supervisory costs, for example policy development, the cost of these activities is allocated to the fee-blocks whose permitted business the policy development relates to. We believe our cost allocation framework is effective at allocating the right level of **total** costs to fee-blocks. Through this, it takes into account the firms' risk profile (impact and probability), thereby reducing the possibility of cross-subsidy between sectors). Our cost allocation to fee-blocks process was detailed in Chapter 3 of CP09/26.

To recover allocated costs to fee-blocks from firms at an individual firm or group level presents us with significant operational challenges and costs:

- Our activity-based costing processes and controls are not designed to capture the daily activities of those who carry out work relating to the several thousand relationship-managed firms. These processes and controls need to be enhanced significantly to ensure that sufficiently robust data is provided so fees can be invoiced.
- Firms may not be aware of how much time is spent supervising them – much of what we do is not visible to them (e.g. assessing regulatory returns, risk assessments, risk mitigation programmes reviews) and hence it would be difficult for firms to predict their fees.
- The fee levied could vary considerably from year to year. Firms' fees are calculated following a prescribed formula, which is set after a general consultation. When firms challenge their fees now, they are challenging the interpretation of how the formula works. We anticipate that challenges from firms under calculating fees on a time/materials basis, will focus on whether the amount of the fee relates to the firm's perception of the amount of time we spent on them – which is not prescribed and not set through consultation beforehand. We believe this may increase demand on supervisors (who provide the data) and our revenue operations.
- Supervising costs would be recovered retrospectively the following year, so any increases in costs during the year of recovery will need to be funded from reserves or borrowings.

To recover the allocated costs to fee-blocks based on the full risk profile (impact and probability of failure) of individual firms or groups would also present us with similar operational challenges and costs as shown above. The probability element of a firm's risk score will reflect, among other things, the robustness of their systems and controls in mitigating risk within their business. The probability element of a firm's overall risk score is a large proportion of the risk score. Given the link between the risk profile and level of fees, the challenge of individual fees would have similar issues to basing fees on time/materials. However, it would involve a greater risk as the probability element is purely subjective. This again has resource implications for both supervisors and revenue operations.

Neither of these approaches would cover the substantial proportion of our costs which are not firm specific supervision related such as policy development and risk management. We would need to operate a separate costs allocation and recovery framework to recover these costs.

The operational challenges and costs outlined above would be magnified considerably, if applied to the approximately 17,000 small firms that are not relationship managed.

It is also worth highlighting that using either approach would likely make the amount of fees levied vary greatly year on year as the amount of time/materials 'spent' on a firm or group can be substantially different from one year to another. Similarly, a firm's risk score could change significantly. The move to straight line recovery means that some firms will see a transitional significant increase in fees for 2010/11, and fees will continue to be influenced by our AFR each year and the allocation to fee blocks. However, either of the above approaches have the potential to result in many firms having year on year significant unpredictable fluctuations in the level of their fees.

We would need to address the operational issues before we could consider implementing such a change programme. We do not rule out that such approaches could be used. We believe the move to straight lining is a step in the right direction as it makes the existing fees framework particularly suitable for recovering non-firm direct supervisory costs. However we are not in a position to move to either approach for the foreseeable future.

Consultation responses

The proposals do not take account of 'economies of scale' (tapering-off) which respondents who did not support the proposals believe continues to apply and do not accept that there is a linear relationship between size of a firm and the costs of regulating it. They do not believe sufficient evidence has been provided to support 'economies of scale' no longer applying. Most ask that more analysis is done to demonstrate this and in the meantime the proposals should be deferred or generally phased in over a period.

Our feedback

We set out in CP09/26 the reasons why the historic case for tapering-off the recovery in some fee-blocks by varying degrees is no longer valid. We reiterate the basis for our view in paragraphs 3.13 – 3.15 above.

We do not accept that we have not provided sufficient evidence to support 'economies of scale' no longer applying. Our evidence is based on the fact that we focus our supervisory resources in line with our risks assessment framework [12]. A key component of deciding how much resource should be applied to a firm is the impact score in our ARROW risk assessments of individual firms or groups above low impact firms. The impact score is largely based on 'size' and the greater the impact score (medium-low, medium-high and high) the more resources we allocate to the firm. We believe this is sufficient evidence in itself to support the case that 'economies of scale' do not apply in addition to the fact that we are intensifying our supervisory effort to the higher impact larger firms in all sectors. We do not see any benefit in delaying bringing recovery within fee blocks in line with the original intention and with the current and anticipated future way we will focus our resources.

12 The FSA's risk-assessment framework (August 2006).

We do acknowledge that some large firms in some fee-blocks will see very significant increases in their fees from the move to straight line recovery. As with the new minimum fee, we have considered phasing in the move to straight lining. We concluded that having established that the existing tapering-off of the recovery is no longer sustainable and straight lining better supports our supervisory strategy we should not phase in the move to straight lining. This will avoid the smaller/medium size firms losing the benefit from this realignment fully if we phased in the transition – some of these firms will see significant decreases in their fees.

3.31 The following provides feedback on the responses received from respondents that do not support the proposals and who raised key specific issues in addition to the common issues covered above.

Consultation responses

We currently measure the size of permitted business (tariff base) for the A.7 fee-block (fund managers) by using the value of funds under management (FUM). Most respondents, who covered the fund management sector, were concerned that using FUM as a tariff base was too blunt or simple to accurately reflect what the impact of firms in this sector failing would be. One argument was that FUM assumes active fund management and alternative fund management have the same regulatory risks as passive/index tracking fund management strategies. Some respondents suggested income/revenue as alternative measures, although the Investment Management Association (IMA) commented its members held mixed views as to the appropriateness of revenue.

Our feedback

FUM has been used as the tariff base since the current fees regime began in 2000/01. However, we understand that by moving to straight line recovery, larger firms will focus on the effectiveness of tariff base in measuring impact risk. We also recognise that some firms are content with the current tariff base and will not want to change. However, we do not rule out any alternative measures to FUM that would be more sensitive in measuring impact risk. The challenge is to identify a measure that meets the following criteria:

- That the alternative measure is relatively well accepted across the fund management sector (which includes different types of fund managers, and small and large firms), as a better alternative to FUM.
- That firms find the cost of supplying the data which the measure is based on, easier,(or the same) in comparison to providing FUM tariff data; and
- That the initial set up and the ongoing costs for adjusting our systems to collect the tariff data and then invoice firms based on the alternative measure, is reasonable compared with FUM.

If an alternative tariff base measure was identified that met the above criteria, we would need to consult on its introduction, and then allow a period of time for both the firms and us to make any necessary operational changes. We are not committing to review alternatives to FUM, as a tariff base measure for A.7 and consult on the outcome within a specified timeframe. However, we welcome any industry-led proposals that would meet the two criteria noted above. We could then compare these against our third criteria.

Consultation responses

Businesses undertaking intermediary activities can do so either by being directly authorised (DA) by us, or as an appointed representative (AR) of an authorised firm. Respondents covering large distribution groups of retail intermediary ARs ('networks'), were concerned about the combined effect of the introduction of the new minimum fee and the move to straight line recovery. There was particular unease about influence over adviser firms when making decisions to be a DA adviser or an AR adviser. Under the new minimum fee of £1,000, single DA advisers (in fee-block A.13) will see a fee reduction of 45.9% (£850). A network of several hundred ARs will, after the first AR adviser, pay a fee for each AR of £1,314 (based on 2009/10 figures). The networks pass their regulatory costs on to their ARs, resulting in an £300 increase for each AR, while single DA advisers will see a £850 reduction. Respondents argued this would lead to AR advisers leaving networks to become DA advisers. If a sufficient numbers of AR advisers become DA advisers, the network business model would be undermined and this market could contract. Respondents argued that networks provide regulatory oversight of their ARs, off-setting our higher costs of regulating larger networks. Respondents commented if the network market contracted, the regulatory assurance they provide would need to be directly covered by us.

Our feedback

We accept that networks can provide effective oversight of their ARs. However, this oversight is largely what we would otherwise expect of the management of individual firms, rather than a replacement for the supervisory remit of the FSA. Our operating framework does not depend on the size of the network market. If there is an increase in the number of DA advisers, we would adjust the framework to address this, as we do when the structure of any financial market changes.

We also accept that the level of regulatory fees levied on advisers either directly (through us) or indirectly as ARs of networks will be a factor that will influence advisers on whether to be DA advisers or AR advisers. However, other factors will also influence these decisions including:

- regulatory capital requirements of DA advisers;
- costs for DA advisers for providing in house risk management and compliance resources or engaging external compliance consultants;
- networks' services, e.g., product research, training, continuing professional development (CPD).

Retail distribution review (RDR) implementation will impact on these factors over the next few years. Advisers will need to decide whether the direct or indirect authorisation route suits their business model. The level of regulatory fees will remain a factor; however we do not believe this is the prime factor.

3.32 We set out below our feedback on the responses received on the proposed exception to straight lining:

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)?

Consultation responses

The two trade associations representing banks and investment banks supported the proposals, including applying a premium to the tariff data of all firms that fall into the medium-high and high bands of the A.1 fee-block (deposit acceptors). All other respondents who commented also supported proposals other than the Building Societies Association (BSA) and a large building society for the same reasons as the BSA. We refer here only to the BSA's response.

The BSA did not support the application of the premium to the top medium-high and high impact bands. They acknowledge the very large building societies' size and customer base mean they are systemically important to UK financial services. However, the BSA do not believe that size of a society's Modified Eligible Liabilities (MELs), effectively UK deposits, translates to 'high impact'. They comment that:

- Building societies operate under a lower risk business model, compared to banks, which results from restrictions imposed by the Building Societies Act 1986 (BS Act). This prevents them from doing higher risk activities banks can. For example, building societies are restricted from trading in securities, commodities and currencies, and can not enter into derivative transactions for purposes other than reducing risk or creating floating charges. Furthermore, these building societies are less able to subsiduarise their deposit taking activities, and therefore reduce their fees under the group net effect.
- Building societies have consequently weathered the economic crisis better than banks, but they are now grouped with those banks bailed out by the government following prolonged, reckless behaviour.
- The building societies sector is already seeing profitability eroded by payments to the FSCS to pay for failed banks.

They argue it is more appropriate and fair to remove the mutually-owned deposit takers, such as building societies, from applying a premium. This would help address their concerns about risk. They believe the principle of making mutuals an exception has been established through our own proposal to make smaller credit unions an exception to the new minimum fee . A more radical long-term alternative is to separate building societies from banks. This, they argue, would be far more transparent than the model proposed in CP09/26 and would end cross-subsidy.

Our response

We do not accept the arguments to exclude building societies from the application of the premium in the A.1 fee-block. While we acknowledge restrictions imposed on building societies by the BS Act, this does not mean that building societies receive less regulatory effort compared to banks. Furthermore, our overall responsibilities under the FSMA are the same for building societies as they are for banks. Consequently, we consider building societies should remain in the A.1 fee-block. The treatment of smaller credit unions – an exception to the new minimum fee – is not meant to establish a principle to be applied to mutuals.

Consultation responses

One large general insurance broker proposed that firms in this sector which do not conduct protection products, should be treated as an exception under the moderation framework.

They highlight that our insurance conduct of business source book (ICOBS) differentiates between 'protection products' (e.g. payment protection insurance – PPI) and other products. They argue that this recognises the difference in customer risk concerning the two types of insurance product sales, with protection products as the higher risk. A trade association that represents this sector also argued we should make a similar distinction in order to avoid 'insurance specialist intermediaries' cross-subsidising the cost of supervising firms which conduct higher risk business such as PPI.

Our Feedback

ICOBS requires oral disclosure surrounding protection products. Introducing different rules to sell products is something which we do across all types of permitted business. For example, our conduct of business source book (COBS) has separate rules for firms who sell stakeholder products and for those who deal in unregulated collective investment schemes. Similarly, our mortgage conduct of business sourcebook (MCOB) has separate requirements for advising and selling equity release products. We accept that the impact of firms failing which do not advise on 'high risk' products is less than those who do. However, our cost allocation and recovery framework is based on grouping together permitted business activities that apply to firms that carry out similar activities. This framework allows us to concentrate recovering our costs based on impact risk, across all permitted business activities, throughout the financial services industry effectively and efficiently. We understand this is not wholly sensitive to the differences of impact risk at a firm level to the extent A.19 respondents are seeking. There are other fee-blocks where similar arguments for greater sensitivity can be made to reflect the way our rules differentiate as described above. If we accommodate greater sensitivity in one fee-block then we would need to do so for others. This would undermine our internal economic basis for the current cost allocation and recovery framework. We have commented above on the operational challenges of recovering our costs on either a time and materials basis, or recovering based on risk (covering impact and probability of failure). We also face similar challenges to make the current fee-blocks more sensitive to impact risk; however we are not in a position to do so in the foreseeable future.

Stage 2 consultation

3.33 Overall we propose no fundamental changes to the new variable periodic fee structure for recovery above the new minimum fee, of allocated costs to the 'A' fee-block.

3.34 We continue to believe that business size, as a proxy for impact on our objectives should a firm fail, is an objective, transparent, fairer and simpler measure that can be applied across all firms in a fee-block. The move to straight line recovery for all fee-blocks also reflects our move to intensive high-quality integrated supervision. This strategy applies to all sectors. We have introduced this supervisory change across the board in response to the lessons learnt from the financial crisis.

3.35 We are therefore including straight lining in the periodic fees for 2010/11 and these are consulted on as part of Chapter 9 of this CP.

3.36 A fees calculator will be available on our website to help firms calculate the impact on their fees. This will reflect both the new minimum fee affect and straight lining and will take into account the allocation of the 2010/11 AFR set out in Chapters 7 and 8.

Value for money/accountability

3.37 When we conducted the internal strategic review of our fees regime, informal views taken from the industry raised concerns regarding value for money and accountability. We highlighted in CP09/26 (Chapter 3) that this aspect fell outside the scope of the strategic review. The review focussed on how we allocate and recover costs; it did not centre on the amount we raise, what we spend it on and why. This is covered by our Business Plan, which sets out the budget for meeting our strategic priorities. We also publish the Performance Account, which provides detailed information on our performance and adds to the information provided in our Annual Report.

3.38 Respondents to the strategic review proposals also raised issues regarding value for money and/or accountability. For the same reasons we have not provided feedback on those comments.

Table 3.1 – 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
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
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
		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
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
		Mathematical reserves £m	**Moderation**	0%	0%	0%	0%	0%
			Band width	>1 – 20	>20 – 270	>270 – 7,000	> 7,000 – 45,000	>45,000
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

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.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
A.9	**Operators, Trustees and Depositaries 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
A.10	**Firms dealing as principal**	Number of traders	**Moderation**	0%	0%	0%	0%	0%
			Band width	2 – 3	4 – 5	6 – 30	31 – 180	>180
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
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
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
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
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

4 Tariff base for intermediary firms

4.1 In CP09/26, we consulted on the principle of changing the tariff base for investment and life insurance brokers, dealers and advisers. These intermediary 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.

4.2 Their fees are based on a headcount of 'approved persons' (APs) who we have authorised to conduct customer-facing financial activities. We sought industry views on the basis of replacing the headcount with a new measure based on income and any issues we should address.

Timing

4.3 We explained in CP09/26 that we considered 2012/13 to be the earliest we could introduce a new measure. This would give firms time to factor our requirements into any reporting and system changes prompted by the Retail Distribution Review (RDR). We will present our detailed proposals in the CP we will publish in October or November 2010.

Fee-block A.10

4.4 The tariff-base for fee-block A.10 (firms dealing as principal) is also a headcount, but of traders not APs. Since the issues relating to this fee-block are different from those in A.12 – A.14, we are not currently reviewing it.

Background

4.5 The AP headcount has been used in fee-blocks A.12 – A.14 since the FSA was established. One of its strengths was its sensitivity to the activities undertaken. APs were authorised under eight customer functions, which provided the basis for distributing them between fee-blocks.

4.6 The system worked well for the fees regime until the different customer functions were merged into a single CF30 category by MiFID (Markets in Financial Instruments Directive) in October 2007. Since then it has become difficult to put individual APs into their appropriate fee-blocks. We have to refer back to the obsolete customer functions, which burdens both our and firms' administrative resources. This will become more problematic as familiarity with the old system fades. We need to establish a fairer and more efficient way of calculating fees for these fee-blocks.

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

4.8 In 2008, we decided to move the equivalent levy of the FSCS from a headcount to 'eligible' income from 2010/11. Consequently, firms are currently setting up systems to report on their income and should be able to adapt these systems to report on income for us and the FOS.

Issues for consideration in introducing an income measure

4.9 The key issues that we presented in CP09/26 are set out below.

- ***Pragmatic approach:*** we proposed the solution adopted for the FSCS of allowing senior management to take a 'pragmatic' approach to identifying relevant income – for example, by applying an annual average as a multiplier rather than scrutinising individual invoices.
- ***Defining relevant income:*** the main components would be the net amount of income from brokerages, fees, commissions and related income arising out of the regulated activities. As with existing tariffs, the figure would include business expenses but excludes customer rebates, fees or commission passed to other firms.
- ***Separating relevant income data:*** distinguishing regulated from other income may be problematic, as it might not reflect the way firms monitor staff time, present invoices or maintain accounts, especially:
  - wholesale firms setting the line between advice and management;
  - investment managers attributing income to activities conducted in the UK rather than merely reported in the UK; and

– professional firms, such as accountants and solicitors who offer holistic services, putting a figure on the proportion of time directly attributable to financial or investment advice.

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

Feedback

4.10 We asked three questions. The responses we received and our feedback on the key issues are summarised below.

> 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?

Consultation responses

Sixteen firms responded to this question. Only six supported the proposal. The main concerns were:

- An income measure would increase fees for firms with higher than average ratios of income per AP. Comments included: 'the perverse effect of penalising efficient firms,' 'a tax on the lean and efficient business model,' 'pandering to the inefficient and unproductive.'
- The rise in fees would not reflect the regulatory risk posed by the firms. Rather than income, 'it is the number of individuals able to undertake a controlled function which generates base compliance costs.' Firms with higher incomes might invest more in compliance and research, and 'firms with these tighter controls require less regulatory attention.'
- The responses confirmed the difficulty of distinguishing regulated income, especially when it represented a small proportion of the total. It could prove as difficult as identifying APs, while approximations could lead to double counting with other fee-blocks. This 'increases the potential for mistakes to be made, albeit unwittingly.' Clear guidance would be needed.
- With increasing globalisation of financial markets, including global electronic systems, international firms may not accurately be able to attribute income streams to individual centres. Identifying UK regulatory income 'would require firms to undertake a fundamental review of their business models and systems with no cost benefit.'
- Some firms might restructure their business to reduce their regulated income.
- The arguments for a pragmatic approach to income could be applied equally to a headcount, with firms self-certifying the numbers.
- One firm disputed the comparison with FSCS. While the potential for FSCS compensation is related to the value of the business, FSA and FOS activities are driven more by the volume of business, and the number of APs is a better proxy for this than income.

- As we had anticipated in the CP, firms were sceptical of our willingness to take a pragmatic approach to the apportionment of income and accept firms' best endeavours. Firms might feel obliged to protect themselves through costly audits. A trade body asked for the proposal to be put on hold until there was evidence of the success of the new FSCS income measure.
- Removing the link to APs might be impractical. Since the relevant income was generated by APs, the calculations would have to be validated by reference back to their work.

Our feedback

Most of these issues were anticipated in the CP and discussed in the workshop we held with trade and professional bodies in August 2009, but it was helpful to have them set out formally and in greater detail.

We understand firms' scepticism about our willingness in practice to take a pragmatic approach towards distributing relevant income. However, we believe we have demonstrated our capacity to give due weight to firms' best endeavours by agreeing the allocation of APs between fee-blocks without requiring unreasonable levels of proof.

We recognise that this confirms the pragmatic approach can, with appropriate clear guidance, be applied to a headcount as well as an income measure. We also acknowledge the validity of some of the arguments against the income measure – especially the risks that it might:

- penalise success;
- raise firms' fees that do not pose higher regulatory risks without any change in our supervisory attitude towards them; and
- damage the link to regulatory impact, which in these fee-blocks is more closely aligned to the number of customer-facing advisers than to the income they generate.

We are therefore willing to accept that we should not yet rule out the headcount measure.

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?

Consultation responses

Respondents identified a number of types of firm which presented particular difficulties in adjusting to an income measure.

- Pensions administration firms and third-party advisers were allocated to fee-block A.12 even though they have no registered financial advisers because they had been brought within the FSA's regulatory scope by the Insurance Mediation Directive (IMD). An income measure would push up their fees.
- Multilateral trading facilities (MTFs) pay fees based on our estimate of the costs of regulating them. Introducing a new fee based on regulatory income looks like double-charging for the same regulatory cover.

- Inter-dealer brokers (IDBs) that only deal with eligible counterparties do not register as APs as these are not classed as customers under MiFID. An income measure would bring income generated by such brokers into the equation, pushing up IDBs' fees.
- Wholesale traders deal in higher value trades. As regulatory interest is contained in the volume of trading rather than the trade value, the number of APs is a better indication of this.
- Large networks would see a substantial increase in fees, which they would pass on to their members. We had not considered the impact of this on the smaller firms.

Respondents also identified a number of additional practical issues we needed to consider whatever decision we eventually made.

- Neither the headcount nor the income measure takes the additional resources required to supervise complex groups into account.
- The distinction between fee-blocks A.12 and A.13 was artificial. The blocks should be combined.
- Our suggestions did not take the varying levels of risk presented by different types of income into account.
- Any guidance should distinguish between gross and net income. Some firms rebate all or part of their fees to clients.

Our feedback

These are all significant points and we will take them into account when preparing our proposals for decision in the autumn. Some of the issues affecting particular types of firm might be resolved through the existing provision in FEES 4 Annex 1 Part 2, which allows a firm to pay the minimum fee only when its activity does not require its staff to have approvals, or the 10% discount offered to professional firms in fee-blocks A.12 and A.13.

The suggestion to combine fee-blocks A.12 and A.13 is both interesting and important and we discuss this further below.

Q15: Do you support our suggested timetable for implementing an income measure from 2012/13 in fee-blocks A.12 – A.14?

Consultation responses

For the most part, respondents supported our timetable aligned to the RDR, but some warned of the need to allow time for firms to adjust their systems and others suggested deferring any change until after implementation of the RDR. One trade body warned that, since the proposals would lead to a sharp rise in fees for some firms and fees represented fixed expenditure, this could impact their capital adequacy requirements. Now that expenditure-based requirements have been extended to firms in fee-blocks A.12 and A.13, the organisation warned that this 'could cause market disruption.'

Our feedback

We will take all of these comments into account when developing our proposals.

Next steps

4.11 It will be clear from our feedback above that several responses we received have persuaded us to reconsider the value of the headcount measure. In particular, we agree that the regulatory impact of the activities authorised under these fee-blocks will relate to the quality of interaction between APs and clients, rather than the value of the transactions. For example, if a firm failed to treat customers fairly by providing inappropriate advice, the sums of money involved would be irrelevant. APs as a tariff base would provide a link to the deployment of our supervisory resources.

4.12 We also accept that, if we can take a pragmatic approach to the apportionment of income, we can also continue our pragmatic approach to the identification of APs.

4.13 Nevertheless, our starting point remains that the present arrangements are not sustainable in the long run. One firm asked how we managed to deal with firms authorised post-MiFID who have no experience of the old CF functions, and that is precisely our point. The exercise is becoming increasingly abstract.

4.14 Merging fee-blocks might, as one of the respondents suggested, offer a way forward. Table 4.1 shows how the customer functions used to be distributed between fee-blocks before they were merged into the single CF30 function. CF 27 (investment management) was excluded because the activity fell under fee-block A.7. The present arrangements require firms to identify the APs who would have fallen into CF 23 and CF 27. The remainder are allocated between A.12 and A.13 on the basis of the firm's permission.

4.15 Consolidating fee-blocks A.12-A.14 into a single fee-block based on the merged CF30 function could simplify the process. Firms would only have to exclude those APs whose activities were equivalent to CF27. We would provide a definition to assist them.

4.16 We have not yet considered the practical implications of proceeding in this way. We would need to model the impact on firms and discuss the results with representative bodies. We also need to review the arguments for maintaining the distinction between A.12 and A.13.

4.17 We will therefore investigate two options through modelling and discussions with representative bodies:

- a measure based on relevant income as discussed in CP09/26; and
- a consolidated A.12 – A.14 fee-block based on the merged CF30 function excluding investment managers.

4.18 We will present our recommendations in the CP to be published in October or November 2010.

Table 4.1 – Allocation of former customer functions between fee-blocks, before 2007

Customer function		Fee-block
21	Investment adviser	A.12/A.13
22	Investment adviser (trainee)	A.12/A.13
23	Corporate finance adviser	A.14
24	Pension transfer specialist	A.12/A.13
25	Adviser on syndicate participation at Lloyd's	A.12/A.13
26	Customer trading	A.12/A.13
27	Investment management	Excluded

Fees timetable and proposed FSA periodic fees 2010/11

5 Summary of 2010/11 FSA Business Plan and allocation of fees

Introduction

5.1 In this section, we summarise the key elements of the FSA's work programme for 2010/11, and the risks being faced by the firms and markets we regulate which that programme is designed to mitigate. This provides the context for our 2010/11 budget, which is set out in detail in the rest of this document. We will provide further details of these risks and of our work programme in two further documents to be published in March – the *Financial Risk Outlook* (FRO) and the *Business Plan* (BP). Our plans for the coming year are strongly influenced by the need to remain vigilant in uncertain and challenging economic conditions.

5.2 We are mindful of the impact of any fee increase paid by firms and are therefore concentrating on only essential work. The key elements of our planned work for 2010/11 focus on the following areas:

- Delivering effective on the ground supervision.
- Continuing to embed and fully implement the required cultural and organisational change that underpins our intensive supervisory agenda.
- Continuing to deliver our credible deterrence philosophy which is central to our supervisory approach.
- Taking forward our policy reform agenda driven largely by the Turner Review and other key initiatives that we began in response to the financial crisis.
- Ensuring that we continue to delivery our wider policy agenda primarily mandated by the EU, in particular Solvency 2 which is the largest single project undertaken by the FSA.
- Finally, we will advance the changes to the FSA's scope of responsibilities arising from the Financial Services Bill, if it is enacted (see below). This includes supporting the development of an independent consumer financial education body.

5.3 The legislation currently before Parliament – the Financial Services Bill – will, if passed, make important changes to the FSA's remit and powers. In particular, it will give us a further statutory objective – '*contributing to the protection and*

enhancement of the stability of the UK financial system'. The Bill also proposes removing our public awareness objective, which will in future be the responsibility of a new organisation – a consumer financial education body – which we will be required to establish. Our planning for 2010/11 and this Consultation Paper assume that the legislation will be enacted. So we include the funding required to create a consumer financial education body in this paper.

Impact of our plans on our budget for 2010/11 and on fee levels

5.4 We are committed to operating in an efficient way and to providing a transparent system for allocating our costs to fee-payers. We recognise that any increase in the industry's costs is unwelcome at a time when recovery from the financial crisis remains fragile. So we have sought to minimise the overall increase and to target it on those areas where we are doing most work.

5.5 When comparing this year's figures, it should be recognised that the full year costs of many of the investments made throughout 2009/10 were not reflected in full in last year's funding requirement. In particular, the FSA recruited 280 new staff as part of delivering its Supervisory Enhancement Programme. 2010 will be the first year when staff costs impact for a full year and this will equate to a 4% rise in total FSA costs, even if no other investments were made. In addition, as a result of our experience of operating our new 'intensive supervisory model' we have concluded that a further investment is needed in supervisory staff. These additional staff will be primarily targeted on very large high impact institutions. This will lead to a further increase in headcount of 260. Also, a further 100 staff will be needed to implement Solvency 2. Allowing for some additional capacity elsewhere, particularly in enforcement, in total headcount is forecast to rise by a further 460 by the end of 2010/11. This investment means that the annual funding requirement for 2010/11 is £454.7m, up from £413.8m in 2009/10, an increase of 9.9%.

5.6 However, as a result of our change in fee methodology, the majority of firms will see a reduction or no increase in their fees. The strategic review of our fee structure, which we carried out last year, has resulted in lower costs for smaller firms. There will be increases in the fees for larger firms – which reflect the resources we apply to intensive supervision of high-impact firms.

5.7 Enforcement fines that we levy are returned to the industry by way of discounts to their fees in the following financial year. In 2008/9 the value of fines levied was £26.5m which, when rebated to firms, equates to a discount of 6.2%. The fines collected for 2009/10 is £30.8m, which means the net annual funding requirement for 2010/11 is £423.9m – this represents an increase of 9.4% to the actual net cost to firms.

Financial capability – a consumer financial education body

5.8 In anticipation of the establishment of a consumer financial education body (which depends on the enactment of the Financial Services Bill, currently before Parliament) we

have separated out the costs of the work on financial capability. These will be shown separately when we issue invoices in June. The overall budget for this work will be £45.4.m, of which £12.5m will be funded by the Treasury – the remaining £32.9m will be raised via the FSA levy. We have allocated costs on the basis that all firms will make a minimum contribution of £10 and that we will recover the remaining costs on a straight-line basis in each relevant fee-block. In line with our existing policy, we have applied the financial capability costs to their fee-blocks (which mirror the FSA fee-blocks) in broadly the same proportion as their contribution to our Annual Funding Requirement.

5.9 In the rest of this section we summarise the risks we will set out in our *Financial Risk Outlook* and provide some more detail on next year's work programme, which we set out under our four statutory objectives. Finally, we comment on our plans to develop our operational platform.

Identifying risks – providing the context for our work

5.10 As we will explain in our Financial Risk Outlook, the economic outlook remains uncertain and several issues are still prevalent under these conditions. This includes international crisis management, pressures around the demand and supply of credit and the long-term damage of the prolonged recession on the UK economy. We continue to monitor and mitigate these issues through our work on financial stability. Market abuse remains a key market conduct risk and, together with other risks such as fragmentation and the changing structure of the equity market, continues to be mitigated through regulation, international policy engagement and anti-market abuse work.

5.11 Prudential risks remain a key concern, as the ability of institutions to raise new capital and ongoing re-financing risks remain heightened for a number of firms. The cost of funding, especially in anticipation of the withdrawal of government support, remains a key issue and we continue to mitigate this through the implementation of *The Turner Review*, intensive integrated supervision and strengthened liquidity and capital regimes.

5.12 Retail market failures continue to create conditions for the emergence of conduct risks. These failures, combined with economic and regulatory changes (which affect the behaviours of consumers and firms), continue to create potential for consumer detriment – for example, firms mis-selling products. Examples of crystallised conduct risks that continue to draw on our supervisory resource include structured products and mis-selling of payment protection insurance.

Financial stability – contributing to the protection and enhancement of the stability of the financial system

5.13 A significant proportion of the work we are doing to respond to the financial crisis supports our financial stability objective.

5.14 A fundamental component of our financial stability work is the delivery of our intensive, integrated supervision agenda. In order to deliver the required standard of supervision effectively, we will continue to invest in new and existing staff.

5.15 This approach brings together prudential and conduct risk, providing us with a integrated view of firms and markets. Our supervisory staff will be proactive in making judgements on assessments of risk and we will use the full range of regulatory tools at our disposal. Analysis of firms' business models, enhanced stress testing and supervising Significant Influence Functions are major components of this work.

5.16 It is also important that we allow for new or increased activity resulting from delivering changes in our regulatory policies. Key areas include the implementation of our *Turner Review* work – in particular capital and liquidity and the Solvency 2 Directive. Contributing to the development of European and international policy, in addition to our domestic remit, is another significant area of focus for 2010/11.

Market confidence – maintaining confidence in the financial system

5.17 To deliver our objective of maintaining market confidence it is important that we continue to set standards that firms and other market participants must follow. In the coming year, we will maintain our focus on challenging firms to be well governed, financially sound and to manage their risks effectively. We will monitor compliance with those standards and take action where we find shortcomings, particularly in relation to insider dealing and market abuse. We will build on our credible deterrence approach, which produced good outcomes in 2009/10, to reinforce the message that people and companies who break the rules will be caught and the sanctions they face will be meaningful.

5.18 We will also maintain our investment levels to develop and implement international and domestic markets policy. Our ongoing work on short selling, credit-ratings agencies and market infrastructure, such as listing systems and SABRE, are key workstreams that are vital to maintaining confidence in financial markets.

Consumer protection – securing the appropriate degree of protection for consumers

5.19 In respect of our consumer protection objective the principal deliverable for 2010/11 will be to launch our new approach to conduct supervision, to complement our already embedded new prudential approach. This new approach to conduct supervision will reflect the application of 'intensive supervision' to consumer protection. Drawing on our risk analysis capability, it will focus on analysing potential outcomes and being prepared to intervene earlier in the product design chain. Regarding specific initiatives we will focus on taking forward our work arising from the Mortgage Market Review and the Retail Distribution Review, along with our focus on consumer redress.

5.20 Through continued enforcement actions, we will punish firms and individuals for wrongdoings, secure redress for consumers and further enhance our policy of credible deterrence.

The reduction of financial crime – reducing the extent to which it is possible for a business to be used for a purpose connected with financial crime

5.21 In the past year we have demonstrated our continued commitment to reducing the extent to which it is possible for regulated businesses or unauthorised financial services businesses to be used for purposes connected with financial crime. It is important that we make the necessary investments to maintain our ability to continue to deliver this commitment.

5.22 Our key priorities for 2010/11 are: encouraging regulated firms to improve financial crime systems and controls; working in partnership with UK and international partners to combat financial crime; and taking action against unauthorised businesses. To ensure we can deliver results in this area, we will commit increased resources to our credible deterrence agenda and use our broad regulatory remit to deploy the full range of our enforcement powers to combating financial fraud and market abuse in line with our three-year financial crime strategy. Developing and implementing enhanced scanning and case review technology will also be a focus of future investment.

Delivering the FSA's operational platform

5.23 The ongoing development of our operational platform is vital to help us meet our statutory objectives. It is critical that we continue to focus on effectively managing our infrastructure, operational policies and processes in a smooth, efficient and responsive way – ensuring we have highly skilled and motivated staff, keeping the building and systems running and managing the finances to deliver value to our stakeholders.

5.24 Over the past few years we have made numerous improvements to our people strategy – such as continued investment in new and existing staff to enhance and embed high-quality intensive integrated supervision – and our technical infrastructure. In 2010/11 we will continue to develop and enhance these essential areas. This will include funding our accommodation strategy to ensure we have sufficient space for all our staff. Further investment is also needed to address the increase in Information Services (IS) development work and the growing role of IS solutions in facilitating new initiatives. Funding will also be required for the ongoing development of our IS architecture and Knowledge Information programme, and general demand for IS support on existing projects.

6 Fees timetable and invoicing arrangements

6.1 This chapter explains our timetable for invoicing and payment collection during the year. It also highlights the key dates firms should be aware of regarding our funding arrangements, to help them meet their responsibilities for regulatory fees and levies.

6.2 Firms are reminded that we are responsible for the administrative arrangements for invoicing, data collection and payment regarding FSA fees, as well as the FSCS and the FOS levies (but not FOS case fees).

Fees timetable

6.3 Table 6.1 shows the indicative timetable for 2010/11 FSA periodic fees and the FSCS and FOS levies payable to us.

Tariff data collection

6.4 Each fee-payer's invoice is calculated using the fee tariff data for all the fee-blocks to which it belongs, and also according to its permission to conduct regulated activities. Some firms submit their tariff data in Section J of the Retail Mediation Activities Return (RMAR) and the Mortgage Lending and Administration Return (MLAR).

6.5 Where we do not have the information we need to charge FSA fees and levies for the FOS and the FSCS, we write to firms to request it. Tariff data requests are sent to firms in January and, for 2010/11 fees and levies, must be completed and returned by 28 February 2010. Where firms do not return their tariff data in response to our written request, we can bill them for fees and levies using an estimated figure and we charge a £250 administrative fee.

Variation/cancellation of Part IV permission

6.6 Firms are allocated to FSA fee-blocks based on the regulated activities they have in their permission. A periodic fee is payable for each fee-block that a firm falls into, whether or not it actually carries on the activities concerned.

We do not refund periodic fees if a firm applies to reduce the scope of its Part IV permission, or cancel it altogether, once a new fee period has started (in this case, 1 April 2010 – 31 March 2011). So any firm that wishes to vary its permission to narrow its scope, or cancel it altogether, must submit its written application to us so we receive it before 1 April 2010 – otherwise it will be liable for 2010/11 periodic fees on the basis of its previous scope of permission.

Table 6.1: Fees timetable for 2010/11 periodic fees and FSCS/FOS levies

Date (2010)	Event	Description	Action needed by firms	Reference in this paper
Throughout the year	Tariff data collection exercise	Firms that submit the Retail Mediation Activities Return (RMAR) and/or the Mortgage Lending and Administration Return (MLAR) must report their fee tariff data once yearly in Section J of those returns.	• Check the relevant help texts[13] for the date when Section J data must be submitted in the RMAR/MLAR. The exact date for submission depends on the date when the firm's accounting year ends. • When required, complete Section J on the RMAR/MLAR with the tariff data and submit by the due date. • For FOS and FSCS levies, mortgage firms and insurance mediation firms can submit tailored income figures on Section J or (if applicable) exemption forms.[14] Exemption forms must be received before 31 March 2010 to be valid for 2010/11 fees.	Paragraph 6.4 and 6.5
January	Tariff data collection exercise	We contact all relevant fee-payers with a written request for their tariff data on which FSA, FOS and FSCS fees/levies are based.	• Complete and return tariff data sheets by 28 February 2010. • Late returns of tariff data attract an administrative fee.	Paragraph 6.4 and 6.5
January – March	Applications to vary or cancel Part IV permissions	Firms that want to vary or cancel their permission must apply now if they do not wish to be liable for the full 2010/11 periodic fees. **Firms that apply to cancel after 31 March 2010 will be liable for fees and levies for the full 2010/11 financial year**.	• Written applications to vary or cancel permissions must be received before 1 April 2010.	Paragraph 6.6
April	'On account' fee due from higher fee-payers	Firms that paid us periodic fees of more than £50,000 in 2009/10 must pay us 50% of that amount 'on account', towards their 2010/11 fees and levies.	• Pay 'on account' invoices no later than 30 April 2010. • Late or non-payment attracts an administrative fee and interest. • Firms that apply from 1 April 2010 to increase the scope of their permission may be liable for an additional periodic fee in 2010/11.	Paragraph 6.8
June onwards	Invoicing for all other firms	We issue invoices to all firms who do not make' on account' payments.	• Pay invoices within 30 days of receiving them. • Late or non-payment attracts an administrative fee and interest.	Paragraph 6.9
August	Balance due from 'on account' fee-payers	We will invoice 'on account' firms for the remainder of their 2010/11 periodic fees.	• Pay invoices by 1 September 2010. • Late or non-payment attracts an administrative fee and interest.	Paragraph 6.8

13 The RMAR and MLAR help texts on Section J (fees) are available at: http://www.fsa.gov.uk/Pages/Doing/Regulated/Returns/IRR/packs

14 The forms for reporting FOS and FSCS exemptions are available on our website at: http://www.fsa.gov.uk/Pages/Doing/Regulated/Fees/Tariff/Notes/

New joiners

6.7 A firm applying for FSA authorisation during the financial year is liable to pay regulatory fees and levies for the full year pro-rated according to the quarter in which authorisation begins. A firm seeking to increase the scope of its Part IV permission generally pays fees for any additional fee-blocks it falls within as a result of the variation of permission. No additional periodic fees are payable where the variation of permission means the firm does not enter any new fee-blocks.

'On account' fee-payers

6.8 Firms that paid us £50,000 or more in FSA fees in 2009/10 must, by 30 April 2010, pay 50% of their total 2009/10 FSA fees and 100% of their 2009/10 FOS levies. This payment is treated as an 'on account' payment against their 2010/11 fees, which are finalised in May 2010. By 1 September 2010 they must pay the balance of their 2010/11 FSA fees and FOS levies, and 100% of their FSCS levy.

Other fee-payers

6.9 We start invoicing firms who paid FSA fees of less than £50,000 in 2009/10 for the full amount of their 2010/11 fees in June 2010. Firms have 30 days from the date of the invoice in which to pay.

Late payment

6.10 If a firm does not pay its periodic fee and FSCS/FOS levies by the due date, we will levy a £250 surcharge and, from the due date, start to charge interest on any unpaid fee amount at 5% per annum above the Bank of England's repo rate. Where we do not receive payment, we are able to take civil and/or regulatory action against the firm to recover the debt. In 2009 we took action to cancel the permissions of firms who did not pay their fees and levies; they are no longer entitled to conduct regulated activities as a result.

Payment of regulatory fees and levies by instalments

6.11 In response to industry feedback, we facilitated a market solution for firms so that they could pay regulatory fees and levies in instalments. We explained that an instalment payment system would be uneconomical for us to administer as any systems costs and bad debts would, directly or indirectly, have to be met by firms through regulatory fees. In addition, administering credit arrangements is not part of our statutory function and we considered that providing credit to fee payers was likely to be cheaper when done by an organisation whose core activity is financing rather than by us.

6.12 Following discussion with several potential credit providers, Premium Credit Limited was chosen by the industry as the company that offered a competitive product and one that would be made available to all authorised firms. The industry also chose to negotiate a three-year deal with Premium Credit Limited as this provided the opportunity to secure enhanced payment terms. We are independent of this arrangement and have no contract in place with Premium Credit Limited.

7 FSA Annual Funding Requirement (AFR) 2010/11

Overview

7.1 In this chapter, we explain the factors determining how our AFR for 2010/11 has been calculated. The AFR is the amount of money that we need to raise from fees to fund our regulatory activities. Our main AFR driver is our budget which is £458m, which is introduced in Chapter 5. The budget is set to deliver the priorities that we have agreed for 2010/11 and these will be explained in detail in our Business Plan which will be published in March. The FSA continues to work in a challenging environment and we are mindful of the impact of our fees on firms and are therefore concentrating on only essential work.

2010/11 AFR

7.2 It should be noted that last year the FSA recruited a number of staff as part of its Supervisory Enhancement Programme (SEP). Many of these staff joined late in the year and therefore 2010/11 will be the first time that their full costs will be incurred; this equates to a 4% rise in total costs alone. The delivery of our intensive supervisory philosophy means that we plan to hire a further 460 staff of which 80% will contribute to our supervisory processes. The additional staff costs together with some costs to develop our operational platform account for the overall increase in our budget.

7.3 Table 7.1 shows the calculation of our AFR based on the budget ORA for 2010/11 of £458m. The key variances are:

- in 2009/10 we had to recover the previous year's SEP costs of £13.6m; and
- in 2010/11 we have an underspend of £11m related to 2009/10 which has been used to reduce the 2010/11 AFR.

7.4 This means that the AFR for 2010/11 is £454.7m, an increase of 9.9% on 2009/10. When you take into account the impact of enforcement fines being returned to the industry the overall increase is 9.4%.

7.5 As explained elsewhere the proposed legislation in the Financial Services Bill requires the FSA to set up a new organisation responsible for consumer financial education. Previously, this has formed part of the FSA's remit and been included within our budget and therefore our annual funding requirement. As the proposed legislation will separate this from the FSA, we have shown the costs for Financial Capability separately. This is consistent with how the funding for Financial Capability will be shown on the Fees Calculator and also in firms' invoices for 2010/11.

7.6 We remain on course to complete the 'funding the transition to more outcomes-focused regulation' (MARD) change programme, which we announced in 2007/08, as planned at the end of March 2010 and to the budgeted £50m. We will continue to recover this cost in fees over a period of up to ten years and consistent with our approach of the last three years we have included £5m in the AFR.

Table 7.1: Comparison of the budgeted AFRs for 2010/11 and for 2009/10 (excluding financial capability)

AFR Calculation	2009/10 (£m)	2010/11 (£m)	Variance (£m)
Budget (Ongoing Regulatory Activity – ORA)	*393.3	458.0	64.7
Prior year SEP costs	13.6	0.0	(13.6)
Recovery of scope change costs (and lifecycle in 2009/10)	1.9	2.7	0.8
Making a Real Difference (MARD)	5.0	5.0	0.0
Under spend in 2009/10	0.0	(11.0)	(11.0)
AFR Total	**413.8**	**454.7**	**40.9**

* Excludes £21.7m in respect of financial capability from the published 2009/10 ORA of £415m.

8 Allocation of 2010/11 AFR to fee-blocks

8.1 In this chapter, we set out the general principles that we apply when we allocate costs over fee-blocks. These are:

- where reasonable to do so, we will attribute costs (including an appropriate share of overheads) to fee-blocks based on the firm-specific activities we undertake in each fee-block;
- where it is possible to identify regulatory activities that, while not firm-specific, can be associated with particular fee-block(s), we will allocate the costs of these activities (including an appropriate share of overheads) to those fee-block(s); and
- we will allocate non-firm-specific costs (including an appropriate share of overheads) for activities that cut across many fee-blocks in proportion to the costs that have been attributed to fee-blocks on the two bases described above.

8.2 Although the cost allocation is inherently imprecise (as it involves assumptions about future events), we are confident that the results of the allocation are a materially accurate reflection of how we currently intend to deploy our resources over the fee-blocks in 2010/11. However, our objectives require us to respond to circumstances as they develop and it is possible that the actual use of resources will differ from that assumed in the cost allocation. Where this proves to be the case, we will take any difference into account in setting fees for 2011/12.

Comparison with 2009/10 AFR allocation

8.3 As stated in Chapter 7, we propose to raise an AFR of £454.7m in 2010/11, which is 9.9% higher than that published for 2009/10. Table 8.1 sets out the allocation of our 2010/11 AFR by fee block and compares it to that of 2009/10.

8.4 As part of our fees strategic review we committed to undertake a thorough review of the cost allocation process and ensure that all costs and resources were allocated against the respective fee-blocks. This exercise has given rise to one or two changes in comparison to last year. Below we list the fee-blocks where the allocation is above the average 9.9% increase and the reasons for this increase.

- A.1 (deposit takers) up £13.5m – this reflects our move to intrusive supervision of the high impact firms and with many of these staff joining late last year it means that 2010/11 will be the first time the full impact of their costs will be seen.
- A.3 (general insurance providers) up £9.5m – the above average increase reflects our step up in intensive high quality supervision of high impact firms together with a reallocation of some of our costs which had previously been allocated against life insurance companies. We believe the current split reflects our intended work for 2010/11.
- A.18 (mortgage intermediaries) up £3.5m – the increase is due to the implementation of; Sale and Rent Back (full regime); the Enforcement costs in relation to mortgage fraud work; and the projected increase in work arising from issues highlighted in our Mortgage Market Review discussion paper issued in October 2009.
- B (market operators) up £3.4m – Fee Block B comprises the FSA authorised multilateral trading facilities and service companies, alongside the recognised UK, and overseas, investment exchanges and clearing houses. For the purposes of clarity, we refer to these different entities as the "market infrastructure". This increase is due to the significant anticipated infrastructural projects – whether thematic such as the MiFID review or the continued focus on OTC derivative markets – or entity specific projects such as large scale trading platform or clearing infrastructure development. This has lead to a substantial increase in general supervisory, policy and legal engagement, alongside significant input from specialist prudential risk resource. Additional resource is required to; help to ensure that risks are appropriately mitigated; to further the international agenda; and to ensure that the UK remains a competitive place to do business for all market infrastructures.
- G (3MLD and PSD firms) up £1.1m – this reflects the introduction of the payment services directive effective from 1 November 2009 and is the first year in which we are recovering costs within our annual funding requirement.

Table 8.1: Proposed allocation of the AFR to fee-blocks for the period from 1 April 2010 to 31 March 2011, excluding Financial Capability

Fee-block	Budgeted 2010/11 ORA Costs (£m)	Proposed AFR 2010/11 (£m)	Actual AFR 2009/10 (£m)	% difference between proposed 2010/11 AFR and actual 2009/10 AFR
A.0*	N/A	19.7	N/A	N/A
A.1	134.8	130.7	117.2	12%
A.2	10.2	9.6	10.3	-7%
A.3	32.1	30.7	21.2	45%
A.4	51.9	48.6	50.5	-4%
A.5	1.1	1.1	1.2	-10%
A.6	1.5	1.5	1.7	-10%
A.7	32.3	30.7	32.5	-6%
A.9	6.4	5.9	6.1	-3%
A.10	29.9	28.7	27.4	5%
A.12	27.2	26.1	24.1	8%
A.13	44.6	40.2	43.8	-8%
A.14	8.7	7.9	7.8	2%
A.18	15.6	14.4	10.9	33%
A.19	34.5	30.8	35.9	-14%
A.20	2.2	2.2	2.2	0%
B	9.1	9.0	5.6	61%
C	1.8	1.7	1.8	-4%
D	0.2	0.2	0.2	-13%
E	12.2	12.1	11.4	6%
F	1.4	1.4	1.6	-13%
G	0.3	1.5	0.4	250%
TOTAL	**458.0**	**454.7**	**413.8**	**9.9%**

*A0 is a new fee-block to which all authorised firms will be allocated and charged the minimum fee.
Note: £ values are shown to the nearest £0.1m, % values are based on the underlying £ values.

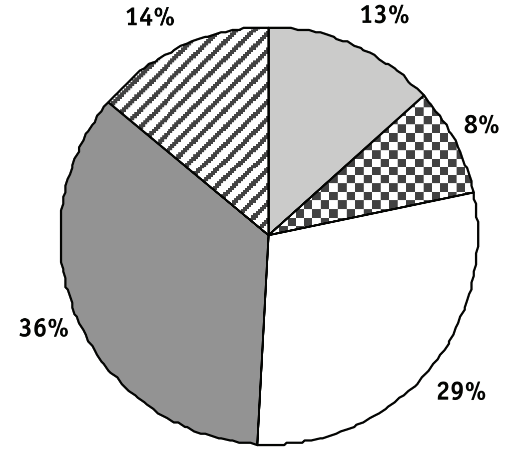
Break down of fee-blocks by FSA Business Units

8.5 In order to help firms understand better where their fees are spent we have produced the following charts.

8.6 The total FSA chart shows the breakdown of cost by FSA business units with Direct Reports split into Enforcement and Executive office. We have also shown a similar breakdown for individual fee-blocks for authorised firms.

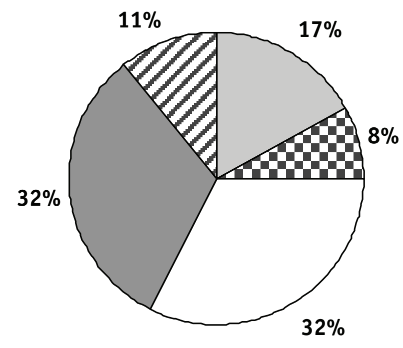
8.7 The chart for our new fee-block (A.0) which represents the new minimum fee is slightly different and shows the breakdown of the costs by the four key functions detailed in Chapter 2.

Total FSA

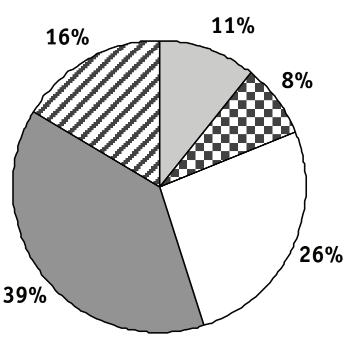


Executive
Operations
Risk
Supervision
Enforcement

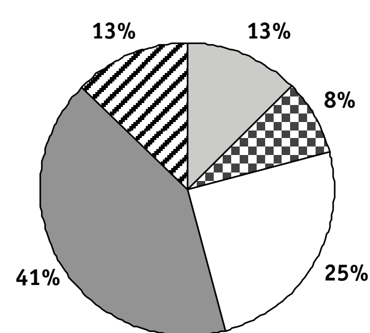
A.1 – Deposit acceptors



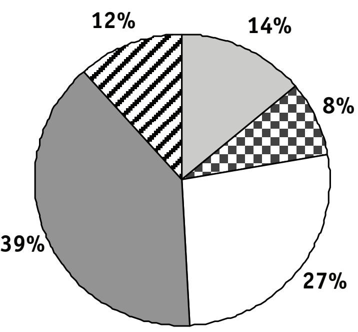
A.2 –Home finance providers



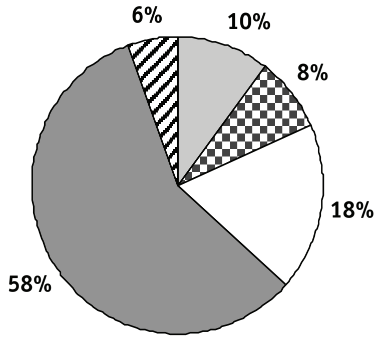
A.3 – Insurers – General



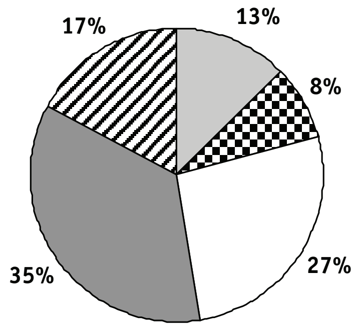
A.4 – Insurers - Life



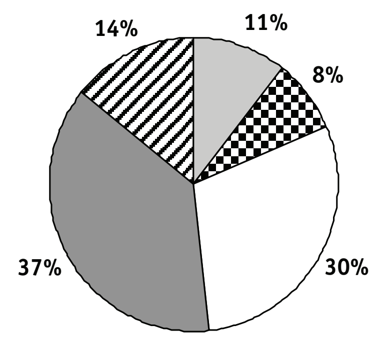
A.5 – Managing agents at Lloyd's



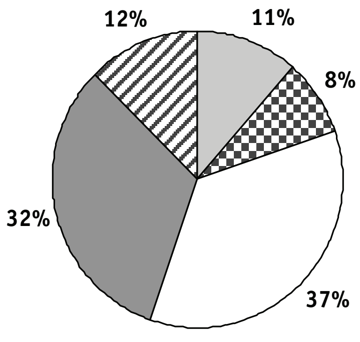
A.7 – Fund managers



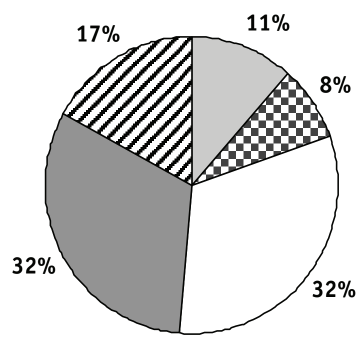
A.9 – Operators / Trustees CIS



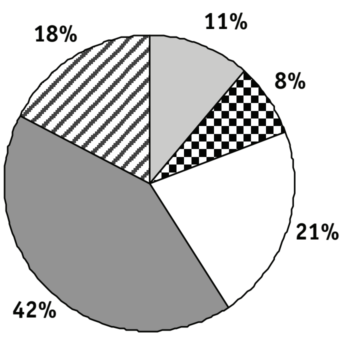
A.10 – Firms dealing as principal



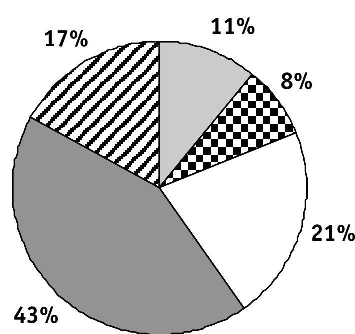
A.12 – Advising/ Arranging (holding client money)



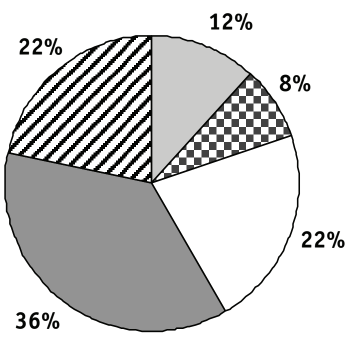
A.13 – Advising / Arranging (not holding client money)



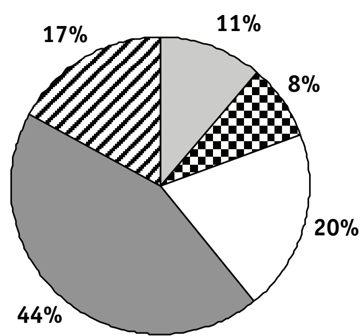
A.14 – Corporate finance advisers



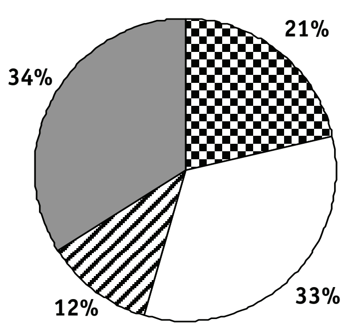
A.18 – Home finance mediation



A.19 – General insurance mediation



A.0 – Minimum fee



Regulatory reporting

Policing the perimeter

Unrecovered authorisation costs

Customer contact centre

9 Periodic fees for authorised firms

9.1 This chapter sets out our proposals for the 2010/11 periodic fees of authorised firms (the A fee-blocks) who form the majority of our fee-payers.

9.2 Proposals for the fees payable by other bodies (such as listed issuers of securities and designated professional bodies) are in Chapter 11 of this paper.

The periodic fees proposals in this chapter require responses by 12 April 2010.

Proposed periodic fee rates 2010/11

9.3 Setting periodic fee rates for 2010/11 requires three sets of data to be analysed together:

- the allocation of fee-payers to fee-blocks as at 1 April 2010;
- the allocation of the 2010/11 AFR to fee-blocks; and
- tariff data from each fee-payer for use when calculating 2010/11 fees (generally based on the fee-payer's activity in, or reported in, 2009 or as at 31 December 2009).

9.4 The final fee rates for 2010/11 may also be affected by any difference between our actual costs and fee income for 2009/10, compared to what we expected when we set the 2009/10 fee rates. Any difference will not be fully quantified until after our year-end accounts have been audited.

9.5 Because all this data is not yet available to us, the periodic fee rates we are consulting on in this CP are to some extent based on assumptions and estimates. Table 9.1 sets out the data we have used to calculate the proposed periodic fee rates in this consultation.

Fee-payers should be aware that this means that the final rates for 2010/11 – which will be made by our Board at its May 2010 meeting – could vary materially from those in this paper.

Table 9.1: Summary of data used to estimate 2010/11 periodic fee rates for consultation

Fee-block	Tariff base	2010/11 (Estimates of 2010/11 fee-payers and tariff data)			2009/10 (Actual 2009/10 data)		
		AFR (£m)	No. of fee-payers	Tariff base	AFR ** (£m)	No. of fee-payers	Tariff base
A.0	Minimum fee	19.7	20,022	NA	NA	NA	NA
A.1	Modified eligible liabilities	130.7	854	£3,314.3bn	117.2	882	£3,359.6bn
A.2	Number of mortgages or other home finance transactions	9.6	351	8.0m	10.3	368	7.9m
A.3	Gross premium income Gross technical liabilities	30.7	398	£50.1bn £111.1bn	21.2	404	£49.6bn £110.1bn
A.4	Adjusted gross premium income Mathematical reserves	48.6	277	£68.0bn £740.5bn	50.5	278	£67.9bn £737.5bn
A.5	Active capacity	1.1	66	£16.7bn	1.2	66	£16.6bn
A.7	Funds under management	30.7	2,410	£3,521.5bn	32.5	2,353	£3,517.8bn
A.9	Gross income	5.9	737	£6.1bn	6.1	715	£6.1bn
A.10	Traders	28.7	483	9,837	27.4	490	9,897
A.12	Relevant approved persons	26.1	1,868	68,663	24.1	1,835	70,766
A.13	Relevant approved persons	40.2	6,978	38,544	43.8	6,804	38,991
A.14	Relevant approved persons	7.9	882	6,487	7.8	900	6,598
A.18	Annual income	14.4	6,532	£1.6bn	10.9	6,734	£1.9bn
A.19	Annual income	30.8	14,658	£14.0bn	35.9	14,945	£14.9bn
A.20	Volume of Contracts*	2.2	84	2,722.5m	2.2	89	2,268.7m

* Applicable firms are included in FEES 4 Annex 9

** 2009/10 AFR net of Financial Capability

Key changes to minimum fees and fee rates

Impact on minimum Fees

9.6 The fees internal strategic review has introduced a new approach to minimum fees. This means that all firms will now be charged a single minimum fee that is directly related to the minimum costs associated with an individual firm being authorised. This removes the requirement to charge a minimum fee in each fee-block and then applying a regime of discounts to firms in more than one fee-block currently referred to as the 'multiple minimum fee discount.' The minimum costs recovered include

the costs of the minimal baseline monitoring we carry out on all firms and the costs of the firm contact centre. All authorised firms will therefore be allocated to a new fee-block, A.0, and this fee-block will recover the minimum fees of being authorised. The proposed minimum fee for 2010/11 is £1,000.

9.7 Following consultation it was agreed that smaller credit unions will continue to pay a reduced fee of £160 and £540 depending on size and that the unrecovered minimum regulatory costs should be recovered from the other firms in the A.1 fee-block (deposit acceptors).

9.8 As included in our feedback on the responses to the consultation on the new minimum fee in Chapter 2, we are now consulting on a proposal that smaller non-directive friendly societies should be an exception. Similar to smaller credit unions they support people with limited financial resources to improve their economic status. We propose to leave their minimum fee unchanged at £430. There are 94 NDFS's and we propose that the unrecovered minimum regulatory costs that will arise from maintaining their minimum fee at £430 should be recovered from the other firms in the A.4 fee-block (insurers – life). The amount to be recovered from the A.4 fee-block as a result of this cross-subsidy will be approximately £53,580 representing 0.1% of the proposed 2010/11 annual funding requirement (AFR) of £48.6m for this fee-block.

9.9 The amount we recover from minimum fees will fall from £30.3m to £19.7m representing a fall from 7.4% to 4.3% of the annual funding requirement covered by the affected fee-blocks. Of the 8,434 firms that currently only pay minimum fees, 6% will pay the same or see a change of £40 or less, 37% will pay less and 57% will pay more. The main group paying more will be firms that only carry out permitted business falling under A.19 (general insurance mediation) – their minimum fee will increase from £450 to £1,000. These represent 60% of the firms paying more.

9.10 In Chapter 2 we explain the basis of the new minimum fee and our reasons for implementation. As part of the implementation for 2010/11 we have decided that in respect of the A.10 fee-block (firms dealing as principal) the minimum fee will only cover one trader compared to two traders in the previous regime where the A.10 minimum fee was £2,310. The reduction to one person is consistent with the tariff data of fee-blocks A.12, A.13, and A.14 which are the other headcount based fee-blocks.

Impact on 2010/11 fee rates above minimum fee levels

9.11 The internal strategic fees review agreed that we should adopt a straight line recovery policy. This means that above the minimum fee threshold firms' fees will increase in direct proportion to the increase in their fee tariff data. In practice this will mean that large firms are likely to pay significantly more that they have done in prior years. 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.

9.12 We recognise that our move to 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 approximately 60% of firms will pay less or the same fees whilst 40% will pay more fees.

9.13 The extent of the change will depend on which fee-blocks firms are in 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.

9.14 We are currently proposing only one exception to the straight line approach. This is in fee-block A.1 (deposit acceptors). As a result of moving 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. This supervision level increases our costs substantially, so we propose applying premium recovery rates to only the high and medium high firms in this fee-block. Therefore, we propose applying a premium to the straight line rate of 25% to tariff data in charge band 4 and 65% to tariff data in charge band 5. These increases broadly fall on firms which are respectively medium-high impact and high impact.

9.15 We encourage firms to use our online fee calculator to see the amounts they are likely to pay in 2010/11 based on their actual tariff data and the draft fee rates that we are proposing. Further details of how to access the calculator are provided in paragraph 1.11 in Chapter 1. As stated earlier, the final fee rates may differ when we have the final population of fee-payers and confirmed tariff data.

Reserves (Over/under recovery)

9.16 CP09/26 has addressed the methodology we use to calculate the FSA fees. As part of this work we have also looked at the issue of over/under recoveries.

9.17 Our overall objective is to ensure that the fees raised during the year cover the total FSA costs together with costs that the industry have agreed to recover in different years, for example, pensions, and expenditure that is 'out of scope'. Inevitably this is not an exact science and differences arise from this process, although we attempt to keep our total over/under recovery within +/- 2% of ORA (as at 31 March 2009 it was nil).

9.18 Historically, over/under recoveries have been managed on an individual fee block basis. At the year end we undertake a 'true up' exercise, for each fee-block, in which the actual costs are allocated using an actual allocation basis and compared with the fees invoiced. This results in over/under recovery for each individual fee block reflecting changes both in the areas of expenditure and the cost allocation data provided by the business. This process creates an issue when consulting on the following year's fees as we do not know the outcome from the current year and hence cannot reflect it in the rates on which we consult.

9.19 We are not required under FSMA to undertake the 'true up' exercise. For 2009/10 onwards we therefore propose to discontinue this 'true up' exercise and eliminate all the historic surpluses and deficits as part of our move to the strategic review fees regime. This will simplify the process and provide greater certainty for firms, as once the fees have been levied in one year they would be final.

9.20 Where our fees are raised under a different legal power other than FSMA, for example UK Markets (fee block E), we will 'ring fence' these, to ensure that income and costs are separately attributed against these fee-blocks.

> Q1: Do you have any comments on the proposed 2010/11 FSA fee rates for authorised firms and the premium appslied to the rates in A1 (deposit acceptors fee-block)?

Q2: Do you agree with the proposal to treat smaller non-directive friendly societies as an exception allowing them to pay a reduced minimum fee and the unrecovered minimum regulatory costs be applied to A.4 (insurers – life) fee-block?

Please send your response by 12 April 2010.

10 Applying financial penalties 2010/11

10.1 This chapter sets out our proposed 2010/11 allocation of financial penalties received in 2009/10 to authorised firms (the A fee-blocks) and UKLA fee-payers (the E fee-block).

10.2 In some cases, enforcement action can result in a financial penalty being imposed on a person under the Financial Services and Markets Act 2000 (FSMA). Under FSMA we are required to apply those penalties for the benefit of authorised persons, except those in breach of the Listing Rules, which must be used to benefit issuers of securities. Our policy for applying financial penalties to the benefit of fee-payers is published in Annex 4 of our Consolidated Policy Statement (PS09/8[14]) on fees and levies.

Effect of 2009/10 penalties on 2010/11 fees

10.3 In 2007/08 we changed our policy of returning financial penalties to fee-payers. As a result, enforcement fines are offset against the costs of a case in the fee-block(s) where the costs arose (for 2010/11 in fee-blocks A.12 and A.13). The remaining funds are returned to all authorised firms (with the exception of the firm that was fined) in proportion to their respective contributions to the AFR.

10.4 Table 10.1 shows the allocation of penalties received so far in 2009/10 across the A (authorised firms) and the E (issuers of listed securities) fee-blocks. We will confirm the final 2010/11 penalty deductions to fees in the Policy Statement to this paper, in May/June 2010.

14 *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)

Table 10.1: Penalties to be applied for the benefit of authorised persons and issuers of securities in 2010/11 – comparison with 2009/10

	2010/11			2009/10	
Fee-block	AFR (£m)	Penalties to be applied for the benefit of fee-payers (£'000)	Reduction in fee amount payable (%) – see note ***	Penalties to be applied for the benefit of fee-payers (£'000)	Reduction in fee amount payable (%) – see note***
A.0	19.7	1,388	7.0	NA	NA
A.1	130.7	9,209	7.0	7,709	6.2
A.2	9.6	675	7.0	673	6.2
A.3	30.7	2,163	7.0	1,418	6.2
A.4	48.6	3,421	7.0	3,299	6.2
A.5	1.1	76	7.0	77	6.2
A.6	1.5	106	7.0	108	6.2
A.7	30.7	2,163	7.0	2,120	6.2
A.9	5.9	417	7.0	398	6.2
A.10	28.7	2,023	7.0	1,838	6.3
A.12	26.1	2,318	8.8	1,582	6.2
A.13	40.2	2,922	7.2	2,852	6.2
A.14	7.9	560	7.0	510	6.2
A.18	14.4	1,017	7.0	724	6.2
A.19	30.8	2,173	7.0	2,338	6.2
A.20*	2.2	153	7.0	135	6.2
B (MTFs Only)	0.5	38	7.0	19	6.2
E	12.1	0	0	740	6.4
Total	441.4	**30,822****		**26,540**	

* Applicable firms are included in FEES 4 Annex 9

** Year to date as at 21 January 2010

*** The percentage reduction in fee amount payable has been rounded down

11 Periodic fees for other bodies

11.1 This chapter sets out the proposed periodic fees for fee-payers other than authorised firms – for example, collective investment schemes and unauthorised mutuals.

The proposed fees in this chapter require a response by 12 April 2010.

Fee-payers should note that as we do not yet have all the data needed to set periodic fees, the final rates and fees for 20010/11 could vary materially from those in this chapter. Our Board will finalise the 20010/11 fees and fee rates in May 2010 and we will publish final rates in our feedback to this paper, in May/June 2010.

Collective investment schemes

(FEES 4 Annex 4R, draft rules are in Appendix 2)

11.2 Collective investment schemes make up the C fee-block. In 2010/11 we are proposing a maximum 1% increase to the periodic fees for collective investment schemes, as set out Table 11.1. The basic fee is increasing from the 2009/10 level, to £575 for the majority of schemes.

Table 11.1: Comparison of 2010/11 proposed fees for collective investment schemes and actual fees in 2009/10

Scheme type	Total aggregate number of funds/sub-funds	2010/11 Proposed Fee (£)	2009/10 Fee (£)	Variance (%)
ICVC, AUT, Section 264 of FSMA or Section 270 of FSMA	0-2	575	570	0.9
	3-6	1,440	1,425	0.9
	7-15	2,875	2,850	0.9
	16-50	6,325	6,270	0.9
	>50	12,650	12,540	0.9
Section 272 of FSMA	0-2	2,340	2,326	0.6
	3-6	5,850	5,815	0.6
	7-15	11,700	11,630	0.6
	16-50	25,740	25,586	0.6
	>50	51,480	51,172	0.6

Unauthorised mutuals

(Draft rules in Appendix 3)

11.3 Table 11.2 sets out the proposed 2010/11 fees for unauthorised mutuals. The fees rules for unauthorised mutuals do not form part of our Handbook rules. A decrease in the number of firms offset by an increase in the total assets has resulted in rates remaining constant. They are published on our website at: www.fsa.gov.uk/Pages/Doing/small_firms/MSR/.

Table 11.2: Comparison of proposed 2010/11 fees and actual 2009/10 fees for unauthorised mutuals

Total assets (£'000)	Proposed 2010/11 fee (£)	Actual 2009/10 fee (£)	Variance (%)
0 – 50	55	55	0.0
> 50 – 100	110	110	0.0
> 100 – 250	180	180	0.0
> 250 – 1,000	235	235	0.0
> 1,000	425	425	0.0

Service companies

(FEES 4 Annex 2R, draft rules are in Appendix 2)

11.4 We propose to increase the 2010/11 fees for these fee-payers by an average of 15%, consequent to a substantial increase in general supervisory, policy and legal engagement. Their fees are shown in the table below:

Table 11.3: Periodic fees for service companies

Organisation	Proposed 2010/11 fee (£)	Actual 2009/10 fee (£)	Variance (%)
Service companies			
– Bloomberg LP	45,000	40,000	12.5
– EMX Co Ltd	35,000	30,000	16.7
– LIFFE Services Ltd	35,000	30,000	16.7
– OMGEO Ltd	35,000	30,000	16.7
– Reuters Ltd	45,000	40,000	12.5
– Swapswire Ltd	35,000	30,000	16.7

Recognised Investment Exchanges and Recognised Clearing Houses

(FEES 4 Annex 6R, draft rules are in Appendix 1 and 2)

11.5 The periodic fees for Recognised Investment Exchanges and Recognised Clearing Houses are set on an individual basis for each body, and are payable in two instalments during the year – on 30 April and 1 September.

11.6 The table below shows the proposed 2010/11 periodic fees for UK recognised bodies, as compared with 2009/10 levels. The AFR as a whole has risen by 61% year on year to £9.0m. This increase is due to the significant anticipated infrastructural projects – whether thematic such as the MiFID review, the continued focus on OTC derivative markets, interoperability initiatives etc – or entity specific projects such as large scale trading platform or clearing infrastructure development within each of the trading, clearing, and settlement environments, spanning both equity and non-equity markets. This has lead to, and will continue to result in, a substantial increase in general supervisory, policy and legal engagement, alongside significant input from specialist prudential risk resource, which ensures that risks are appropriately mitigated, furthers the international agenda, and ensures the UK remains a competitive place to do business for all market infrastructures.

11.7 We propose to increase the minimum periodic fees for Overseas Recognised Investment Exchanges from £30,000 to £40,000 in 2010/11 and for Overseas Recognised Clearing Houses from £60,000 to £70,000. This reflects the increased supervisory interaction with them in general over 2009, which is anticipated to continue through 2010. Any proposed fees that deviate from the proposed minimum level, due to significant actual or anticipated levels of supervisory time allocated to the entities in question, will be communicated to those entities in due course.

11.8 The proposed fees for 2010/11 are set out in table 11.4 below and take into account any refunds given in 2010/11 in relation to the 2009/10 financial year. If you have any questions regarding these fees then please contact your relationship manager.

Table 11.4: Comparison of proposed 2010/11 fees and actual 2009/10 periodic fees for UK recognised bodies

Name of UK recognised body	Proposed 2010/11 fee (£)	Actual 2009/10 fee (£)	Variance (%)
Euroclear UK & Ireland Limited	765,000	555,000	37.8
ICE Futures Europe	650,000	460,000	41.3
LIFFE Administration and Management	1,100,000	650,000	69.2
LCH.Clearnet Limited	1,000,000	596,000	67.7
The London Metal Exchange Limited	500,000	396,000	26.3
London Stock Exchange plc	850,000	522,000	62.8
SWX Europe Ltd	NA	165,000	NA
EDX London Ltd	150,000	85,000	76.5
Plus Markets plc	300,000	195,000	53.8
European Central Counterparty Ltd	440,000	327,000	34.6
ICE Clear Europe Ltd	700,000	368,000	90.2

Multilateral Trading Facilities (MTFs)

(FEES 4 Annex 10R, draft rules are in Appendix 1)

11.9 The periodic fees for multilateral trading facilities are set on an individual basis for the fee payers listed in the table below and are based on the amount of regulatory resources required.

11.10 For all other multilateral trading facilities we propose to increase the 2010/11 fees from £2,000 to £3,000.

Table 11.5: Periodic fees for multilateral trading facilities

Organisation	Proposed 2010/11 fee (£)	Actual 2009/10 fee (£)	Variance
Chi-X Europe Limited	125,000	38,000	228.9%
BATS Trading Limited	80,000	38,000	110.5%
Turquoise Services Limited	80,000	38,000	110.5%
Liquidnet Europe Limited	70,000	20,000	250.0%
NASDAQ OMX Europe Limited	70,000	38,000	84.2%
EuroMTS Limited	30,000	20,000	50.0%
Baikal Global Ltd	25,000	2,000	1150.0%
SmartPool Trading Limited	20,000	2,000	900.0%
Tradeweb Europe Limited	12,500	9,200	35.9%
Cantor Index Limited	7,750	5,600	38.4%
ICAP Electronic Broking Limited	6,000	4,400	36.4%
Barclays Bank Plc	3,600	2,600	38.5%
BGC Brokers L.P	3,600	2,600	38.5%
CantorCO2e Limited	3,600	2,600	38.5%
GFI Brokers Limited	3,600	2,600	38.5%
GFI Securities Limited	3,600	2,600	38.5%
Icap Energy Limited	3,600	2,600	38.5%
ICAP Europe Limited	3,600	2,600	38.5%
ICAP Securities Limited	3,600	2,600	38.5%
ICAP Shipping Tanker Derivatives Limited	3,600	2,600	38.5%
ICAP WCLK Limited	3,600	2,600	38.5%
My Treasury Limited	3,600	2,600	38.5%
TFS-ICAP Limited	3,600	2,600	38.5%
Tradition (UK) Limited	3,600	2,600	38.5%
Tradition Financial Services Limited	3,600	2,600	38.5%
Tullett Prebon (Europe) Limited	3,600	2,600	38.5%
Tullett Prebon (Securities) Limited	3,600	2,600	38.5%
MF Global UK Limited	3,300	2,300	43.5%

Designated professional bodies (DPBs)

(FEES 4 Annex 5R, draft rules are in Appendix 1 and 2)

11.11 We set individual periodic fees for each DPB, based on the estimated number of exempt professional firms in each body. Every DPB pays £10,000 in respect of its first exempt professional firm. The balance of the AFR is then distributed proportionally across the remaining exempt professional firms reported by each DPB.

11.12 Table 11.6 sets out the proposed 2010/11 periodic fees for each DPB.

Table 11.6: Comparison of periodic fees for DPBs

Name of DPB	Proposed 2010/11 fee (£)	Actual 2009/10 fee (£)	Variance (%)
The Law Society of England and Wales	80,780	69,090	16.9
The Law Society of Scotland	14,770	13,990	5.6
The Law Society of Northern Ireland	13,580	12,990	4.5
The Institute of Actuaries	10,130	10,110	0.2
The Institute of Chartered Accountants in England and Wales	28,720	25,630	12.1
The Institute of Chartered Accountants of Scotland	11,590	11,330	2.3
The Institute of Chartered Accountants in Ireland	10,750	10,630	1.1
The Association of Chartered Certified Accountants	18,470	17,070	8.2
Council for Licensed Conveyancers	11,310	11,090	2.0
Royal Institute of Chartered Surveyors	14,370	13,650	5.3

UK Listing Authority (UKLA)

(FEES 4 Annex 7R, draft rules in Appendix 2)

11.13 Table 11.7 summarises the proposed 2010/11 annual fee rates for issuers of securities. The fee rates in Table 7.6 are based on estimates of issuers' market capitalisation as of 30 November 2009. An increase in AFR and a fall in the number of firms have resulted in increased minimum fees and rates.

Table 11.7: Comparison of the proposed UKLA annual fees 2010/11 and the actual UKLA annual fees 2009/10

Fee payable*	Proposed 2010/11		Actual 2009/10		
£ million of Market capitalisation	Rate	Fee at maximum (£)	Rate	Fee at maximum (£)	Variance (%)
Minimum fee	n.a.	3,700	n.a.	3,425	8.0
>100 – 250	23.593356	7,239	21.854700	6,702	8.0
>250 – 1,000	9.436716	14,317	8.737700	13,255	8.0
>1,000 – 5,000	5.808686	37,551	5.378413	34,769	8.0
>5,000 – 25,000	0.141692	40,385	0.131196	37,393	8.0
>25,000	0.045777	–	0.042386	–	–
* Issuers solely with a listing of equity securities of an overseas company which is not a primary listing pay 80% of the fee otherwise payable					

11.14 The annual sponsor fee has remained unchanged since 2005/06. We propose to increase the annual sponsor fees from £10,000 to £12,500. This will bring the fee into line with the general AFR increase and with our policy that users should pay for the regulatory work that is performed for their benefit.

11.15 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.[15] These changes 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.

Firms registered with the FSA under the Money Laundering Regulations

11.16 The annual fee for firms registered with the FSA under the money laundering regulations will be maintained at £400 for 2010/11.

Firms authorised or registered under the Payment Services Regulations

11.17 In PS09/8 we provided confirmation on our approach for fees for firms undertaking payment services activities in the UK. These activities were brought under the scope of our regulation on 1 November 2009 by the European Union’s Payment Services Directive (PSD) which is implemented in the UK by the Payment Services Regulations 2009.

11.18 Firms already authorised under FSMA and allocated to fee-block A1 (deposit acceptors), except for credit unions, that provide payment services by virtue of their part IV permissions will be charged fees based on the MEL tariff data as supplied to calculate fees on in fee-block A1. This basis for tariff data was confirmed in PS09/8. The rate to be applied to these FSMA firms subject to PSD is shown in Table 11.8.

Table 11.8: Certain deposit acceptors and e-money issuers authorised under the Payment Service Regulations

Banks, building societies and e-money issuers and fee rates for 2010/11	
Minimum fee (£)	400
£ million or part £m of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)
> 100,000	0.42537
> 250,000	0.42537
> 1,000,000	0.42537
> 10,000,000	0.42537
> 50,000,000	0.42537
> 500,000,000	0.42537

11.19 In CP 09/26 we provided our initial thoughts on the likely fee levels for authorised payment institutions (PIs), these were shown in Table 10.1 of that document. At the time of CP09/26 our general approach for periodic fees was based on a series of charge bands with a specific charge rate applied to the tariff data falling into each charge band; in most fee-blocks the rate charged decreased as the tariff data got larger. Since CP09/26 we have reviewed that approach as part of internal strategic fees review (see section 1) and concluded that we would apply the same fee rate to each charge band unless we could determine a specific reason to apply either a premium or a discount to the straight line rate approach. Fees for PIs are based on an income measure which was confirmed in PS09/8. In the case of PIs we believe that the straight line recovery is the most appropriate methodology and hence we have used a consistent rate across all charge bands as shown in Table 11.9. These fee rates will also be applied for

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

other institutions such as the Bank of England and government departments or local authorities that provide payment services other than when carrying out functions of a public nature.

Table 11.9 Authorised payment institutions and other institutions – fee rates for 2010/11

Minimum fee (£)	**400**
£ thousands or part £ thousand of Relevant Income	Fee (£/£thousand or part £ thousand of Relevant Income)
> 100,000	0.48859
> 250,000	0.48859
> 1,000,000	0.48859
> 10,000,000	0.48859
> 50,000,000	0.48859
> 500,000,000	0.48859

11.20 In PS09/8 we confirmed that small payment institutions (SPIs) and small e-money issuers would pay a flat fee of £400.

Q3: Do you have any comments on the proposed 2010/11 FSA fee rates for fee-payers other than authorised firms?

These proposals require a response by 11 March 2010 for draft rules in Appendix 1 and 12 April 2010 for draft rules in Appendix 2 and 3.

12 UK Listing Authority (UKLA) revised vetting fees for equity prospectuses

(FEES 3, Annex 5, Part 2, draft rules are in Appendix 1)

12.1 In this chapter we set out our proposal to change one of the fees charged for vetting an equity prospectus that is made up of separate documents.

12.2 This proposal will affect:

- issuers and firms in the E fee-block who are issuers of securities that have been admitted to the Official List (as defined in section 74 of FSMA); or
- sponsor firms (as defined in section 88 of FSMA).

It is also relevant to issuers producing prospectuses relating to equity securities. The implementation of this proposal would take effect from 1 April 2010.

Background

12.3 This proposal arose from work by the Rights Issue Review Group (RIRG) whose report is available at http://www.hm-treasury.gov.uk/prebud_pbr08_rightsissues.htm. Chapter 3 of the report discusses whether equity issuers could make more use of shelf registration.

12.4 The Prospectus Rules (PR) provide that a prospectus may be drawn up either as a single document or as three separate documents (PR 2.2.1R). Using separate documents is known as 'shelf registration' and the resulting prospectus is referred to as a 'tripartite' prospectus. A registration document is prepared which sits on the 'shelf' until the issuer decides to issue securities at which point a securities note and a summary are prepared. These, together with the registration document make up the prospectus.

12.5 The fee structures for vetting equity and non-equity prospectuses (such as for debt issues) differ for the different work required. When comparing vetting costs for a single issue of securities, a debt issue has a lower fee if a tripartite prospectus is used rather than a single document prospectus. However, this is not the case for equity issues where a tripartite prospectus has a higher fee than a single document prospectus. This difference led to the RIRG suggesting that we consult on aligning our fee tariffs for equity shelf registration to ensure that companies' choices are more neutral.

Proposal

12.6 Prospectus vetting fees are set out in FEES 3, Annex 5, Part 2. For equity issues the fee for a tripartite prospectus is made up of £4,400 for a registration document and £2,750 for the securities note and summary. A registration document has a shelf life of up to 12 months (PR 5.1.4R). If an issuer did one equity issue in a year the cost of a tripartite prospectus would be £7,150. This is £880 more than the single document prospectus fee of £6,270. By contrast, for a single issue of debt[16] the shelf registration route is £165 less than for a single document prospectus.

12.7 The information disclosure requirements are greater for equity prospectuses than for debt prospectuses that, for example, do not require a working capital statement. Proportionally more work is required on a securities note for an equity issue than for a debt issue. An equity securities note will include the working capital statement and will have more information from the registration document to be updated.

12.8 In recognition of the amount of work that is required on an equity securities note, we propose that the fee remains fixed at the current amount of £2,750 until we consult on any proposals to change these. We also propose that in order to make the issuers' choice of which prospectus format to use more neutral, the fee for equity registration documents, in FEES 3, Annex 5, Part 2, Category 2, is reduced from £4,400 to £3,520.

> Q4: Do you agree with the proposed change to FEES 3, Annex 5, Part 2, Category 2 to reduce the fee for vetting equity registration documents to £3,520?

16 'non-equity' in FEES 3, Annex 5, Part 2, Categories 4, 5 & 6

Further fees policy proposals 2010/11

13 Financial capability and the establishment of a Consumer Financial Education Body

(FEES 7, draft rules are in Appendix 4)

13.1 In CP09/26, we expected to consult on proposals to recover the costs of establishing a national money guidance service from 2010/11. This was proposed in the government's White Paper, *Reforming Financial Markets*,[17] published in July 2009. The White Paper announced the government's intention to strengthen our work on financial capability from spring 2010 and roll out the Money Guidance pathfinder, jointly funded by us and the government. We launched this in the north of England in March 2009 under the 'Moneymadeclear' brand. The government is seeking to implement this policy through the Financial Services Bill, which is currently being considered by Parliament. As a result, we present our proposals for levying fees which will recover the costs of implementing our obligations concerning these provisions of the Bill, or of maintaining our financial capability activities if they are not passed as anticipated.

13.2 The Bill requires us to establish a new Consumer Financial Education Body (CFEB) to enhance:

(a) the understanding and knowledge of members of the public of financial matters (including the UK financial system); and

(b) the ability of members of the public to manage their own financial affairs.

13.3 CFEB's remit would replace our public awareness objective under FSMA, which gives us the duty to promote public understanding of financial systems. We currently deliver this through our National Strategy for Financial Capability and Money Guidance; and by working in partnership with the government, the third sector and industry. These activities are currently led by our Financial Capability Division, and we would transfer this with its associated costs to the new body. For simplicity, we will refer to this body of in-house work in this CP as 'FinCap' (financial capability).

13.4 The Bill should receive Royal Assent before the end of the current Parliamentary session, with immediate commencement. In that case, it is expected that CFEB would be established as a legal entity, exercising its powers under the Act, by the time the Instrument in Appendix 4, on which we are consulting, comes into force at the end of May. The Instrument proposes the creation of a new chapter in the FSA Handbook, FEES 7, to distinguish the CFEB levy from FSA fees.

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

13.5 If the Bill is not passed, or the timetable is delayed, we would continue to deliver the FinCap Strategy, including Money Guidance, under our existing FSMA powers.

Funding CFEB

13.6 CFEB's annual budget would require FSA approval, but it would be funded from several sources:

- fees raised from firms authorised under FSMA;
- public funds and dormant accounts; and
- relevant consumer credit firms through the levies they pay to the Office of Fair Trading.

13.7 This CP is concerned with the fees identified in the first bullet point – those collected from authorised firms. The Bill will empower us to make rules setting fees to recover the relevant costs from authorised firms, collect the fees and pay the amounts received to the CFEB after deducting our own costs incurred in collection.

Funding requirement

13.8 The total budget for FinCap in 2010/11 is £45.4 million, of which the FSA is contributing £32.9 million, with the balance likely to be received through a government grant. This includes the rollout of a national money guidance service and recharged services such as human resources, finance, accommodation, the costs of invoicing and collecting fees, etc. This budget could either continue to maintain our in-house FinCap function or be applied to cover our contribution to an independent CFEB.

13.9 The costs will be allocated between fee-blocks in line with their contribution to our total FSA AFR.

Affected fee-blocks

13.10 For 2010/11, we will limit the CFEB levy to firms in the A fee-blocks. Since the Financial Services Bill amends FSMA, we are empowered to recover costs from FSMA-authorised firms. The exclusion of non-FSMA firms has a marginal impact on the fees paid by FSMA firms. As we explained in CP09/26, several fee-blocks do not contribute to the costs of FinCap as follows:.

- *Fee-block A.20*:– Firms and market operators contributing towards recovery of the development costs of the SABRE Aii computer system. Almost all of these are FSMA firms which would already be contributing to CFEB/FinCap through fee-blocks A.10, A.12 and A.13. Some are in fee-block B, which is discussed below.
- *Fee-block C*: – Collective investment schemes;
- *Fee-block E*: – Issuers of securities;
- *Fee-block F*: – Unauthorised mutuals; and
- *Fee-block G*: – Firms registered with us under the Money Laundering and/or Payment Services Regulations.

13.11 The firms in fee-blocks C, E, F and G are all outside FSMA. The two remaining fee-blocks are:

- *Fee-block B*: – Market operators, service companies, MTF operators, investment exchanges and clearing houses. This fee-block is a mixture of FSMA and non-FSMA firms. Their fees are levied on the actual costs of supervising them each year. This does not provide the basis for calculating an appropriate CFEB levy for the FSMA firms.
- *Fee-block D*: – Designated professional bodies. These are non-FSMA organisations whose fees are calculated from formulae based on the number of professional firms in their membership.

Scenarios for 2010/11

13.12 Since the Bill had not come into force by the time we published this CP, we have had to plan for a degree of uncertainty. Depending on the Bill's progress, we believe there are three possible scenarios for 2010/11.

- *Scenario 1*: If CFEB is established as an independent legal entity by May 2010, when our Board sets the fees for 2010/11, we will create FEES 7 through the Instrument in Appendix 4, citing the relevant powers under FSMA as amended. We will collect CFEB's fees and transfer the funds due to it. Invoices will identify the CFEB levy. This arrangement will be governed by a service level agreement between the two organisations.

  There would be a gap between the creation of CFEB – perhaps as early as April 2010 – and the establishment of a revenue stream under FEES 7. As firms are invoiced in June, it may be autumn before CFEB is financed from funds raised directly through FEES 7. We would finance CFEB from the existing FinCap budget, using our FSMA public awareness duty which would be retained for the time being.
- *Scenario 2*: If the Bill falls, we would continue to raise fees and discharge all of our responsibilities under FSMA as we do now. However, as we proposed in CP09/26, FinCap would be identified as a separate line in invoices.
- *Scenario 3*: If the Bill was delayed or implementation deferred, so that CFEB had not yet come into existence when the Board sets our fees for 2010/11 in May, we would proceed as described in Scenario 2. The Act, once passed, would empower us to implement FEES 7 in the Handbook when appropriate but in the meantime, the budget would support our internal FinCap function and be switched to the independent CFEB once it was established. We would then make the FEES 7 Instrument in May 2011 following consultation in February – or the following year if the establishment of a CFEB was deferred even further.

FEES 7

13.13 The new chapter in the Fees Manual, FEES 7, will be introduced through the Fees (CFEB Levy) Instrument in Appendix 4. It cites relevant powers from the Financial Services Bill as drafted at the time of writing. Some of these references may need revision if the Bill is amended. The Fees (CFEB Levy) Instrument would be made in May 2010 under Scenario 1 or May 2011 (or later) under Scenario 2.

13.14 For simplicity and to ease firms' transition to the new regime, we have tried to accommodate the CFEB levy into the existing FSA fees framework, as amended following the strategic review of fees. Except in a few instances mentioned below, we have not attempted to reassess firms' contributions to the cost of the new body in the light of presumptions about the demands they or their customers might make upon its work, since we do not yet have the evidence.

13.15 The main features of FEES 7 are set out below.

- It is limited to firms in fee-blocks A.0–A.19 as discussed in paragraphs 13.10–13.11 above.
- It applies only to periodic fees in FEES 4. It does not apply to application, notification or vetting fees in FEES 3.
- The additional levies for FinCap/CFEB mirror the FSA fees structure and are applied to the tariff-bands that we have introduced for each fee-block following the strategic review, as explained in Chapter 3. We have applied the straight-line recovery model to all fee-blocks, without moderating the line to put a premium on the high impact and systematically important firms. This is because the moderation is intended to take account of our enhanced supervisory costs, which would not affect CFEB.
- Any relevant changes to FSA fees following consultation will be applied automatically to the FSA levy.
- We will apply the provisions in FEES 4.3.4, so that firms which are authorised or extend their permissions in the course of the year will have their fees discounted proportionately.
- Firms which make pre-payments of their FSA fees by 30 April because their previous year's FSA fees (excluding the FEES 7 levy) were £50,000 or more, as set out in FEES 4.3.6, will make pre-payments on the same terms of their FEES 7 fees.
- The levy does not apply to fees for FOS (FEES 5) or FSCS (FEES 6).

Q5: Do you support our proposals for the new FEES 7 chapter?

Minimum levy

13.16 We propose a minimum levy of £10 as a notional contribution towards the base costs of the new body. The figure may be reviewed in the future when CFEB has practical operational experience.

Q6: Do you agree with our proposed £10 minimum levy for financial capability work/Consumer Finance Education Body?

Levy rates

13.17 The proposed rates for the levy to support FinCap/CFEB in 2010/11 are set out in a table in Appendix 4 as FEES 7 Annex 1R Part 1. This shows the amounts that will be added to the FSA fees proposed for the relevant fee-blocks in the table in Appendix 2 (FEES 4 Annex 2R Part 1). The rates in FEES 4 have been calculated to exclude the costs to be recovered for FinCap/CFEB.

13.18 The success or failure of the Bill will not affect the fees paid by firms. The levies in Appendix 4 will either be applied to cover our contribution to an independent CFEB or to maintain our in-house FinCap function, although the rates may change slightly by the time they are finalised in May as a result of new information received in the meantime or adjustments following consultation.

13.19 If the Bill is not passed, we will still keep the FinCap/CFEB levy separate. The substance of the table now in FEES 7 Annex 1R would instead be inserted into FEES 4 and a separate line for financial capability included on the invoices sent to firms.

Q7: Do you agree with our proposed levies on periodic fees to recover the costs of financial capability work/ Consumer Finance Education Body?

Discounts

13.20 Since we do not yet understand the nature of CFEB's interactions with different types of firm and their clients, we propose to carry through unchanged FSA's current discounts on fees to CFEB:

- Firms in fee-block A.1 which have limited their permissions to wholesale deposits (FEES4, Annex 2, Part 1) – 30%;
- Class 1(B) firms in fee-block A.7 – 15%;
- Class 1(A) firms in fee-block A.7 – 50%;
- Professional firms in fee-blocks A.12 and A.13 – 10%; and
- Passporting firms – as set out in FEES4, Annex 2, Part 3 (as amended following consultation on the proposals in chapter 14).

13.21 CFEB may review the position in the future, when it has practical operational experience to inform its analysis.

13.22 However, we do not propose to apply the discounts for financial penalties received, as set out in FEES 4, Annex 2, Part 2. This is because these arise out of regulatory failures and CFEB will not be a regulator. In practice, this would make no difference to the money received by the seven firms, as the same amount of money would be redistributed to them, whether it was channelled through discounts on FSA fees alone or shared between the FSA and CFEB.

Q8: Do you agree that we should apply to CFEB the same discounts that we apply to FSA fees, apart from the discounts on financial penalties?

Consultation process

13.23 The Financial Services Bill includes a provision which allows us to consult on rules relating to the new CFEB before the Act is made law. Our questions therefore address matters which are common both to FEES 7 and our approach to funding FinCap if it remains in-house. As explained in paragraph 13.15, we may need to change several references to the Bill if it is amended in Parliament, but these would not affect the substantive questions on which we are consulting.

14 Special project fees – Solvency II

(FEES 4, Annex 1R and Annex 2R, draft rules are in Appendix 2)

14.1 In this section, we set out our proposals for continuing with our existing policy to charge special project fees (SPFs) for project development costs related to Solvency II. Firms affected by this proposal will be in fee-block A.3 (Insurers – general), A.4 (Insurers – life) and A.6 (The Society of Lloyd's).

14.2 The total recovery of Solvency II Directive implementation costs proposed in 2010/11 is £29.0m. We also plan to recover Solvency II implementation costs in 2011/12 and 2012/13, but we will consult on this separately in future.

14.3 As the Solvency II negotiations are still under way, uncertainty remains over the extent of work required to implement it. We anticipate that our costs will be in the range of £100m to £150m over the life of the Solvency II implementation programme. We will review costs each year, and as we move towards 2012 the certainty will improve. If in practice the cost of the programme is not as high as we anticipated we will reimburse firms.

14.4 There are two Solvency II SPFs:

- to recover the costs of developing the framework relating to our internal model approval process (IMAP); and
- to recover other Solvency II Directive implementation costs – we refer to this as the non-IMAP SPF.

14.5 The proposals in this section require a response by 12 April 2010.

IMAP SPF

14.6 We established our policy to charge an SPF for developing the IMAP framework relating to our internal model approval process in PS08/5.[18] In 2009/10, the total amount recovered under the IMAP SPF was £3.2m. Fee-block A.6 was allocated £95,000 of this total, with the remainder split between fee-blocks A.3 and A.4 in a ratio of 1:2, to reflect the greater supervisory resources required by life firms (in A.4). The SPF was limited to the 60 largest insurers in each of the fee-blocks A.3 and A.4, along with fee-block A.6. The charges were calculated in relation to the periodic fees paid in 2008/09. An overall cap of £95,000 was applied to each

18 PS08/5 *Consolidated policy statement on our fee raising arrangements and regulatory fees and levies 2008/09, including feedback on CP07/19, CP08/2, CP08/7 and 'made rules'.*

group, taking into account all subsidiaries and firms falling within both fee-blocks.

Allocation of costs

14.7 For 2010/11, the total amount to be recovered through the IMAP SPF is £13m. This covers the resource requirements for IMAP, which include:

- the pre-application process, which begins in April 2010, including testing through a pilot study;
- production of a thematic review on the use of internal models in the UK insurance industry; and
- development of supervision processes specifically related to IMAP.

14.8 The costs will be split between fee-blocks A.3, A.4 and A.6 in proportion to the periodic fees paid by all firms in each block that will be charged the SPF. This will reflect the resources put into supervising the firms in each of the fee-blocks.

14.9 We also propose to increase the SPF population and change the way the IMAP SPF is charged. From the firms to which Solvency II applies, the IMAP SPF will be charged to:

- the 125 largest firms from fee-block A.3;
- the 75 largest firms from fee-block A.4; and
- fee-block A.6.

14.10 The criteria below determines whether a firm is one of the largest 125 firms in the A.3 fee-block or largest 75 firms in the A.4 fee-block, and will be charged the IMAP SPF:

- the firm falls within the scope of Solvency II as set out in FEES 4 Annex 2, Part 5; and
- the firm is in the A.3 fee-block and was charged a periodic fee in 2009/10 of £49,000 or more; or
- the firm is in the A.4 fee-block and was charged a periodic fee in 2009/10 of £55,000 or more.

14.11 The higher involvement of firms in fee-block A.3 (general insurers) reflects the fact that more of them intend to use internal models than life insurers (in fee-block A.4). The amount charged to each group will not be capped.

14.12 Finally, we propose to introduce an administrative change. We will calculate the amount charged to each firm according to the tariff data and tariff base used to calculate its periodic fees, rather than a specified percentage of the periodic fees themselves. This will not have a material effect on the results, but will bring the method into line with the method for calculating non-IMAP SPF, as described below, while allowing us to use existing systems.

> Q9: Do you agree with the changes we are proposing to the way the IMAP SPF will be charged in 2010/11?

Non-IMAP SPF

14.13 Our policy to use an SPF to recover other Solvency II Directive implementation costs was established in CP09/8 (chapter 19). These costs cover continued non-IMAP work on putting in place the processes and staff necessary to enable us to successfully implement the Solvency II directive.

14.14 In 2009/10, the non-IMAP SPF was charged to all firms from fee-blocks A.3, A.4 and A.6 that were in scope of the Solvency II Directive. The fee was charged according to the tariff data and tariff base used for calculating the relevant firms' periodic fees, and there was no cap on the amount charged to each group.

14.15 If a firm notifies us before 1 April 2010 that it intends to migrate out of the UK for regulatory purposes before Solvency II is implemented (October 2012, according to current timetable) it will also be exempt from this non-IMAP SPF. If the firm notifies us during the 2010/11 financial year, it will be subject to pay the non-IMAP SPF. This is line with our policy for firms that apply to cancel their permission. However, the cancellation of permissions must become effective within three months from the start of the financial period 2010/11, so by 30 June 2010.

14.16 In line with article 302 of the Directive, we will apply an exchange rate [EUR-GBP] based on the last working day of October the previous year – i.e. 31 October 2009 – both to identify the firms that are within scope of Solvency II and to calculate the fee rates.

Allocation of costs

14.17 The total amount recovered under the non-IMAP SPF for 2009/10 was £4.2m. Fee-block A.6 was allocated £83k of this total. The remainder was split between fee-blocks A.3 and A.4 in a ratio of 1:2, as with the IMAP SPF.

14.18 In 2010/11, the total amount to be recovered is £16m. The costs will be charged to all firms from fee-blocks A.3, A.4 and A.6 that are within the scope of Solvency II, using the same tariff data and tariff base that is used to allocate the periodic fees. There will be no cap on the amount charged to each group. As with the IMAP SPF, the total amount will be split between fee-blocks A.3, A.4 and A.6 in proportion to the periodic fees to reflect the resources spent on each of the fee blocks.

14.19 The £16m costs will go towards work-streams to put us into a position to meet our obligations to work with the industry to successfully implement the Directive in the UK. Broadly, the areas of resource commitments are:

- recruiting additional staff to resource the implementation programme;
- developing and implementing information technology required to deliver the Solvency II requirements;
- a considerable amount of training and communication for supervisors and firms; and
- for supervisory processes other than those specifically related to the IMAP process.

14.20 Indicative rates are set out in FEES 4 Annex 2. They will be based on tariff data for the period ending 31 December 2009, so firms can use these to calculate the non-IMAP SPF they would pay in 2010/11. The final rates may vary from these and will be made by our Board at its May meeting. Firms will not be able to use the fees calculator to estimate their SPF levies.

Q10. Do you have any comments on the proposed non-IMAP SPF for the period 2010/11?

Error in Handbook: Criteria for exempting firms from non-IMAP SPF

(FEES 4, Annex 2 Part 5)

14.21 We have identified an error in the drafting of the rule for exempting firms from the non-IMAP SPF.

14.22 Article 4 of the Solvency II Directive exempts firms if they meet all of a number of conditions including:

- the annual gross written premium income does not exceed EUR 5 million; and
- the total of the undertaking's technical provisions, gross of the amounts recoverable from reinsurance contracts and Special Purpose Vehicles as referred to in Article 75, does not exceed EUR 25 million;

14.23 In CP09/7 (paragraph 10.14), we stated our intention to follow the Directive by subjecting all insurers to the non-IMAP SPF unless any of a number of exemptions applied, including:

- the firm's annual gross written premium income does not exceed €5 million and the firm's total of technical provisions does not exceed €25 million as set out in Directive article 4.

14.24 This definition is in line with the Directive since a firm had to meet both of the conditions to become exempt. If, say, its income was less than €5 million but its technical provisions were more than €25 million, it would not be exempt.

14.25 Unfortunately, the Rule as set out in FEES 4, Annex 2 Part 5 does not reflect the Directive or the CP text because it states that a firm is within scope only if it meets all of four conditions including:

- its gross premium income or adjusted gross premium income, as appropriate, referred to in FEES 4 Annex 1 R Part 2, exceeds EUR 5 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year;
- its gross technical liabilities or mathematical reserves, as appropriate, referred to in FEES 4 Annex 1 R, Part 2, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year.

14.26 There was clearly an error in the drafting of our rule, since taking (c) and (d) together would have the effect of exempting from fees the firm cited above with income under €5 million but technical provisions over €25 million, even though it was in scope of the Directive and within the definition on which we consulted in CP09/7. We propose to bring the Rule into line with the Directive and our original intent by combining (c) and (d) above into a single condition (c), separated by 'or':

'(c) it meets either of the following conditions:

(i) its gross premium income or adjusted gross premium income, as appropriate, referred to in FEES 4 Annex 1 R Part 2, exceeds EUR 5 million at the end of

the financial year ended in the calendar year ending 31 December prior to the FSA financial year; or

(ii) its gross technical liabilities or mathematical reserves, as appropriate, referred to in FEES 4 Annex 1 R, Part 2, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year.'

Q11: Do you agree that our proposed amendment to FEES4 Annex 2 Part 5 reflects the criteria set out in paragraph 9.23 of this CP and the requirements of the Solvency II Directive?

15 Passporting: discounts for EEA and Treaty firms with branches in the UK

(FEES 4 Annex 2, Part 3, draft rules are in Appendix 2)

15.1 This chapter sets out our proposal to change the level of discounts applied on variable periodic fees charged to incoming European Economic Area (EEA) and Treaty firms which have established branches in the UK.[19] This proposal will affect inward-passporting EEA and Treaty firms in the A.1 and A.3 fee-blocks.

Background

15.2 We consider it appropriate to review the discounts offered on the variable periodic fees charged to certain types of inward-passporting EEA and Treaty firms with branches in the UK.

15.3 Currently, we charge inward-passporting EEA and treaty firm branches a discounted variable periodic fee to reflect the limited role undertaken by the sectoral directives to the host state. These discounts have been in effect since FSMA came into force. We do not charge any fees for incoming firms providing cross-border services in the UK.

15.4 The current level of discount to the variable periodic fees varies by fee-block, as set out in Table 15.1:

Table 15.1 – Current passporting discounts

Fee-Block	Discount
A.1 Deposit acceptors	80%
A.3 Insurers – general	100%
A.4 Insurers – life	25%
A.7 Fund managers	5%
A.9 Operators, trustees & depositaries of CIS, Personal/stakeholder pensions	5%
A.10 Firms dealing as principal	10%
A.12/ A.13 Advisors, arrangers, dealers, brokers	10%
A.19 Intermediaries – general insurance	10%

19 Most passporting firms, excluding those falling into fee-block A.3 (general insurers), are currently charged a minimum fee of £100. CP09/26, which was published in November 2009, proposes that this is raised to £1000. If adopted it would apply to all firms, including all EEA and Treaty firms.

15.5 The discount levels we wish to review are those concerning fee-block A.1 (deposit acceptors, currently set at 80%) and fee-block A.3 (insurers – general, currently set at 100%).

15.6 Our focus on these fee-blocks arises from the fact that the discount levels offered to them are currently disproportionate to the resources that we commit to managing and supervising the firms that fall within them and, consequently, to the cost that we incur in fulfilling our Directive obligations linked to those firms.

15.7 There has been a significant shift in our supervision of inward-passporting deposit acceptors in the last two years. We also think that general insurance branches should pay a variable periodic fee in proportion to the work that their presence in the UK generates for us.

15.8 We have devoted considerable, and increasing, resources to the management and supervision of inward passporting branches of banks and general insurers over the last two years. We also expect that we will continue to devote proportionately increased resources to these branches as we return to business as usual following the financial crisis, with our focus on more intensive supervision generally and our forward looking approach to, and appetite for, risk.

15.9 The historical discounts afforded to passporting branches falling into fee-blocks A.1 and A.3 are therefore no longer proportionate to the work that we do. Moreover, it is likely that the work associated with inward-passporting branches is cross-subsidised by other UK-authorised firms.

15.10 We consider that other inward-passporting EEA and Treaty firms' variable fee discounts are currently set at a reasonable level. Although we will continue to keep these under review, we do not propose to make any changes at this time. We also plan to keep our approach to firms operating on a services basis the same. This paper does not relate to levies for the Financial Ombudsman Service or the Financial Services Compensation Scheme.

The management and supervision of inward passporting branches

15.11 Our responsibilities towards inward-passporting branches are outlined in FSMA (and the relevant directives). FSMA has been amended since it was introduced in 2000 (when the current fees arrangements for incoming firms were set) to take account of directives that have expanded the scope of the activities which can be passported. The directives which affect firms falling into fee-blocks A.1 and A.3 in this context are the Banking Consolidation Directive and the 3rd Non-Life Directive.

Fee-block A1 – deposit acceptors

15.12 The management and supervision of branches falling into fee-block A.1 (deposit acceptors) has increased across the board since the discounts were first set, and in particular in the last two years. This is especially the case for high-impact branches where the resources accorded to supervision, in the areas for which we are responsible, are broadly comparable to those used in the full 'close and continuous' supervision activities of similar non-passporting firms.

15.13 The supervisory responsibilities which we have for inward-passporting deposit taking branches cover assessing branch liquidity, consideration of global liquidity concessions, conduct of business and financial crime. In addition, we spend a considerable amount of time liaising with home state supervisors in relation to

prudential supervision and other matters for which there is a directive requirement for cooperation, coordination and joint decision making. We may also have to spend time gathering information in order to decide whether it is appropriate to exercise our powers of intervention. If the risks associated with inward-passporting branches crystallise – as was the case with the Icelandic bank failures, for example – the pressure on our resources becomes intense.

15.14 The current variable periodic fee discount does not properly reflect the resourcing needed to meet our supervisory responsibilities

15.15 In broad terms, we estimate that the resources we accord to the branches falling into fee-block A.1 have increased by up to 500% since the financial year 2007/08.

15.16 Where individual branches have encountered specific difficulties in the areas for which we have responsibility, for example, liquidity, the resources that we deploy have risen by significantly more than 500% during the period in which we have had to deal with the consequences of this.

15.17 Moreover, the more intensive supervision that we have introduced across the board in the wake of the financial crisis, means that our resources will continue to be more heavily used in a 'business as usual' environment. Table 15.2 demonstrates this for a sample of the branches which have passported into the UK.

Table 15.2 – Increase in FSA supervisory resources for passporting branches in fee-block A.1 since 2007/08

	Base level resource (2007/08) Days	Increase on base year (2008/09) %	Expected increase on base year (2009/10) %
Branch 1	252 days	58%	92%
Branch 2	155 days	125%	478%
Branch 3	46 days	320%	646%
Branch 4	13 days	2729%	6658%
Branch 5	54 days	224%	743%
Branch 6	269 days	56%	53%

Fee-block A.3 – general insurers

15.18 The management and supervision of branches that fall into fee-block A.3 (general insurers) are comparatively less resource intensive because our mandate is more limited.

15.19 Nevertheless, a discount of 100% on the variable periodic fees, meaning that branches in this fee-block currently pay no fee, is not proportionate to the time and resources that we commit to inward-passporting general insurance branches.

15.20 We have responsibility for conduct of business and financial crime, and these are currently more tightly supervised than they have been in the past. We may also liaise with home state supervisors with respect to liquidity and prudential matters where we have concerns about these, and this can be very time consuming. Where firms are perceived to be at risk, we spend a material amount of time quantifying, and mitigating against, that risk.

15.21 Moreover, in the event of the risks associated with these inward-passporting branches crystallising, as has been the case with certain insurance branches during

the period of instability created by the financial crisis, the pressure on our resources becomes even more intense and the current variable periodic fee discount does not reflect the impact on our resources.

15.22 In broad terms, the resources that we accord to the branches falling into fee-block A.3 have increased by over 100% for many firms since the financial year 2007/08.

15.23 Where individual branches have encountered specific difficulties in the areas for which we have responsibility, for example, liquidity, this has risen by over 500% during the period in which we have had to deal with the consequences of this.

15.24 Moreover, as with branches falling into fee-block A.1, our more intensive supervision model means that resources will continue to be more heavily used in a 'business as usual' environment.

Fees proposal

15.25 In view of the above, it is clear that the resources we use in relation to the supervision and management of inward passporting branches in fee-blocks A.1 and A.3 has increased across the board since 2007. The increase has been particularly marked for, but not exclusively confined to, high impact and high risk branches. We anticipate that this increased effort will continue to be required as we operate a more intensive regulatory model and this effort is not reflected in the current discounts on variable periodic fees.

15.26 We therefore propose to reduce the discounts on variable periodic fees offered to inward passporting branches falling into fee-blocks A.1 and A.3 to make the fees more proportionate to the work that we do in relation to those branches.

15.27 Our intention is to reduce the discount by a flat rate in the expectation that this will be applied proportionately to branches of varying sizes. It would not differentiate between retail and wholesale branches falling into either fee block.

15.28 We stress that we do not intend to impose disproportionately higher fees on small, low impact, branches, nor to raise fees to such a level that they act as a disincentive to inward passporters. Neither is it appropriate that UK-authorised firms should be cross subsidising these firms.

15.29 We therefore propose to reduce the discounts offered to branches to the following levels, for the reasons outlined above.

- Fee-block A.1: deposit acceptors 50%
- Fee-block A.3: insurers – general 90%

15.30 These proposed discounts would apply to the variable periodic fees as modified by the bandings introduced by the strategic review of fees, details of which are set out in CP09 /26. That review also raises the minimum fixed fee and applies this to all firms, including all passporting firms and passporting firms falling into fee-block A.3. The details of this are set out in the same CP.

15.31 The modelling that we have undertaken to test the impact of this proposal supports our aim that the fees we charge should reflect the amount of work we do both proportionately and fairly.

15.32 We have also broadly benchmarked these proposals against the work we do in relation to subsidiaries operating in the UK, and the division of responsibilities between the home and host state supervisors.

15.33 The proposed reductions in the discounts offered will reflect more closely the resources that we commit to branches in fee-block A.1 and fee-block A.3.

15.34 Branches falling under fee-block A.1 will be affected in proportion to their modified eligible liabilities. Based on 2009/10 fee tariff data and rates the smallest branches will continue to pay variable periodic fees of under £100 a year and a significant proportion of branches will continue to pay under £10,000 a year. Less than six branches falling into this fee-block will face fees over £500,000. These, and other branches which attract fees at the upper end of the scale, are the branches on which we focus our supervision and time most intensely.

15.35 Firms falling under fee-block A.3 will be affected to a lesser extent, in proportion to the work that we do in relation to them. Based on 2007/08 fee tariff data and rates the smallest branches will pay variable periodic fees of under £50 a year and most branches will pay under £10,000. Fewer than a dozen branches falling into this fee block will face fees over £10,000. These, and other branches which attract fees at the upper end of the scale, are the branches on which we focus our supervision and time most intensely. The 2007/08 fee-tariff data is the most up-to-date information we have for firms in the A.3 fee-block because they have received a 100% discount on passporting fees so no tariff-data was required to be collected.

15.36 The following tables illustrate the estimated impact of our proposal to reduce the discount on variable periodic fees for each fee-block.

Table 15.3 – Illustrative impact of passporting proposals on branches in fee-block A.1

	Baseline variable periodic fee £	Discounted by 80% (current fee) £	Discounted by 50% (proposed fee) £	Change in recovery £
Branch A (highest modified eligible liabilities)	4,546,452	909,290	2,273,226	1,363,936
Branch B (medium modified eligible liabilities)	95,417	19,083	47,709	28,625
Branch C (lowest modified eligible liabilities)	80	16*	40*	24

Fee Block A.3

Table 15.4 – Illustrative impact of passporting proposals on branches in fee-block A.3

	Baseline variable periodic fee (£)	Discounted by 100% (current fee, £)	Discounted by 90% (proposed fee, £)	Change in recovery (£)
Branch A (highest tariff data based on Gross Premium Income and Gross Technical Liabilities)	127,700	0	12,770	12,770
Branch B (medium tariff data based on Gross Premium Income and Gross Technical Liabilities)	15,666	0	1,567	1,567
Branch C (lowest tariff data based on Gross Premium Income and Gross Technical Liabilities)	420	0	42*	42

* Amounts below the minimum fee would be subject to the minimum fee.

15.37 According to the latest available data, which for fee-block A.1 relates to the financial year 2009/10 and for fee-block A.3 relates to the financial year 2007/08, we estimate that the overall effect on our revenues from each fee-block will be as follows.

Table 15.5 – Estimated impact of passporting proposals on FSA fees revenues

Fee-Block	Current EEA Branch Discount	Current Recovery	New Discount £	Revised Recovery £	Net Difference £
A.1	80%	4,436,209	50%	11,090,521	6,654,313
A.3	100%	0	90%	169,217	169,217

Q12: Do you agree with our proposal to reduce the discount offered on the variable periodic fees charged to inward-passporting EEA and Treaty firms in fee-block A.1 from 80% to 50%?

Q13: Do you agree with our proposal to reduce the discount offered on the variable periodic fees charged to inward-passporting EEA and Treaty firms in fee-block A.3 from 100% to 90%?

Payment Services Directive (PSD) – authorised payment institutions (PIs)

(FEES 4 Annex 11, Part 7, draft rules are in Appendix 2)

15.38 In CP09/7, we proposed that incoming EEA authorised payment institutions (PIs) would pay periodic fees for their UK payment services activities, using the same tariff base as UK-authorised PIs. These firms would fall into fee-block G.2 if they were deposit takers already paying fees under fee-block A.1 or into G.3 if they were large PIs. We would offer a percentage discount to reflect our limited role as host state competent authority. We said that we would consult on the discount in February 2010. This applies to inward-passporting PIs providing payment services from establishments in the UK, not to those providing cross-border services from establishments outside the UK.

15.39 Prudential supervision of inward-passporting firms is the responsibility of the home state competent authority. We are responsible for regulating the conduct of business (COB) of all PIs providing payment services in the UK, including those passporting in. As well as direct supervision, our costs will cover dealing with and analysing regulatory returns and exchanging information about passporting firms with competent authorities in other member states. In addition, passporting firms will, like UK-authorised firms, benefit from the services of our Customer Contact Centre. Since payment services activities were only brought into the scope of our regulation on 1 November 2009, we have less than six months' experience on which to base our estimates. But we consider that, taken together, these various activities are likely to account for around 60% of the resources we put into regulating the payment services activities of UK-authorised firms.

15.40 On this basis, we believe that a discount of 40% would represent a realistic allowance for the prudential supervision which we are not undertaking for inward-passporting PIs:

> Q14: Do you agree with our proposal to offer a discount of 40% on the variable periodic fees charged to inward-passporting EEA fee-paying payment institutions in fee-blocks G.2 and G.3?

16 Recovering IS development costs for the Alternative Instrument Identifier (Aii) code

(FEES 4 Annex 9)

16.1 In this chapter, we provide feedback on a policy clarification we issued in CP09/26 concerning FEES 4 Annex 9. This set out the tariff base for fee-block A.20 and a further proposal to redraft the Annex both to clarify and correct an error. Fee-block A.20 was created for the special projects fee (SPF) set up to recover the additional IS development costs of enhancements to our market surveillance system. These allow the system to accept on-exchange derivative transaction reports identified using the Aii code. Fee-block A.20 sets an additional levy for firms that fall into 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.

Definition of contracts

16.2 FEES4 Annex 9 states that the fees for firms in Annex 20 will be calculated on 'relevant contracts,' defined as 'all transactions entered into by firms'. Some firms had suggested that this conflicted with our invoices, which refer to the 'number of contracts entered into'. They argued that a transaction consists of a bundle of contracts and so the rule implied a smaller figure than the invoices, yielding lower fees.

16.3 In CP09/26, we explained that we did not agree with this interpretation. Our market surveillance system had been developed to implement reporting under the Markets in Financial Instruments Directive (MiFID) using ISIN codes as the primary instrument identifier. The system changes would implement the Aii code, applying solely to certain on-exchange derivatives. As we do not currently receive Aii transaction reports, we rely on data supplied by and which is consistent between the Aii exchanges. This data presents the number of contracts traded by each member firm.

16.4 We believed that our original consultations through CP07/19 and CP08/2 made it clear that we intended the definition of 'relevant contracts' to refer to the contracts themselves, and not the transactions into which they were bundled. We suggested that any ambiguity would be removed if the rule was read as follows: 'For the

purposes of this annex “relevant contracts” are the total number of contracts included in all trades.’

16.5 The question on which we consulted was:

> 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?

Consultation responses

We received six comments on this question. All conceded that our clarification appeared to reflect our original intentions. However, the Wholesale Market Brokers’ Association (WMBA) and two inter-dealer brokers (IDBs) challenged the validity of our underlying assumptions. As one firm put it, ‘the basis of allocation of these fees is unreasonable and fundamentally flawed.’ The WMBA described them as ‘unfair and disproportionate.’

Their argument is that IDBs trade in higher volumes than proprietary traders, with larger numbers of contracts in each transaction. As many as 1,000 contracts would be common. Under our interpretation of the rules, therefore, they would pay higher fees even though they actually used SABRE II less frequently for transaction reporting than a firm which executed more frequently but in smaller sizes. In a competitive market, we were told, these additional costs cannot be passed on to the customer.

One of the firms pointed out that our definition of a transaction in this context is different from that used in our rules for our Approved Reporting Mechanism TRS (“Transaction Reporting System”), which allows a transaction to comprise multiple derivative contracts.

Our feedback

In conducting our regulatory activities, we seek to minimise the overall burden placed on the industry wherever possible whilst recognising that our decisions may have differing impacts on individual firms. The implementation of the Aii code is a case in point. We supported its introduction based on representations by FESE (“The Federation of European Securities Exchanges”) that its implementation would save the industry as a whole 2.5bn euros. Like other regulators, we have had to amend our systems to accommodate the new code and so a new fee has, by necessity, been introduced.

We consulted on the basis against which we would recover these costs and the responses were largely supportive of our proposal to create a new fee block constituted by those firms that would be utilising the Aii code. Apportionment of these costs amongst the A20 fee block has, by necessity, been based on the number of contract lots traded as this is the information provided to us by Eurex and NYSE LIFFE in respect of activity on these exchanges.

Whilst acknowledging important concerns about the impact of these fees on IDBs, we believe that the current method of apportionment is generally representative of the total activity undertaken by each firm in Aii instruments. We seek to base our fees on measures that enable us to assess firms’ potential impact on our regulatory objectives. The firm’s size and volume of business provide effective proxies. The number of contracts traded is a

more reliable and consistent indicator of the volume of business activity than the number of transactions into which the contracts are bundled for administrative convenience. Consequently, as we explained in CP09/26, we consider this to be a fair measure of the benefit a firm should gain through use of the Aii code.

In the case of IDBs, these benefits are muted as fewer transactions are reportable due to the large bundles of contact lots executed in each trade. However, they do receive some benefit and so it is appropriate that they fall within the A20 fee block.

We recognise from the responses we received that the rule as presently drafted does not state the position as clearly as it should, and so we propose to redraft the clarification statement in Annex 9 Part 1 as set out in paragraph 16.8 below.

Definition of securities derivatives

16.6 In the course of reviewing Annex 9, we identified a drafting error. The rule refers to 'securitised' derivatives, whereas it should refer to 'securities' derivatives. A securities derivative is a derivative instrument admitted to trading on a regulated or prescribed market, the value of which is dependent on an underlying equity or debt instrument, or an index/basket of equity or debt instruments. We referred consistently to securities instruments when we consulted through CP07/19 and CP08/2 and implemented our proposals through our policy statement, PS08/5. A 'securitised derivative' is an option or contract for differences listed under the listing rules. While some securitised derivatives may be traded within securities derivatives, they do not form the tariff-base for this fee-block and were never mentioned in the relevant passages of our CPs and PS.

16.7 We accordingly propose to amend the references within Annex 9. We will also take this opportunity to need to add 'securities derivatives' to the FSA Handbook glossary.

Questions for consultation

16.8 On the basis of the feedback to our policy clarification, and our further review of the rule, the clarification statement should be amended as follows and will formally be inserted into the rule as a Guidance Note:

> For the purposes of this Annex a relevant contract is any contract entered into or settled by firms on or through LIFFE or Eurex Clearing AG in securities derivatives, and the "relevant period" is 1 January 2009 to 31 December 2009 inclusive.

Q15: Do you agree that the amendments we propose to insert into FEES 4 Annex 9 make our definition of the tariff base clear and unambiguous?

16.9 We will also insert the following definition into the glossary:

> 'Securities derivative': a derivative instrument admitted to trading on a regulated market or prescribed market, the value of which is dependent on an underlying equity or debt instrument, or an index/basket of equity or debt instruments.

Q16: Do you agree with our proposed glossary definition of securities derivative?

17 Reclaim Fund Regime – recovery of set-up costs

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

Overview

17.1 This chapter sets out our proposals for recovering set-up costs relating to the establishment of the reclaim funds regulatory regime. These proposals are relevant to banks and building societies in fee-block A.1.

Background

17.2 The Dormant Bank and Building Society Accounts Act 2008 allows banks and building societies existing liabilities to dormant account customers to be extinguished. This has been replaced by a new statutory liability to repay customers, which has been placed, on a new type of firm, a 'reclaim fund'. Since August 2009, reclaim funds have been authorised and regulated by us.

17.3 In CP09/8 (February 2009) we set out our proposals to authorise and regulate reclaim funds. Following consultation our proposals were finalised in PS09/12 (July 2009). In CP09/8 (paragraph 4.27), we also said that we intended to recover the set-up costs over the first full financial year after the reclaim fund regime begins. This is in financial year 2010/11 and we would consult on the rate in February 2010. We have set-out our proposals for the recovery of these costs below.

Proposal for recovery of set-up costs

17.4 We incur certain costs in setting up a new regulatory regime. This includes policy and legal costs to determine what requirements should apply and how to fit them into our existing regulatory framework. There are, also the costs of changing our current system to accommodate the new regulated activities.

17.5 The total costs incurred by us in arranging the authorisation process and preparations for regulating reclaim funds post-authorisation comes to approximately £170,000. In CP09/8 (paragraph 4.20) we suggested that banks and building societies in the A.1 fee-block (deposit acceptors) that can potentially benefit from establishing reclaim funds, as well as from reclaim firms themselves, should contribute to the recovery of set-up costs of the new regime. It is also within their interest that any reclaim fund is appropriately regulated, given the potential negative

consequences for them if a reclaim fund should fail. This view was supported by the majority of industry respondents.

17.6 We therefore propose to recover set-up costs from UK banks and building societies in the A.1 fee-block, who will be able to transfer deposits to a reclaim fund, as well as from reclaim funds themselves. However, certain types of firms should be excluded as explained below.

17.7 We propose to exclude e-money issuers and credit unions from the population of the A.1 fee-block from contributing to the set-up costs, as they are not eligible to participate in the reclaim funds scheme.

17.8 We propose to allocate the set-up costs using the same tariff base and tariff data that is used to allocate those UK Banks and building societies periodic fees i.e. Modified Eligible Liabilities (MELs). We propose not to charge those UK banks and building societies with MELs of less than £10m. UK banks and building societies with MELs of £10m and above will be charged at a rate of £0.11 per £1m MELs. This is approximately equivalent to 0.3% of their 2009/10 periodic fees. The charge applicable to firms authorised as a reclaim fund operator is set out in paragraph 17.10 below.

17.9 If a firm pays fees on a MELs basis and is authorised, or varies its permission, to be a reclaim fund operator, then it will not be required to pay the charge as set out in paragraph 17.10 below; as the firm will already be contributing to set-up costs in accordance with paragraph 17.8 above. We have added in FEES 4 Annex 2 (see Appendix 2 of the CP) a separate set of fee rates for the recovery of the set-up costs that will apply to those banks and building societies contributing to these costs.

17.10 Firms in the A.1 fee-block who are authorised as a reclaim fund operator only, so do not pay periodic fees on a MELs basis, will be charged 0.3% of their periodic fee. This is currently a flat rate of £6,000 a year, which reflects the regulatory resource required for a reclaim fund.

Q17: Do you agree with our proposals for recovering the costs of setting up the regulatory regime for reclaim funds?

Funding the Financial Services Compensation Scheme (FSCS) 2010/11

18 FSCS management expenses levy limit 2010/11

(FEES 6, draft rules in Appendix 1)

18.1 In this chapter we consult on the FSCS's management expenses levy limit (MELL) for 2010/11. This represents the maximum that can be levied under the rules, although it is not necessarily the amount the FSCS would actually levy in the coming year. Management expenses are the non-compensation costs that are incurred or are expected to be incurred by the FSCS in connection with its functions. We must set a limit on the total to be levied and have to allow the FSCS adequate resources to perform its functions efficiently and economically. The levy limit applies from 1 April 2010, the start of the FSCS's new financial year to 31 March 2011. The draft rule can be found in Appendix 1.

18.2 We only consult on the MELL of the FSCS. The compensation costs levy, the amount levied to pay for valid claims expected, is determined by the FSCS and is not consulted on. For the latest information on the compensation cost levy, please see the FSCS Plan and Budget 2010/11 published on its website: www.fscs.org.uk/industry/publications/industry.

18.3 The deadline for any comments on the proposed FSCS MELL for 2010/11, set out in this chapter, is 12 March 2010.

FSCS MELL 2010/11

18.4 The proposed MELL for 2010/11 is £1bn (the same amount as 2009/10), comprising:

- budgeted management expenses for continuing operations of £32.7m;
- change programme expenses of £12.4m (of which £3.7m has already been levied but will not be spent in 2009/10);
- specified deposit-taking default (SDD) expenses, associated with the five major bank failures in 2008/9, assumed to be incurred in the coming year of £305.3m; and
- a total reserve contingency of £653.3m (which will only be levied if needed, for example, if the interest costs on the SDD loans are greater than forecast).

18.5 In order to fund the compensation relating to the SDD defaults, the FSCS borrowed from the Bank of England. These loans have since been refinanced by the Treasury. Interest costs on borrowings by the FSCS are classed as a specific cost element of the

management expenses, not a regular 'base' cost. This means that the interest costs are attributable only to the class in which the defaults arose, namely the deposit class.

18.6 The most significant risk to the FSCS's expenses is the level of interest rates on the SDD loans. The calculation of this part of the levy is based on an assumed rate of 1.538% (until March 2011), which reflects the rate at September 2009. This is consistent with the previous practice for forecasting. As interest rates are currently at historic lows, and are likely to rise in the future, the level of expense actually incurred could therefore change. To accommodate this uncertainty, the proposed MELL is set at a level that allows for significant interest rate increases.

18.7 In practice, the FSCS is unlikely to raise all of the funding allowed, but only its budgeted costs, unless there is a specific event or events, which may include a rise in interest costs over the budgeted amount.

18.8 Table 18.1 shows how the MELL we are consulting on relates to how much firms are asked to contribute to the FSCS's management expenses. It should be noted that actual SDD expenses will only be levied in arrears against the deposit class, while the smaller quantum of management expenses for continuing non-claim specific operations, including the costs of the change programme, will be levied across all sub classes.

Table 18.1: Overview of FSCS budget information

	2010/11 Budget £m	2009/10 Budget £m	Against initial 2009/10 budget Increase/ (Decrease) £m	2009/10 Reforecast £m	Against 2009/10 Reforecast Increase/ (Decrease) £m
Continuing operations expenses – excludes outsourcing costs	22.5	23.6	(1.1)	21.8	0.7
Outsourcing costs	10.2	2.9	7.3	14.4	(4.2)
Total operations management expenses	**32.7**	**26.5**	**6.2**	**36.2**	**(3.5)**
Change programme (excludes consumer awareness programme)	8.3	3.6	4.7	3.2	5.1
Subtotal (excludes consumer awareness programme)	41.0	30.1	10.9	39.4	1.6
Ringfenced consumer awareness programme	4.1	4.1	0	0.4	3.7
Total operations and change programme expenses	**45.1**	**34.2**	**10.9**	**39.8**	**5.3**
Plus Specified deposit default expenses	305.3	645.4	(340.1)	354.1	(48.8)
Total scheme management expenses	**350.4**	**679.6**	**(329.2)**	**393.9**	**(43.5)**
Less consumer awareness project levy unspent in 2009/10	(3.7)		(3.7)		
Reserve contingency within MELL	653.3	320.4	332.9		
MELL	**1,000**	**1,000**			

18.9 Table 18.2 provides a breakdown of the continuing operations expense budget for 2009/10, the revised forecast for 2009/10 (based on figures to September 2009) and the proposed budget for 2010/11.

Table 18.2: Synopsis of FSCS budget information for continuing operations

	2010/11 Budget £m	Initial 2009/10 Budget £m	Increase/ (Decrease) £m	2009/10 Reforecast £m	Against 2009/10 Reforecast Increase/ (Decrease) £m
Employment costs	12.5	12.6	(0.1)	11.3	1.2
Outsourcing	10.2	2.9	7.3	14.4	(4.2)
Other staff costs	1.5	1.5	0	1.5	0
Accommodation	2.4	2.2	0.2	2.4	0
Office services	0.5	0.5	0	0.5	0
IT	0.8	1.0	(0.2)	0.7	0.1
Professional	2.4	3.2	(0.8)	2.5	(0.1)
Depreciation	0.9	0.6	0.3	0.9	0
Press & communication	0.4	0.4	0	0.4	0
Other	1.1	1.6	(0.5)	1.6	(0.5)
Total regular business costs	32.7	26.5	6.2	36.2	(3.5)

18.10 The figures in Table 18.1 and 18.2 show that continuing operational business costs for 2009/10 are expected to exceed the budgeted amount by £9.7m in 2009/10. However, the budget for 2010/11 should be lower than this reforecast, by £3.5m. These changes arise mainly from the outsourcing costs, which reflect the volume of cases handled, in particular for PPI and Keydata cases.

18.11 The budgeted cost of outsourcing for 2009/10 was £2.9m while the reforecast figure is £14.4m. This makes up the most significant element of the continuing operational costs of the FSCS. The FSCS continues to use outsourcing facilities, which allow more flexibility with the fluctuating numbers of claims received, and believes that this is the most cost effective and efficient means of coping with peaks and troughs in workflow.

18.12 In addition to continuing operations, the FSCS is undertaking a comprehensive change programme. The most urgent priority is to deliver the requirements set out in our policy statement PS09/11.[20] These demand that, by January 2011, the FSCS must be able to deliver faster payout in the event of a deposit failure.

18.13 A special provision of approximately £4m was levied in 2009/10 for a Consumer Awareness Programme, one of the proposals put forward as part of the Banking and Compensation Review (BCR) project, undertaken jointly with us. These funds have been ring-fenced and the bulk of the project's expense is expected to be incurred in 2010/11.

18.14 Further programme activity and expenditure is planned throughout 2009/10 and 2010/11 and aimed at transforming and strengthening the scheme's structure, processes and operations and improving its long term effectiveness and efficiency. The transformational aspects of the programme are designed to deal with greater complexity and volatility of claims, as well as to handle the wider remit and greater expectations being placed on FSCS.

20 Banking and compensation reform (July 2009)

18.15 The reserve contingency is £653.3m for 2010/11. This allows the FSCS to levy additional funds without further formal consultation. Of this, the most significant element is assumed to relate to potential costs associated with the banking defaults, such as an increase in interest rates and £15m to operations and change programme costs. In line with its usual practice, the FSCS will liaise with relevant parties, such as the FSA and trade associations, before raising a levy for its reserve contingency and to the extent that any such levy is for operational and change programme costs over £15m, the FSCS will publish an explanation.

18.16 The reserve contingency level requested is not intended to reflect the specific or known costs of future failures, but is indicative of the costs involved in dealing with large defaults within tight timeframes and the uncertainties in the current financial climate. For the SDD loan interest costs, each 0.5% change in LIBOR affects the loan interest expense by approximately £100m each year.

18.17 There is considerable uncertainty as to both the quantity and timing of claims volumes, giving rise to considerable potential variation in the number and type of claims the FSCS must be prepared for and plan for. As in previous years, the FSCS has assessed the likely upper and lower ranges of volumes of claims. The planning assumptions represent the FSCS's view of a 'most likely' outcome within this range and are used to estimate the management expenses: in total around 19,702 new claims are expected to be received in 2010/11 (compared with 31,558 currently expected in 2009/10) and around 21,762 claims are expected to be completed in 2010/11 (compared with around 23,471 completions envisaged for 2009/10).[21]

18.18 Owing to the recent Keydata and structured product defaults plus expected growth in PPI claims, total new claims volumes for 2009/10 are now projected to be significantly higher than the assumptions made in the 2009/10 budget. Although as these defaults are worked through in 2010/11, the overall volume of new claims received next year may decline from levels in 2009/10, claim numbers may also become much more volatile and less predictable than in previous years given uncertainties in the current financial climate. For more detail, please refer to the FSCS 2010/11 Plan and Budget. This will be available on its website: www.fscs.org.uk

> Q18: Do you have any comments on the proposed 2010/11 FSCS management expenses levy limit figure?

This proposal requires a response by 12 March 2010.

Compensation cost estimates for 2010/11

18.19 The FSCS provides an initial indication of its current estimated compensation figures and their related funding through levies in its 2010/11 plan and budget. This will be available on its website at: www.fscs.org.uk

18.20 The FSCS will confirm its actual levy requirements in early April 2010.

21 The remaining claims associated with specified deposit defaults (SDDs) are excluded from these numbers but are expected to be largely completed during 2009/10 although the actual payouts on fixed term deposits will continue until 2013.

Financial Ombudsman Service general levy 2010/11

19 Financial Ombudsman Service general levy 2010/11

19.1 In this chapter, we consult on the proposed Financial Ombudsman Service (FOS) 2010/11 general levy for firms under the compulsory jurisdiction. In Annex 5 we set out the proposed tariff rates for firms in each industry block. In Appendix 2 we set out draft rules for FEES 5 Annex 1R.

19.2 The other elements of the FOS budget are subject to the FOS's own consultation, which began in January and ends on 22 February 2010.[22]

19.3 The deadline for any comments on the proposed general levy tariffs for 2010/11, set out in this chapter, is 12 April 2010.

FOS Funding and Budget

19.4 The FOS is funded by a combination of annual fees (the general levy) and case fees. All authorised firms pay a general levy, even if they have not had any cases referred to the FOS, unless they have notified us that they are exempt. The case fees are paid by firms that have cases referred to the FOS.[23] Since 2008/09, case fees have been charged only for the fourth and subsequent cases per firm per year. Subject to the outcome of its own consultation, the FOS proposes that the number of free cases, and the £500 case fee set in 2009/10, should remain the same in 2010/11.

19.5 This chapter discusses the levy on firms that are subject to the FOS's compulsory jurisdiction. However, the total budget figures shown cover all the FOS's jurisdictions. FSMA requires that the FOS budget distinguishes between the compulsory, voluntary and consumer credit jurisdictions. The overall budget of £113.7m is divided between the jurisdictions as follows:

22 The FOS Corporate Plan and draft 2010/11 budget is available at www.financial-ombudsman.org.uk

23 The FSA's power to raise the general levy from authorised firms arises from section 234 of the Financial Services and Markets Act 2000 (FSMA). The FOS's power to charge case fees is in Schedule 17 paragraph 15 of FSMA. The rules on funding are in Chapters 1, 2 and 5 of the Fees Manual (FEES) in the FSA Handbook.

Table 19.1: Division of FOS 2010/11 budget across jurisdictions

	£m	%
Compulsory jurisdiction (CJ)	111.3	97.9
Voluntary jurisdiction (VJ)	0.6	0.5
Consumer credit jurisdiction (CCJ)	1.8	1.6
	113.7	**100**

19.6 The FOS's current forecast for 2009/10 is £94.1m. The FOS proposes meeting the additional funding needed for 2010/11 without increasing the general levy. (The increase in income would be met through fees from a higher number of cases.) Details of expenditure are set out in the FOS' draft budget for 2010/11.

19.7 The increase is primarily driven by the need to resolve a significantly higher number of cases in 2010/11 than in previous years. The FOS aims to resolve 210,000 cases in 2010/11 compared to a current forecast of 165,000 in 2009/10. The higher number is driven by two main factors:

- an expectation that the number of new complaints will continue to rise in 2010/11; and
- reducing the waiting time that consumers can experience before their complaint is allocated to an adjudicator.

19.8 The FOS forecast 190,000 new complaints in 2010/11. (The current forecast for new complaints in 2009/10 is 167,000, compared with a budget projection of 150,000.) The increase is based on the impact current market conditions can be expected to have on complaints numbers. Increases are expected in all product categories, with significant increases expected in banking (especially unsecured loans and consumer credit products) and payment protection insurance (PPI).

19.9 For 2010/11, the FOS aims to further reduce the average and maximum waiting times that consumers experience before a complaint is allocated to an adjudicator. To achieve this, the FOS plans to close 20,000 more cases than it expects to receive. This follows the FOS' 2009/10 budget, which included funding to eliminate a backlog in its stock of complaints – unallocated cases and cases in progress – of 62,000. A larger number of complaints than estimated, coupled with a drop in productivity, means that the FOS predicts carrying forward a stock of around 74,000 cases into 2010/11.[24]

19.10 Staff numbers are the FOS's greatest area of expenditure. A fall in productivity combined with an increase in staff numbers has resulted in a rise in the FOS's unit costs (total costs, excluding financing, divided by the number of case closures).[25] The forecast unit cost is £587, compared with a budget of £559 for the current year. The budgeted unit cost for 2010/11 is £540.

19.11 The FOS plans to commission a value-for-money study by the National Audit Office during 2010/11.[26] The review is part of the FOS's sequence of three-yearly

24 Productivity is measured as the average number of cases per adjudicator. The FOS reported a record level of productivity of 4.8 in 2008/09. However, the forecast for 2009/10 is 4.0, compared with a budget of 4.7. The drop reflects a combination of new staff needed to deal with an increase in the number of complaints and the impact that training and mentoring them has on experienced staff.

25 By March 2010, the FOS forecasts total staff of 1,535 compared with a March 2009 forecast of 1,083.

26 *Corporate Plan & 2010/11 budget*, FOS, January 2010

voluntary reviews on how it delivers its functions. The FOS has also engaged business improvement consultants as part of a long-term drive to improve productivity.

General levy /case fee split 2010/11

19.12 The following table summarises how the proposals for the next financial year compare with this year's FOS funding:

Table 19.2: Comparison of FOS funding in 2009/10 and 2010/11

	Proposals for 2010/11 (subject to FOS consultation)	2009/10 forecast	2009/10 budget
Budgeted expenditure	£113.7m	£96.8m	£92.5m
Budgeted income	£113.7m	£94.1m[27]	£92.8m
General levy	£17.7m (plus £1.8m to be raised from consumer credit firms)	£17.7m (plus £1.8m) to be raised from consumer credit firms)	£17.7m (plus £1.8m to be raised from consumer credit firms)
Case fees	£94.5m	£74.2m	£73.4m
General levy/case fee split	17:83	21:79	21:79
Estimated number of case closures	210,000	167,000	165,000
Unit costs	£540	£587	£559
Case fee	£500	£500	£500
Free cases	3	3	3

19.13 It is proposed that the 2010/11 levy should cover 17% of the FOS's income, with case fees funding the remaining 83%. This means that firms generating complaints will pay a greater proportion of the FOS's costs than firms which generate few or no complaints.

Tariff rates by industry block

19.14 Annex 5 sets out the proposed allocation of the general levy for 2010/11 across each industry block. So firms can draw a comparison, the rates for 2009/10 are also included.

19.15 The allocation of the general levy across the industry blocks is based on the FOS' estimates of the number of case-handling staff required to deal with the volume of complaints it expects to receive from firms within each block. There is a minimum levy in each industry block, and in most cases the levy then increases in proportion to the amount of 'relevant business' (i.e. business done with private individuals) each firm does. For 2010/11, the FOS estimates that 82% of firms will only pay the minimum levy for their block.

19.16 With the proposal to keep the general levy the same for 2010/11, most industry blocks will either stay the same or experience a small decrease.

27 The FOS proposes meeting the £2.7m shortfall in income from its reserves.

19.17 The most significant exception is Block 17 (general insurance mediation). The minimum levy will increase from £80 to £85, meaning that this block will contribute a projected 21% of the total levy in 2010/11 compared with a projection of 15.7% in 2009/10. The increase reflects a high number of cases relating to insurance mediation (including PPI). The block is subject to a tariff band which starts for firms earning £340,000 or more annual income. The effect is that 86% of firms in this block will still only pay the minimum levy.

19.18 The block that will experience the most significant decrease is Block 2 (general insurers), which reflects a fall in the number of expected cases about motor claims. Following on from the current year, Block 4 (life insurers) and Blocks 8 and 9 (advisory arrangers, dealers and brokers) will experience a further decrease as the number of complaints about mortgage endowments continues to drop.

19.19 Individual firms can calculate the impact on them of the proposed fees and levies using our online fees calculator, available at http://www.fsa.gov.uk/pages/Doing/Regulated/Fees/calculator/index.shtml.

19.20 The general levy tariff rates will be finalised in June 2010 for the 2010/11 fee period. Case fees are set by the FOS and approved by the FSA, following approval of the FOS 2010/11 budget by the FSA in March 2010. They will come into force on 1 April 2010.

Q19: Do you have any comments on the proposed 2010/11 FOS general levy rates?

Explanatory note: General Insurers, 2009/10 levy

Policy Statement 09/8, Table 24.1, shows the final general levy rates for 2009/10. The tariff rate for Block 2, general insurers, was increased from £0.126 to £0.139 per £1,000 of relevant income. The increase reflected the FOS's funding needs, informed by changes in fee-block populations.

General insurers have been levied at the £0.139 rate, which is also set in our online fees calculator for 2009/10. However, the change in levy is not reflected in FEES 5 Annex 1 R of our Handbook.

We will be communicating directly with firms affected by this administration error.

List of non-confidential respondents to Part 1 and Chapter 8 of CP09/26

AEGON Asset Management

Allianz Insurance plc

Alternative Investment Management Association Limited

Andrew M Manson & Co.

Aon Ltd

Association of British Credit Unions Ltd

Association for Finance Markets in Europe

Association of Finance Brokers

Association of Friendly Societies

Association of Independent Financial Advisers

Association of Mortgage Intermediaries

Association of Private Client Investment Managers and Stockbrokers

Aviva plc

AXA UK Ltd

Baillie Gifford & Co

Bluefin Insurance Services Limited

British Bankers' Association

British Insurance Brokers' Association

Building Societies Association

Campbell Munro Ltd

CH Turner Insurance Consultants

Compos Mentis

Coversure Insurance Services Ltd, Cramlington

Coversure Insurance Services Ltd, Hungerford

Coversure Insurance Services Ltd, Huntingdon

Coversure Insurance Services Ltd, Kennington

Coversure Insurance Services Ltd, Nottingham

Coversure Insurance Services Ltd, Oswestry

Coversure Insurance Services Ltd, Oxford

Coversure Insurance Services Ltd, Reigate

Coversure Insurance Services, Stafford

Coversure Insurance Services Ltd, Swindon

Coversure Insurance Services Ltd, Taunton

Coversure Insurance Services Ltd, Trowbridge

Coversure Insurance Services Ltd, Wisbech

David Gardiner

Eastwood & Partners Ltd

Euroclear UK & Ireland Ltd

Harcourt Insurance Services

Homeserve Membership Limited

Ian Laschke

Institute of Insurance Brokers

Insight Investment

Investment Management Association (IMA)

JKB Financial Partnership

Legal & General Investment Management

M&G Ltd

Mondrian Investment Partners Ltd

Moneywise GB Ltd

Nicholas-Applegate Capital Management Ltd

Nolan, Baptist and Bond

Professional Association of Independent Insurance Brokers

Prudential Assurance Company Ltd

Ross & Liddell

RSA Insurance Group plc

St. James's Place Wealth Management

Skirrow Insurance Services

Society of Pension Consultants

Tenet Group Limited

The Insurance Manager Ltd

Top House Mortgage Solutions Ltd

Veterinary Insurance Agency

Whitechurch Network Ltd

Xafinity Group

Compatibility statement and cost benefit analysis

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. This is known as a 'compatibility statement'.

This annex contains the compatibility statement regarding our fees and FSCS and FOS levies. Section 155(9) of FSMA (together with paragraph 4(2) (b) of Schedule 7 for the UKLA), exempts us from having to carry out cost benefit analysis on our fees and FOS levies. However, the rule setting the FSCS management expenses levies limit is not exempted from cost benefit analysis, and this analysis on the proposed 2010/11 limit is set out at the end of this annex.

We discuss our business plan for 2010/11 in chapter 5 of this paper and our Annual Funding Requirement, which these fees proposals aim to recover, in Chapters 7 and 8.

The FSCS Management Expenses Levy Limit (MELL) and indicative compensation costs for 2010/11 are in Chapter 18. The FSCS publishes its plan and budget on its website: www.fscs.org.uk.

Chapter 19 and Annex 5 contain details of the FOS's expected expenditure in 2010/11. The FOS is consulting on its Corporate Plan and 2010/11 budget, available at www.financial-ombudsman.org.uk.

Compatibility with our statutory objectives

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.

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 regulatory fees and levies rates proposals

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.

FSCS

The role of the FSCS is, in general, to provide compensation to consumers of financial products when authorised firms are unable to meet their obligations. The existence of a compensation scheme provides a safety net offering protection to consumers, which in turn leads to greater confidence in their dealings with financial firms, benefiting all firms and leading to a stronger financial system. If the FSCS was unable to process claims because of financial constraints imposed by an inappropriate levy limit, that would offset any protection offered to consumers and increase consumer detriment.

We therefore consider the proposed FSCS MELL ensures the FSCS has adequate resources to perform its functions for the coming year, including some of the wider functions envisaged by the Banking Compensation Reform proposals. Also, in setting the MELL, FSCS has included a contingency reserve for the coming year, which should prevent disruption to the FSCS's work if they need to exceed their operating budget for unexpected reasons.

Setting an FSCS MELL figure has no material significance for the public awareness and reduction of financial crime objectives.

FOS

The proposals in Chapter 16 relating to the FOS general levy do not alter the structure of the FOS funding arrangements on which we have consulted previously.[28] The considerations taken into account in deciding the proposed FOS funding arrangements are unchanged from previous years, so we do not set them out here.[29]

Compatibility with the principles of good regulation

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.

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

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. This is the

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28 See CP74: '*Funding the Financial Ombudsman Service*' (November 2000) Annex B

29 See Annex 1 of CP06/2 '*Regulatory fees and levies 2006/07*' (February 2006), CP208: '*Consultation on funding the Financial Ombudsman Service 2004/05*' (December 2003)

basis for our Annual Funding Requirement (AFR) which we recover through fees levied on firms.

In chapters 2 and 3 of this CP we take forward the policy proposals we set out in CP09/26 to enhance the framework for calculating our fee rates, taking account of the responses we received to our consultation questions. These proposals introduce a new minimum fee rate and a straight line variable periodic fee rate which will assist firms to understand our fee structure and help us to simplify and calculate the fee payments more efficiently.

In chapter 4 we set out the principles for further consideration of a more cost effective and efficient method of setting the tariff base for investment and life insurance brokers, dealers and advisers. We will develop these ideas in consultation with the industry for the autumn CP.

The FSCS is operationally independent, but accountable to us, which means that our resources are not directly involved in these proposals.

Our rules for the FSCS include a similar requirement on them to use their resources in the most efficient and economic way when carrying out their functions. Setting the MELL after public consultation encourages good internal management and effective operating procedures.

The burden to be imposed should be proportionate to the benefits

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 FSA and FOS 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.

As set out in Chapter 7, our total budget for 2010/11 is £458m. Chapter 5 sets out our priorities for the forthcoming year, based on our overall aim, which is to use a risk-based approach to maintain efficient, orderly and clean financial markets and to help retail consumers achieve a fair deal.

We believe our budgeted expenditure is proportionate, given the scale of the activities needed to address the risks to our objectives. Our AFR for 2010/11 is £454.7m, 9.9% higher than the AFR of £423.8m for 2009/10. This figure excludes financial capability since we propose to distinguish the CFEB levy from the FSA levy in the future. For details see chapter 13. The increase reflects continuing expenditure to embed and fully implement the cultural and organisational changes which underpin our intensive supervisory agenda. The full costs of many of the investments made throughout 2009/10 were only partly reflected in last year's funding requirement. In particular, the 2010/11 AFR includes the first full year costs of the 280 new staff we recruited last year as part of our Supervisory Enhancement Programme.

Our system of cost allocation to fee-blocks, set out in Chapter 8, seeks to ensure that the total fees paid by fee-payers within a fee-block, equals the costs of the resources we allocate to their regulation. Therefore at fee-block level, fees reflect the resource allocation that arises from the process of assessing and prioritising the risks to our statutory objectives. In Chapters 9 and 11 we set out our proposals for reflecting our cost allocation for 2010/11 in the periodic fees for authorised firms and other bodies we regulate.

Our proposals in chapters 2 and 3 to enhance the framework for calculating our fee rates within the 'A' 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 2);
- 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 3).

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 and the greater amount of resource required to regulate them.

In preparing for an independent CFEB, we have ensured that the costs are kept within our overall budget for financial capability and that there will be no impact on the fees levied from firms even if the Bill falls or implementation is delayed. This is discussed in chapter 13.

Our proposals in chapter 15 to vary the discounts on the fees for some passporting firms will ensure that they better reflect the actual costs of supervising them, reducing the risk of cross-subsidy by other firms.

The FSCS's MELL for the last two years is substantially larger than previous years as a result of dealing with the recent deposit-taking defaults.

However, it should be noted that the measures described in Chapter 18, whereby the FSCS has borrowed funds from the Treasury with a repayment plan structured over a number of years (with allowance for recoveries in respect of the defaults concerned), has been structured in this way in order to minimise the immediate impact of these defaults. Had these measures not been implemented, the FSCS would have needed to levy a greater amount, which would have placed a disproportionate burden upon the firms concerned. In addition, had decisive action not been taken, confidence would have suffered further, leading to further detriment across the whole financial sector.

The firms affected by the interest costs relating to the banking default all belong to the Deposit class. This is because interest costs are classified as specific costs, which are only attributable to the class in which the defaults arose. Firms in the Deposit class are charged FSCS levies in proportion to their share of protected deposits.

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

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 that 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. Having reviewed the discounts, we have decided to retain most of them.

We do not consider that the changes on which we are consulting will have any significant effect on competition and innovation.

Most appropriate method

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.

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.

FSMA requires there to be a compensation scheme and for a limit to be set on the amount it can levy firms for management expenses in any period. If no limit were set, the compensation scheme would be unable to operate.

Setting this limit by a rule, following an open consultation period, allows scrutiny of the FSCS's budget proposals by stakeholders and helps encourage good resource management. For the reasons set out in Chapter 18, we believe that the proposed levy limit and contingency margin strike the most appropriate balance between ensuring that FSCS has the resources to fulfil its duties and giving firms some certainty about the size of their total contribution in 2010/11. We believe that these proposals are the most appropriate way to meet our objective.

The proposals make no changes to the FOS fees rules other than to the FOS general levy tariff rates and ensure that the FOS continue to operate effectively and efficiently. Our reasons for believing the proposed levies are the most appropriate way of doing this is set out in Chapter 19.

Cost benefit analysis

For the FSCS levy FSMA requires a cost-benefit analysis comparing the position if the levy limit is set as proposed with the position if the limit were either not set, or set at a lower amount.

If the limit was not set, the position is clear – the FSCS would be unable to operate. If the limit was set at a lower amount than proposed, the FSCS would either not have the resources to deal adequately with the expected number of claims or – in the case of the contingency reserves – would not have the flexibility to increase its resources to deal with higher claims than expected or upward changes in the level of the interest costs on the SDD loans during the year ahead.

In either case, resource limitations on FSCS operations could affect consumers. If the FSCS is unable to meet its obligations, consumer protection is undermined and the associated cost would outweigh any benefits arising from the reduction of firms' levies. Therefore we should reject both of the above on CBA grounds.

The FSCS would use the contingency reserve account only in the case of unexpected events that are not already covered by its budgeted operating costs. The need to use the reserve contingency account will be kept under review by the FSCS and would be subject to further discussion with relevant parties prior to raising an additional levy.

List of consultation questions

Consultation questions requiring response	Relevant chapters
Q1: Do you have any comments on the proposed 2010/11 FSA fee rates for authorised firms and the premium applied to the rates in A1 (deposit acceptors fee-block)?	Chapter 9
Q2: Do you agree with the proposal to treat smaller non-directive friendly societies as an exception allowing them to pay a reduced minimum fee and the unrecovered minimum regulatory costs be applied to A.4 (insurers – life) fee-block	Chapter 9
Q3: Do you have any comments on the proposed 2010/11 FSA fee rates for fee-payers other than authorised firms?	Chapter 11
Q4: Do you agree with the proposed change to FEES 3, Annex 5, Part 2, Category 2 to reduce the fee for vetting equity registration documents to £3,520?	Chapter 12
Q5: Do you support our proposals for the new FEES 7 chapter?	Chapter 13
Q6: Do you agree with our proposed £10 minimum levy for financial capability work/Consumer Finance Education Body?	Chapter 13
Q7:Do you agree with our proposed levies on periodic fees to recover the costs of financial capability work/Consumer Finance Education Body?	Chapter 13
Q8: Do you agree that we should apply to CFEB the same discounts that we apply to FSA fees, apart from the discounts on financial penalties?	Chapter 13
Q9: Do you agree with the changes we are proposing to the way the IMAP SPF will be charged in 2010/11?	Chapter 14
Q10: Do you have any comments on the proposed non-IMAP SPF for the period 2010/11?	Chapter 14
Q11: Do you agree that our proposed amendment to FEES4 Annex 2 Part 5 reflects the criteria set out in paragraph 9.23 of this CP and the requirements of the Solvency II Directive?	Chapter 14
Q12: Do you agree with our proposal to reduce the discount offered on the variable periodic fees charged to inward-passporting EEA and Treaty firms in fee-block A.1 from 80% to 50%?	Chapter 15
Q13: Do you agree with our proposal to reduce the discount offered on the variable periodic fees charged to inward-passporting EEA and Treaty firms in fee-block A.3 from 100% to 90%?	Chapter 15
Q14: Do you agree with our proposal to offer a discount of 40% on the variable periodic fees charged to inward-passporting EEA fee-paying payment institutions in fee-blocks G.2 and G.3?	Chapter 15

Consultation questions requiring response	Relevant chapters
Q15: Do you agree that the amendments we propose to insert into FEES 4 Annex 9 make our definition of the tariff base clear and unambiguous?	Chapter 16
Q16: Do you agree with our proposed glossary definition of securities derivative?	Chapter 16
Q17: Do you agree with our proposals for recovering the costs of setting up the regulatory regime for reclaim funds?	Chapter 17
Q18: Do you have any comments on the proposed 2010/11 FSCS management expenses levy limit figure?	Chapter 18
Q19: Do you have any comments on the proposed 2010/11 FOS general levy rates?	Chapter 19

Location of fees and levy rules and guidance in the our 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 A4: Location of fees rules in the Fees Sourcebook (FEES)

Chapter and annexes	Summary of fees rules and guidance
FEES 1	**Application and Purpose**
FEES 2	**General Provisions**
FEES 3	**Application, Notification and Vetting fees**
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 administration 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 permission or guidance on its availability in connection with the Basel Capital Accord
Annex 7R	Fees where changes are made to firms' transaction reporting systems and the FSA is asked to check that these systems remain compatible with FSA systems
Annex 8R	Fees payable for authorisation as an authorised payment institution or registration as a small payment institution in accordance with the Payment Services Regulations
Annex 9R	Special Project fee for restructuring
FEES 4	Periodic fees
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 and transparency rules
Annex 9R	Periodic fees in respect of securitised derivatives
Annex 10R	Periodic fees for MTF operators
Annex 11R	Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations
FEES 5	**Financial Ombudsman Service Funding**
Annex 1R	Annual Fees
FEES 6	**Financial Services Compensation Scheme Funding**
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)

Financial Ombudsman Service general levy – overview and industry blocks 2010/11

Industry Block	Description	Tariff Base	Proposed 2010/11 gross tariff rate	Actual 2009/10 tariff rate	Proposed 2010/11 minimum levy per firm	Actual 2009/10 minimum levy per firm	Proposed 2010/11 gross total	Actual 2009/10 gross total	Proposed 2010/11 contribution by block	Actual 2009/10 contribution by block
1	Deposit acceptors, home finance lenders and administrators (excluding firms in block 14)	Per relevant account	0.0278	0.027	100	100	£7,207,700	£7,273,594	40.7%	41.1%
2	Insurers – general (excluding firms in blocks 13 & 15)	Per £1,000 of relevant annual gross premium income	0.103	0.126	100	100	£2,480,000	£3,130,688	14.0%	17.7%
3	Society of Lloyd's		0	0	20,000	28,000	£20,000	£28,000	0.1%	0.2%
4	Insurers – life (excluding firms in block 15)	Per £1,000 of relevant adjusted annual gross premium income	0.025	0.028	100	100	£1,594,300	£1,781,063	9.0%	10.1%
5	Fund managers	Flat fee	0	0	200	200	£177,000	£180,000	1.0%	1.0%
6	Operators, Trustees and Depositaries of collective investment schemes	Flat fee	0	0	50	50	£20,000	£20,000	0.1%	0.1%
7	Dealers as principal	Flat fee	0	0	50	50	£14,000	£14,000	0.1%	0.1%
8	Advisory arrangers, dealers or brokers holding and controlling client money and/or assets	Per relevant approved person	35	45	35	45	£923,000	£990,094	5.2%	5.6%
9	Advisory arrangers, dealers or brokers not holding and controlling client money and/or assets	Per relevant approved person	35	40	35	40	£923,000	£990,094	5.2%	5.6%
10	Corporate finance advisors	Flat fee	0	0	50	50	£14,000	£14,000	0.1%	0.1%
11	Fee-paying payment service providers (excluding firms in any other industry block)	Authorised payment institutions per £1,000 of relevant income	0.015	NA	75	NA	£25,800	NA	0.1%	NA
		Small payment institutions and small e-money issuers a flat fee	0	NA	75	NA	£29,500	NA	0.2%	NA
13	Cash plan health providers	Flat fee	0	0	50	50	£600	£600	0.0%	0.0%
14	Credit unions	Flat fee	0	0	50	50	£24,000	£24,000	0.1%	0.1%
15	Friendly societies whose tax exempt business represents 95% or more of their total relevant business	Flat fee	0	0	50	50	£3,700	£3,500	0.0%	0.0%
16	Home finance providers, advisers and arrangers (excluding firms in blocks 13, 14 & 15)	Flat fee	0	0	70	70	£531,000	£470,156	3.0%	2.7%
17	General insurance mediation	Per £1,000 of relevant business annual income	0.25	0.175	85	80	£3,712,400	£2,780,313	21.0%	15.7%
	Total - all blocks						**£17,700,000**	**£17,700,102**	**100.0%**	**100.0%**

Draft rules and guidance for consultation and response by 12 March 2010

FEE PROVISIONS (2010/2011) 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 (Fees);
(2) section 101 (Part 6 rules: general provisions);
(3) section 156 (General supplementary powers);
(4) section 157(1) (Guidance);
(5) section 213 (The compensation scheme);
(6) section 223 (Management expenses);
(7) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
(8) 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 1 April 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 Fee Provisions (2010/2011) Instrument 2010.

By order of the Board
XX March 2010

Annex

Amendments to the Fees manual (FEES)

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

3 Annex 5 R Document vetting and approval fees in relation to listing and prospectus rules

…

Part 2

These fees relate to approval or vetting of the documents referred to in the second column of this table arising in relation to specific events or transactions that an *issuer*, *offeror* or *person* requesting admission might be involved in during the year.

…		
Category 2	Equity *registration document*	~~£4,400~~ £3,520
…		

…

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Table~~.~~ of ~~Fees~~ fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	~~£50,985~~ £34,545	30 April ~~2009~~ 2010
	…	…
…		

4 Annex 6 R Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

…

Part 1 – Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK & Ireland Limited	~~£244,500~~ £277,500	30 April ~~2009~~ 2010
	…	…
ICE Futures Europe Ltd	~~£192,500~~ £230,000	30 April ~~2009~~ 2010
	…	…
LIFFE Administration and Management	~~£300,000~~ £325,000	30 April ~~2009~~ 2010
	…	…
LCH Clearnet Limited	~~£281,000~~ £298,000	30 April ~~2009~~ 2010
	…	…
The London Metal Exchange Limited	£198,000	30 April ~~2009~~ 2010
	…	…
London Stock Exchange plc	~~£269,500~~ £261,000	30 April ~~2009~~ 2010
	…	…
~~SWX Europe Ltd~~	~~£77,000~~	~~30 April 2009~~
	~~£88,000~~	~~1 September 2009~~
EDX London Ltd	~~£48,000~~ £42,500	30 April ~~2009~~ 2010
	…	…

PLUS Markets Plc	~~£77,000~~ £97,500	30 April ~~2009~~ 2010
	…	…
European Central Counterparty Limited	~~£125,000~~ £163,500	30 April ~~2009~~ 2010
	…	…
ICE Clear Europe Limited	~~£125,000~~ £184,000	30 April ~~2009~~ 2010
	…	…
…		

Part 2 – Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
~~Cantor Financial Futures Exchange~~	~~£30,000~~	~~1 July 2009~~
…		
Any other *overseas investment exchange* recognised as such by a *recognition order* made in the period	~~£30,000~~ £40,000	30 days after the date on which the *recognition order* is made
Any other *overseas clearing house* recognised as such by a *recognition order* made in the period	~~£60,000~~ £70,000	30 days after the date on which the *recognition order* is made

…

4 Annex 10 R Periodic fees for MTF operators payable in relation to the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Name of *MTF* operator	Fee payable (£)	Due date 30 April ~~2009~~ 2010
Baikal Global Ltd	25,000	
Barclays Bank Plc	~~2,600~~ 3,600	
BATS Trading Ltd	~~38,000~~ 80,000	

BGC Brokers L.P	~~2,600~~ 3,600	
Cantor Index Limited	~~5,600~~ 7,750	
CantorCO2e Limited	~~2,600~~ 3,600	
Chi-X Europe Limited	~~38,000~~ 125,000	
EuroMTS Limited	~~20,000~~ 30,000	
GFI Brokers Limited	~~2,600~~ 3,600	
GFI Securities Limited	~~2,600~~ 3,600	
ICAP Electronic Broking Limited	~~4,400~~ 6,000	
ICAP Energy Limited	~~2,600~~ 3,600	
ICAP Europe Limited	~~2,600~~ 3,600	
ICAP Hyde Tanker Derivatives Limited	~~2,600~~ 3,600	
ICAP Securities Limited	~~2,600~~ 3,600	
ICAP WCLK Limited	~~2,600~~ 3,600	
Liquidnet Europe Limited	~~20,000~~ 70,000	
MF Global UK Limited	~~2,300~~ 3,300	
My Treasury Limited	~~2,600~~ 3,600	
NASDAQ OMX Europe Limited	~~38,000~~ 70,000	
~~NYMEX~~	~~20,000~~	
SmartPool Trading Limited	20,000	
TFS-ICAP Limited	~~2,600~~ 3,600	
Tradeweb Europe Limited	~~9,200~~ 12,500	
Tradition (UK) Limited	~~2,600~~ 3,600	
Tradition Financial Services Limited	~~2,600~~ 3,600	
Tullett Prebon (Europe)	~~2,600~~ 3,600	

Limited		
Tullett Prebon (Securities) Limited	~~2,600~~ 3,600	
Turquoise Services Limited	~~38,000~~ 80,000	
Any other *firm* whose *permission* includes *operating a multilateral trading facility*, including: (a) an *EEA firm*; or (b) a *firm* that, during the course of the relevant financial year, receives *permission* for *operating a multilateral trading facility* or whose *permission* is extended to include this activity.	In the case of an *EEA firm* that: (a) has not carried on the activity of *operating a multilateral trading facility* in the *UK* at any time in the calendar year ending 31 December ~~2008~~ 2009; and (b) notifies the *FSA* of that fact by the end of March ~~2009~~ 2010; the fee is zero. Information required under (b) is to be treated as information required under *FEES* 4.4 (Information on which Fees are calculated) In any other case: ~~2000~~ £3,000	In the case of a *firm* that, during the course of the relevant financial year, receives *permission* for *operating a multilateral trading facility* or whose *permission* is extended to include this activity, within 30 days of receiving that *permission* or extension. In any other case, 30 April ~~2009~~ 2010

…

6 Annex 1 R Financial Services Compensation Scheme – Management Expenses Levy Limit

This table belongs to FEES 6.4.2R	
Period	Limit on total of all management expenses levies attributable to that period (£)
…	
1 April 2009 to 31 March 2010	£1,000,000,000
1 April 2010 to 31 March 2011	£1,000,000,000

Draft rules and guidance for consultation and response by 12 April 2010

PERIODIC FEES (2010/2011) AND OTHER FEES INSTRUMENT 2010

Powers exercised

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

(1) the Financial Services and Markets Act 2000 ("the Act"):

(a) section 99 (Fees);
(b) section 101 (Part 6 rules: general provisions);
(c) section 156 (General supplementary powers);
(d) section 157(1) (Guidance);
(e) section 234 (Industry Funding);
(f) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority); and
(g) paragraph 1 (General), 4 (Rules), and 7 (Fees) of Schedule 7 (The Authority as Competent Authority for Part VI); and

(2) the following provisions of the Payment Services Regulations 2009 (SI 2009/209) ("the Regulations"):

(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 Glossary of definitions is amended in accordance with Annex A to this instrument.

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

Citation

F. This instrument may be cited as the Periodic Fees (2010/2011) and Other Fees Instrument 2010.

By order of the Board
XX May 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definition in the appropriate alphabetical position.

securities derivative	a *derivative* instrument *admitted to trading* on a *regulated market* or *prescribed market*, the value of which is dependent on an underlying equity or debt instrument or index/basket of equity or debt instruments.

Annex B

Amendments to the Fees manual (FEES)

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

[This consultation draft includes text being consulted on from other draft instruments that form part of the consultation under CP08/21, CP09/26 and CP10/5 or assumes such text in relation to certain sections.]

4.2.11 R Table of periodic fees

1 Fee payer	2 Fee payable	3 Due Date	4 Events occurring during the period leading to modified periodic fee
…			
Sponsors	~~£10,000~~ £12,500 per year for the period from 1 April to 31 March the following year (see Note)	…	…
…			

4 Annex 2R Fee tariff rates, permitted deductions and EEA/Treaty firm modifications for the period from 1 ~~July 2009~~ April 2010 to ~~1 July 2010~~ 31 March 2011

Part 1

This table shows the tariff rates applicable to each fee block

…	
Note 1	In the case of activity group A.1 there are two tariff rates. The rate in column 1 is the general periodic fee. The rate in column 2 is the reclaim funds set-up fee and is payable by all firms except *credit unions* and *e-money issuers*. The total periodic fee for the A1 fee-block is determined by adding the amounts obtained under both columns. In the case of activity groups A.3 and A.4 there are ~~two~~ three tariff rates. The rate in column 1 applies to all *firms* in their respective fee-blocks. The rate in column 2 relates to the Solvency

	2 Implementation fee and *firms* must determine their obligation to pay this fee by reference to Part 5 of this Annex. The rate in Column 3 relates to the Solvency 2 Special Project fee and *firms* must determine their obligation to pay this fee by reference to Part 4 of this annex. The total periodic fee for each of these fee-blocks is determined by adding the amounts obtained under ~~both~~ all three columns, as applicable.			
Activity group	Fee payable			
A.1	Band width (£ million of Modified Eligible Liabilities (MELs))	Fee (£/£m or part £m of MELs)		
	~~Band width~~	~~Rate~~		
		Column 1 General Periodic fee	Column 2 Reclaim Fund Set-Up fee	
	>10 - 140	~~31.63~~ 30.66	0.11	
	>140 - 630	~~31.63~~ 30.66	0.11	
	>630 – 1,580	~~31.63~~ 30.66	0.11	
	1,580 – 13,400	~~37.95~~ 38.33	0.11	
	>13,400	~~45.86~~ 50.59	0.11	
	… The tariff rates in A.1 are not relevant for the *permissions* relating to *operating a dormant account fund*. Instead a flat fee of ~~£6,000~~ £6,018 is payable in respect of these *permissions*. The flat fee of £6,018 is made up of a portion of the general periodic fee of £6,000 and a reclaim fund set-up fee of £18.			
A.2	Band width (No. of mortgages and/or *home finance transactions*)	Fee (£/mortgage)		
	~~Band width~~	~~Rate~~		
	…			
A.3	Gross premium	Column 1 ~~(~~General	Column 2 ~~(~~Solvency 2	Column 3 Solvency 2

income (GPI)	periodic fee~~)~~	Implementation Fee~~)~~	Special Project Fee
Minimum fee (£)	Not applicable	~~25.04~~ 50.00	25.00
Band Width (£ million of GPI)	Fee (£/£m or part £m of GPI)		
~~Band Width~~	~~Rate~~		
>0.5 –10.5	~~405.61~~ 555.65	108.75	92.80
>10.5 - 30	~~405.61~~ 555.65	108.75	92.80
>30 - 245	~~405.61~~ 555.65	108.75	92.80
>245 – 1,900	~~405.61~~ 555.65	108.75	92.80
>1,900	~~405.61~~ 555.65	108.75	92.80
PLUS			
Gross technical liabilities (GTL)	Column 1 ~~(~~General Periodic fee~~)~~	Column 2 ~~(~~Solvency 2 Implementation fee~~)~~	Column 3 Solvency 2 Special Project Fee
Band Width (£ million of GTL)	Fee (£/£m or part £m of GTL)		
~~Band Width~~	~~Rate~~		
>1 –12.5	~~20.55~~ 26.89	5.45	5.23
>12.5 - 70	~~20.55~~ 26.89	5.45	5.23
>70 – 384	~~20.55~~ 26.89	5.45	5.23
>384 – 3,750	~~20.55~~ 26.89	5.45	5.23
>3,750	~~20.55~~ 26.89	5.45	5.23
~~PLUS~~			
~~Solvency 2 Special~~			

	~~Project Fee (the "Solvency 2 fee")~~			
	~~There is only a single tariff band~~	~~The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block (by which periodic fees are multiplied as described in Part 4) is 9.79%.~~		
A.4	Adjusted annual gross premium income (AGPI)	Column 1 ~~(~~General Periodic fee~~)~~	Column 2 ~~(~~Solvency 2 Implementation fee~~)~~	Column 3 Solvency 2 Special Project Fee
	Minimum fee (£)	Not applicable	~~10.09~~ 25.00	25.00
	Band Width (£ million of AGPI)	Fee (£/£m or part £m of AGPI)		
	~~Band Width~~	~~Rate~~		
	>1 –5	~~548.18~~ 542.22	110.30	91.70
	>5 – 40	~~548.18~~ 542.22	110.30	91.70
	>40 – 260	~~548.18~~ 542.22	110.30	91.70
	>260 - 4,000	~~548.18~~ 542.22	110.30	91.70
	>4,000	~~548.18~~ 542.22	110.30	91.70
	PLUS			
	Mathe-matical reserves (MR)	Column 1 ~~(~~General Periodic fee~~)~~	Column 2 ~~(~~Solvency 2 Implementation fee~~)~~	Column 3 (Solvency 2 Special Project Fee
	Minimum fee (£)	Not applicable	~~9.73~~ 25.00	25.00
	Band Width (£ million of MR)	Fee (£/£m or part £m of MR)		
	~~Band Width~~	~~Rate~~		

	>1 –20	~~16.73~~ 16.54	3.35	2.83
	>20 – 270	~~16.73~~ 16.54	3.35	2.83
	>270 – 7,000	~~16.73~~ 16.54	3.35	2.83
	>7,000 – 45,000	~~16.73~~ 16.54	3.35	2.83
	>45,000	~~16.73~~ 16.54	3.35	2.83
	~~PLUS~~			
	~~Solvency 2 Special Project Fee (Solvency 2 fee)~~			
	~~There is only a single tariff band.~~	~~The fee is calculated in accordance with Part 4 of this Annex. The percentage for this fee block (by which periodic fees are multiplied as described in Part 4) is 9.66%.~~		
A.5	Band Width (£ million of Active Capacity (AC))	Fee (£/£m or part £m of AC)		
	~~Band Width~~	~~Rate~~		
	>50 – 150	~~88.66~~ 76.44		
	>150 – 250	~~88.66~~ 76.44		
	>250 – 500	~~88.66~~ 76.44		
	>500 – 1,000	~~88.66~~ 76.44		
	>1,000	~~88.66~~ 76.44		
A.6	Flat fee	~~1,743,958~~ 1,500,514		
	PLUS			
	Solvency 2 Special Project Flat Fee (£)	~~95,000~~ 254,482.86		
	PLUS			

	Solvency 2 Implementation Flat Fee (£)	~~83,000~~ 292,205.36
A.7	For class 1(C), (2) and (3) *firms*:	
	Band Width (£ million of Funds under Management (FuM))	Fee (£/£m or part £m of FuM)
	~~Band Width~~	~~Rate~~
	>10 –150	~~9.60~~ 9.22
	>150 – 2,800	~~9.60~~ 9.22
	>2,800 – 17,500	~~9.60~~ 9.22
	>17,500 – 100,000	~~9.60~~ 9.22
	>100,000	~~9.60~~ 9.22
	…	
…	…	
A.9	Band Width (£ million of Gross Income (GI))	Fee (£/£m or part £m of GI)
	~~Band Width~~	~~Rate~~
	>1 – 4.5	~~1.064.38~~ 1,030.68
	>4.5 - 17	~~1.064.38~~ 1,030.68
	>17 - 145	~~1.064.38~~ 1,030.68
	> 145 - 750	~~1.064.38~~ 1,030.68
	>750	~~1.064.38~~ 1,030.68
A.10	Band Width (No. of traders)	Fee (£/trader)
	~~Band Width~~	~~Rate~~
	~~3~~ 2 - 3	~~3,111.51~~ 3,085.46
	4 - 5	~~3,111.51~~ 3,085.46
	6 - 30	~~3,111.51~~ 3,085.46
	31 - 180	~~3,111.51~~ 3,085.46

	>180	~~3,111.51~~ 3,085.46
…		
A.12	Band Width (No. of persons)	Fee (£/person)
	~~Band Width~~	~~Rate~~
	2 – 5	~~360.97~~ 392.71
	6 - 35	~~360.97~~ 392.71
	36 - 175	~~360.97~~ 392.71
	176 – 1,600	~~360.97~~ 392.71
	>1,600	~~360.97~~ 392.71
A.13	For class (2) *firms*:	
	Band Width (No. of persons)	Fee (£/person)
	~~Band Width~~	~~Rate~~
	2 – 3	~~1,314.68~~ 1,266.95
	4 - 30	~~1,314.68~~ 1,266.95
	31 - 300	~~1,314.68~~ 1,266.95
	301 – 2,000	~~1,314.68~~ 1,266.95
	>2,000	~~1,314.68~~ 1,266.95
A.14	Band Width (No. of persons)	Fee (£/person)
	~~Band Width~~	~~Rate~~
	2 - 4	~~1,293.48~~ 1,381.78
	5 - 25	~~1,293.48~~ 1,381.78
	26 - 80	~~1,293.48~~ 1,381.78
	81 - 199	~~1,293.48~~ 1,381.78
	>199	~~1,293.48~~ 1,381.78
…		
A.18	Band Width (£ thousands of Annual	Fee (£/£ thousand or part £ thousand of

	Income (AI))	AI)
	~~Band Width~~	~~Rate~~
	>100 -180	~~6.37~~ 10.54
	>180 – 1,000	~~6.37~~ 10.54
	>1,000 – 12,500	~~6.37~~ 10.54
	>12,500 – 50,000	~~6.37~~ 10.54
	>50,000	~~6.37~~ 10.54
A.19	Band Width (£ thousands of Annual Income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	~~Band Width~~	~~Rate~~
	>100 - 325	~~2.27~~ 2.41
	>325 – 10,000	~~2.27~~ 2.41
	>10,000 – 50,750	~~2.27~~ 2.41
	>50,750 – 250,000	~~2.27~~ 2.41
	>250,000	~~2.27~~ 2.41
…		

Part 1A

(1)	This Part sets out the minimum fee applicable to the *firms* specified in (3) below.	
(2)	The minimum fee payable by any *firm* referred to in (3) is £1,000 unless:	
	(a)	it is a *credit union* that meets the conditions in (4), in which case the minimum fee payable is as set out in (4); or
	(b)	it is a *non-directive friendly society* that meets either or both the conditions in (5), in which case the minimum fee payable is £430.
…		
(4)	The conditions referred to in (2)(a) are that the *credit union* has a tariff base (Modified Eligible Liabilities) of:	

	(a)	£0 to £0.5million, in which case a minimum fee of £160 is payable; or
	(b)	greater than £0.5millon but less than £2.0million, in which case a minimum fee of £540 is payable.
(5)	The conditions referred to in (2)(b) are that:	
	(a)	the *non-directive friendly society* falls into the A3 activity group and has, for that activity, £0.5 million or less in gross *premium* income and holds gross technical liabilities of £1.0 million or less;
	(b)	the *non-directive friendly society* falls into the A4 activity group and has, for that activity, written £1.0 million or less in adjusted gross *premium* income and holds mathematical reserves of £1.0 million or less.
	The figures for gross *premium* income, gross technical liabilities, adjusted gross *premium* income and mathematical reserves are the same as used for Part 1 of this Annex.	
…		

Part 2

This table shows the permitted deductions that apply where financial penalties are received under the *Act*:

Activity group	~~Nature of deduction~~	Amount of deduction
Part 1A (minimum fee)		7.0% of the fee payable by the *firm* for the activity group (see Part 1)
A.1	~~Financial penalties received~~	~~6.2%~~ 7.0% of the fee payable by the *firm* for the activity group (see Part 1)
A.2	~~Financial penalties received~~	~~6.2%~~ 7.0% of the fee payable by the *firm* for the activity group (see Part 1)
A.3	~~Financial penalties received~~	~~6.2%~~ 7.0% of the fee payable by the *firm* for the activity group (see Part 1). The deduction does not apply to any Solvency 2 fee (as defined in Part 1) or Solvency 2 Implementation fee as applicable under Part 5.
A.4	~~Financial~~	~~6.2%~~ 7.0% of the fee payable by the *firm* for the

	~~penalties received~~	activity group (see Part 1). The deduction does not apply to any Solvency 2 fee (as defined in Part 1) or Solvency 2 Implementation fee as applicable under Part 5.
A.5	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.6	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1). The deduction does not apply to any Solvency 2 Special Project flat fee or Solvency 2 Implementation flat fee (as defined in Part 1).
A.7	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.8	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.9	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.10	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.11	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.12	~~Financial penalties received~~	~~6.2%~~ <u>8.8%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.13	~~Financial penalties received~~	~~6.2%~~ <u>7.2%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.14	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)
A.18	~~Financial penalties received~~	~~6.2%~~ <u>7.0%</u> of the fee payable by the *firm* for the activity group (see Part 1)

A.19	~~Financial penalties received~~	~~6.2%~~ 7.0% of the fee payable by the *firm* for the activity group (see Part 1)
B. MTF operators		7.0% of the fee payable by the *firm* for the activity group (see Part 1)

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	~~80%~~ 50%	~~£100~~
A.3	~~100%~~ 90%	~~Nil~~
A.4	…	~~£100~~
A.7	…	~~£100~~
A.9	…	~~£100~~
A.10	…	~~£100~~
A.12	…	~~£100~~
A.13	…	~~£100~~
A.19	…	~~£100~~
B. MTF operators	…	~~Not applicable~~
…		

Part 4

This table shows the calculation of the Solvency 2 Special Project fee for *firms* falling into fee block A3 or A4.

(1)	The Solvency 2 Special Project fee forms part of the periodic fee payable under fee block A3 and A4 (the "insurance fee blocks").	
(2)	The Solvency 2 Special Project fee is only payable by a *firm* if it meets the conditions in Part (5). In addition:	
	(a)	~~it was in one or both of the insurance fee blocks at the start of the financial year 2009/10~~ where the *firm* falls into fee block A3, the Solvency 2 Special Project Fee is only payable with

		respect to that insurance fee block if the amount of the periodic fees payable by it under *FEES* 4.3 in respect of the financial year 2009/10 with respect to that insurance fee block was at least £49,000;
	(b)	~~*FEES* 4.3.13R (Firms Applying to Cancel or Vary Permission Before Start of Period) does not apply with respect to the fee block in (a)~~ where the *firm* falls into fee block A4, the Solvency 2 Special Project Fee is only payable with respect to that insurance fee block if the amount of the periodic fees payable by it under *FEES* 4.3 in respect of the financial year 2009/10 with respect to that insurance fee block was at least £55,000.
	(c)	~~it has not notified the *FSA* before the start of the financial year 2009/10 that it intends to migrate out of the *United Kingdom* for regulatory purposes before the proposed Solvency II Directive is implemented; and~~ [deleted]
	(d)	~~it is not an *incoming EEA firm* or an *incoming Treaty firm*.~~ [deleted]
(3)	~~The Solvency 2 fee is payable by the top sixty *firms* in the list of firms that fall into (2) and into fee block A3, and by the top sixty firms in the list of firms that fall into (2) and into fee block A4. A *firm's* ranking in the list for a particular insurance fee block is measured by reference to the amount of the periodic fees payable by it under *FEES* 4.3 in respect of the financial year 2008/9 with respect to that insurance fee block.~~ [deleted]	
(4)	The fee for a particular insurance fee block ~~is calculated by multiplying the periodic fee payable by the *firm* with respect to that fee block (ignoring~~ does not take into account the Solvency 2 Special Project fee ~~and~~ or the Solvency 2 Implementation fee~~) by the percentage specified in Part 1.~~	
(5)	~~The total Solvency 2 fee payable by a *firm* (taking into account amounts payable under both insurance fee blocks) is capped at £95,000.~~ [deleted]	
(6)	~~For the purpose of (3) *firms* falling into (2) that are in the same group at the start of the financial year 2009/10 must be treated as a single *firm*, so that the total number of *firms* liable to pay the Solvency 2 fee may be greater than 120.~~ [deleted]	
(7)	~~Where (6) applies, the Solvency 2 fee payable by the *firms* in the group concerned for a particular insurance fee block is calculated by multiplying the total amount of the periodic fees payable by those *firms* with respect to that fee block (ignoring the Solvency 2 fee and the Solvency 2 Implementation fee) by the percentage specified in Part 1. All those *firms* are liable jointly and severally to pay the~~	

	~~Solvency 2 fee.~~ [deleted]
(8)	~~Where (7) applies, (5) is applied to the group as a whole so that the total joint Solvency 2 fee payable by the group is capped at £95,000.~~ [deleted]
(9)	~~The definition of a *group* is restricted for the purpose of calculating the Solvency 2 fee to *parent undertakings* and their *subsidiary undertakings*.~~ [deleted]
(10)	~~In calculating the fee to which the percentage in (4) or (7) is applied, no account is taken of any change in the fee that takes place after the Solvency 2 fee has been billed.~~ [deleted]
(11)	The Solvency 2 Special Project fee is not reduced under the table in *FEES* 4.2.6R (Modifications for persons becoming subject to periodic fees during the course of a financial year). ~~Instead the fee to which the percentage in (4) or (7) is applied takes account of any reduction under that table. The same applies for the reductions in Part 3 of this Annex (Modifications to fee tariffs that apply to incoming EEA firms and incoming Treaty firms).~~

Part 5

…

…			
(2)	The conditions in this paragraph are:		
	…		
	(b)	the *firm* has not notified the *FSA* before the start of the financial year ~~2009/10~~ 2010/11 that it intends to migrate out of the *United Kingdom* for regulatory purposes before the proposed Solvency II Directive is implemented;	
	(c)	it meets either of the following conditions:	
		(i)	its gross premium income or adjusted gross premium income, as appropriate, referred to in *FEES* 4 Annex 1R Part 2, exceeds EUR 5 million at the end of the financial year ended in the calendar year ending 31 December prior to the FSA financial year; or
		(ii)	its gross technical liabilities or mathematical reserves, as appropriate, referred to in *FEES* 4 Annex 1R, Part 2, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the *FSA* financial year;

	(d)	~~its gross technical liabilities or mathematical reserves, as appropriate, referred to in *FEES* 4 Annex 1R, Part 2, exceed EUR 25 million at the end of the financial year ended in the calendar year ending 31 December prior to the *FSA* financial year~~ it was in one or both of the insurance fee blocks at the start of the financial year 2010/11;
	(e)	it is not an *incoming EEA firm* or an *incoming Treaty firm*.
…		

4 Annex 4 R Periodic fees in relation to collective investment schemes payable for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Part 1 - Periodic fees payable

Scheme type	Basic fee (£)	Total funds/sub-funds aggregate	Fund factor	Fee (£)
ICVC, AUT, Section 264 of the *Act* Section 270 of the *Act*	~~570~~ 575	1-2 3-6 7-15 16-50 >50	1 2.5 5 11 22	~~570~~ 575 ~~1,425~~ 1,440 ~~2,850~~ 2,875 ~~6,270~~ 6,325- ~~12,540~~ 12,650
Section 272 of the *Act*	~~2,325~~ 2,340	1-2 3-6 7-15 16-50 >50	1 2.5 5 11 22	~~2,326~~ 2,340 ~~5,815~~ 5,850 ~~11,630~~ 11,700 ~~25,586~~ 25,740 ~~51,172~~ 51,480

Fees are charged according to the number of funds or *sub-funds* operated by a *firm* as at 31 March ~~2009~~ 2010. …

Schemes set up under section 264 of the *Act* are charged according to the number of funds or *sub-funds* which a *firm* is operating and *marketing* into the *UK* as at 31 March immediately before the start of the period to which the fee applies. For example, for ~~2008/09~~ 2010/11 fees a reference to 31 March means 31 March ~~2008~~ 2010.

4 Annex 5 R Periodic fees for designated professional bodies payable in relation to the period 1 April 2010 to 31 March 2011

Table of fees payable by Designated Professional Bodies

Name of Designated Professional Body	Amount payable	Due date
The Law Society of England & Wales	£34,545	30 April 2010
	~~£18,105~~ £46,235	1 September ~~2009~~ 2010
The Law Society of Scotland	~~£13,990~~ £14,770	1 July ~~2009~~ 2010
The Law Society of Northern Ireland	~~£12,990~~ £13,580	1 July ~~2009~~ 2010
The Institute of Actuaries	~~£10,110~~ £10,130	1 July ~~2009~~ 2010
The Institute of Chartered Accountants in England and Wales	~~£25,630~~ £28,720	1 July ~~2009~~ 2010
The Institute of Chartered Accountants of Scotland	~~£11,330~~ £11,590	1 July ~~2009~~ 2010
The Institute of Chartered Accountants in Ireland	~~£10,630~~ £10,750	1 July ~~2009~~ 2010
The Association of Chartered Certified Accountants	~~£17,070~~ £18,470	1 July ~~2009~~ 2010
The Council for Licensed Conveyancers	~~£11,090~~ £11,310	1 July ~~2009~~ 2010
Royal Institution of Chartered Surveyors	~~£13,650~~ £14,370	1 July ~~2009~~ 2010

…

…

4 Annex 6 R Periodic fees for recognised investment exchanges and recognised clearing houses payable in relation to the period 1 April 2010 to 31 March 2011

…

Part 1 - Periodic fees for UK recognised bodies

Name of UK recognised body	Amount payable	Due date
Euroclear UK & Ireland Limited	£277,500	30 April 2010
	~~£310,500~~ £482,500	1 September ~~2009~~ 2010
ICE Futures Europe Ltd	£230,000	30 April 2010
	~~£267,500~~ £420,000	1 September ~~2009~~ 2010
LIFFE Administration and Management	£325,000	30 April 2010
	~~£350,000~~ £775,000	1 September ~~2009~~ 2010
LCH Clearnet Limited	£298,000	30 April 2010
	~~£315,000~~ £702,000	1 September ~~2009~~ 2010
The London Metal Exchange Limited	£198,000	30 April 2010
	~~£211,500~~ £302,000	1 September ~~2009~~ 2010
London Stock Exchange plc	£261,000	30 April 2010
	~~£252,500~~ £589,000	1 September ~~2009~~ 2010
EDX London Ltd	£42,500	30 April 2010
	~~£37,000~~ £107,500	1 September ~~2009~~ 2010
PLUS Markets Plc	£97,500	30 April 2010
	~~£118,000~~ £202,500	1 September ~~2009~~ 2010

European Central Counterparty Limited	£163,500	30 April 2010
	~~£202,000~~ £276,500	1 September ~~2009~~ 2010
ICE Clear Europe Limited	£184,000	30 April 2010
	~~£243,000~~ £516,000	1 September ~~2009~~ 2010

Part 2 - Periodic fees for overseas recognised bodies

Name of overseas recognised body	Amount payable	Due date
The Chicago Mercantile Exchange (CME) (ROIE)	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
Chicago Board of Trade	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
EUREX (Zurich)	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
National Association of Securities and Dealers Automated Quotations (NASDAQ)	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
New York Mercantile Exchange Inc.	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
The Swiss Stock Exchange	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
Sydney Futures Exchange Limited	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
ICE Futures US Inc	~~£30,000~~ £40,000	1 July ~~2009~~ 2010
NYSE Liffe US	£40,000	1 July 2010
SIS x-clear AG	~~£60,000~~ £100,000	1 July ~~2009~~ 2010
Eurex Clearing AG	~~£60,000~~ £200,000	1 July ~~2009~~ 2010
ICE Clear US Inc	~~£60,000~~ £70,000	1 July ~~2009~~ 2010
Chicago Mercantile Exchange (CME) (ROCH)	~~£60,000~~ £200,000	1 July ~~2009~~ 2010
European Multi-Lateral Clearing Facility	£100,000	1 July 2010
Cassa di Compensazione e Garanzia (CC&G)	£70,000	1 July 2010
…		

4 Annex 7 R **Periodic fees in relation to the Listing Rules for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011**

Fee type	Fee amount
Annual fees for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011	
Annual Issuer Fees - all *listed issuers* of *shares*, depositary receipts and *securitised derivatives*. This fee represents the total annual fee for a *listed issuer* - no additional annual fee is due under the *disclosure rules* and *transparency rules*.	(1) For all *issuers* of *securitised derivatives*, depositary receipts and global depositary receipts the fees payable are set out in Table 1. (2) For all other *issuers*, fees to be determined according to market capitalisation, as at the last *business day* of the November prior to the FSA financial year in which the fee is payable, are as set out in Table 2. The fee is calculated as follows: … (3) Notwithstanding (2), *overseas issuers* with a *listing* of *equity securities* which is not a ~~*primary*~~ *premium listing* will only pay 80% of the fee otherwise payable under (2).
…	

Table 1

Annual fees for issuers of *securitised derivatives*, depositary receipts and global depositary receipts

Issuer	Fee amount
Issuers of *securitised derivatives*	~~£3,425~~ £3,700
Issuers of depositary receipts and global depositary receipts	~~£4,110~~ £4,440

Table 2

Tiered annual fees for all other issuers

Fee payable	
Minimum fee (£)	~~3,425~~ 3,700
£ million of Market Capitalisation as at the last *business day* of the November prior to the *FSA* financial	Fee (£/£m or part £m of Market Capitalisation as at the last *business day* of the November prior to the

year in which the fee is payable	*FSA* financial year in which the fee is payable)
0 - 100	0
>100 - 250	~~21.845700~~ 23.593356
>250 - 1,000	~~8.737700~~ 9.436716
>1,000 - 5,000	~~5.378413~~ 5.808686
>5,000 - 25,000	~~0.131196~~ 0.141692
>25,000	~~0.042386~~ 0.045777

…

4 Annex 8 R Periodic fees in relation to the disclosure rules and transparency rules for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Annual fees for the period 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011
…

Table 1

Annual fees for non-listed issuers of securitised derivatives, depositary receipts and global depositary receipts

Issuer	Fee amount
Issuers of *securitised derivatives*	~~£2,740~~ £2,960
Issuers of depositary receipts and global depositary receipts	~~£3,288~~ £3,425

Table 2

Fee payable	
Minimum fee (£)	~~2,740~~ 2,960
£ million of Market Capitalisation	Fee (£/£m or part £m of Market Capitalisation)
0 - 100	0
>100 - 250	~~17.476560~~ 18.874685
>250 - 1,000	~~6.990160~~ 7.549373
>1,000 - 5,000	~~4.302730~~ 4.646949

>5,000 - 25,000	~~0.104957~~ 0.113353
>25,000	~~0.033909~~ 0.036622

4 Annex 9 R Periodic fees in respect of ~~securitised~~ securities derivatives for the period from 1 April ~~2009~~ 2010 to 31 March ~~2010~~ 2011

Part 1

This table shows the fee amount applicable to *firms* and *market operators* in respect of certain ~~*securitised*~~ *securities derivatives*.

For the purposes of this Annex, a "relevant ~~contracts~~ contract" ~~are all transactions~~ is any contract entered into or settled by *firms* on or through *LIFFE* or Eurex Clearing AG in ~~*securitised*~~ *securities derivatives* ~~entered into on or settled through *LIFFE* or Eurex Clearing AG,~~ and the "relevant period" is 1 January ~~2008~~ 2009 to 31 December ~~2008~~ 2009 inclusive.

…

Fee amount for *firms*	
Number of relevant contracts entered into by the *firm* during the relevant period	Fee amount
…	
101 - 1,000	~~£475~~ £480
1,001 - 100,000	~~£2,450~~ £2,475
100,001 - 1,000,000	~~£7,350~~ £7,420
1,000,001 - 5,000,000	~~£17,100~~ £17,275
5,000,001 - 20,000,000	~~£31,300~~ £31,600
>20,000,000	~~£48,800~~ £49,300
Fee amount for *market operators*	
Market operators providing facilities for trading in ~~*securitised*~~ *securities derivatives* that do not identify those ~~*securitised*~~ *securities derivatives* using an International Securities Identity Number	~~£10,000~~ £10,100

…

4 Annex 11 R **Periodic fees in respect of payment services carried on by fee-paying payment service providers under the Payment Services Regulations in relation to the period 1 April 2010 to 31 March 2011**

…

Part 5 - Tariff rates

Activity group	Fee payable in relation to 2010/11	
G.2	Minimum fee (£)	400
	£ million or part £m of Modified Eligible Liabilities (MELS)	Fee (£/£m or part £m of MELS)
	~~[tariff band to follow]~~ > 100,000 > 250,000 > 1,000,000 > 10,000,000 > 50,000,000 > 500,000,000	~~[tariff rate to follow]~~ 0.42537 0.42537 0.42537 0.42537 0.42537 0.42537
G.3	Minimum fee (£)	400
	£ thousands or part £ thousand of Relevant Income	Fee (£/£thousand or part £ thousand of Relevant Income)
	~~[tariff band to follow]~~ > 100,000 > 250,000 > 1,000,000 > 10,000,000 > 50,000,000 > 500,000,000	~~[tariff rate to follow]~~ 0.48859 0.48859 0.48859 0.48859 0.48859 0.48859
…		

Part 6 - Permitted deductions for financial penalties pursuant to the Payment Services Regulations

Fee-paying payment service providers may make deductions as provided in this Part.

Activity group	Nature of deduction	Amount of deduction
G.2	Financial penalties received	~~[to follow]~~ 0.0%
G.3	Financial penalties received	~~[to follow]~~ 0.0%
G.4	Financial penalties received	~~[to follow]~~ 0.0%
G.5	Financial penalties received	~~[to follow]~~ 0.0%

Part 7 - This table shows the modifications to fee tariffs that apply pursuant to the Payment Services Regulations ~~Permitted deductions~~ for *EEA authorised payment institutions*, *full credit institutions* and *e-money issuers* that are *EEA firms*.

~~*Fee-paying payment service providers* may make deductions as provided in this Part.~~

Activity group	Percentage deducted from the tariff payable under Part 5 applicable to the firm	~~Minimum amount payable~~
G.2	~~[to follow]~~ 40%	~~[to follow]~~
G.3 excluding the Post Office Limited	~~[to follow]~~ 40%	~~[to follow]~~

5 Financial Ombudsman Service Funding

…

5 Annex 1 R Annual Fees Payable in Relation to ~~2009/10~~ 2010/11

Introduction: annual budget

1. The *annual budget* for ~~2009/10~~ 2010/11 approved by the *FSA* is ~~£92.5m.~~ £113.7m.

Part 1: General levy

2. The total amount expected to be raised through the *general levy* in ~~2009/10~~ 2010/11 will be £17.7m (net of £1.8m to be raised from consumer credit firms).

Part 2: Fee tariffs for general levy

Industry block	Tariff base	General levy payable by firm
1 –Deposit acceptors, *home finance*	…	~~£0.027~~ £0.0278 per relevant account subject to

providers, *home finance administrators* (excluding firms in block 14) and *dormant account fund operators*		a minimum levy of £100
2-Insurers - general (excluding *firms* in blocks 13 and 15)	...	~~£0.126~~ £0.103 per £1,000 of relevant gross premium income subject to a minimum levy of £100
3-The *Society* (of Lloyd's)	…	~~£28,000~~ £20,000 to be allocated by the *Society*
4-Insurers - life (excluding *firms* in block 15)	…	~~£0.028~~ £0.025 per £1,000 of relevant adjusted gross premium income subject to a minimum levy of £100
…		
8-Advisory *arrangers*, dealers or brokers holding and controlling *client money* and/or assets	…	~~£45~~ £35 per relevant *approved person* subject to a minimum levy of ~~£45~~ £35
9-Advisory *arrangers*, dealers or brokers not holding and controlling *client money* and/or assets	…	~~£40~~ £35 per relevant *approved person* subject to a minimum levy of ~~£40~~ £35
…		
11-*fee-paying payment service providers* (but excluding *firms* in any other Industry block)	For *authorised payment institutions*, the Post Office Limited, the Bank of England, government departments and local authorities, and *EEA authorised payment institutions* relevant income as described in *FEES* 4 Annex 11R Part 3	~~[to follow]~~ £0.015 per £1,000 of relevant income subject to a minimum levy of £75

	For *small payment institutions* and *small e-money issuers* a flat fee	Levy of £75 ~~as from 2010/11~~
12-	N/A for ~~2009/10~~ 2010/11	
…		
17-General insurance mediation (excluding *firms* in blocks 13, 14 & 15)	…	~~£0.175~~ £0.25 per £1,000 of *annual income* (as defined in *MIPRU* 4.3) relating to *firm's relevant business* subject to a minimum levy of ~~£80~~ £85

…

…

Draft rules for consultation and response by 12 April 2010 – Unauthorised Mutuals

PERIODIC FEES (UNAUTHORISED MUTUAL SOCIETIES REGISTRATION) (2010/2011) 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 156 (General supplementary powers); and
(2) paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority).

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

Commencement

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

Amendments to the FSA's rules

D. The Unauthorised mutuals registration fees rules are amended in accordance with the Annex to this instrument.

Citation

E. This instrument may be cited as the Periodic Fees (Unauthorised Mutual Societies Registration) (2010/2011) Instrument 2010.

By order of the Board
XX May 2010

Annex

Amendments to the Unauthorised mutuals registration fees rules

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

Amend Annex 1R as shown.

ANNEX 1R
PERIODIC FEES PAYABLE FOR THE PERIOD 1 APRIL ~~2009~~ 2010 TO 31 MARCH ~~2010~~ 2011

Part 1
Periodic fee payable by Registered Societies (on 30 June ~~2009~~ 2010)
This fee is not payable by a *credit union*.

Transaction	Total assets (£'000s)	Amount payable (£)
Periodic fee	0 - 50	55
	> 50 to 100	110
	> 100 to 250	180
	> 250 to 1,000	235
	> 1,000	425

Part 2
Methods of payment of periodic fees

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

Draft rules and guidance for consultation and response by 12 April 2010 – Consumer Financial Education Body

FEES (CFEB LEVY) 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 156 (General supplementary powers);
(2) section 157 (Guidance); and
(3) [paragraph 12(1) of Part 2 (Funding) of Schedule 1A (Further Provision for Purposes of Section 6A)].

B. The rule-making powers listed above are specified for the purpose 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 Glossary of definitions is amended in accordance with Annex A to this instrument.

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

Citation

F. This instrument may be cited as the Fees (CFEB Levy) Instrument 2010.

By order of the Board
[*date*] 2010

Annex A

Amendments to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position..

CFEB	*Consumer Financial Education Body Limited.*
CFEB levy	the levy payable to the *FSA* pursuant to *FEES* 7.2.1R by the persons set out in *FEES* 1.1.2R(5).
Consumer Financial Education Body Limited	the *body corporate* established by the *FSA* under section 6A(1) of the Act (Enhancing public understanding of financial matters etc).

Annex B

Amendments to the Fees manual (FEES)

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

1.1 Application and Purpose

1.1.1 G *FEES* applies to all *persons* required to pay a fee or levy under a provision of the *Handbook*. The purpose of this chapter is to set out to whom the *rules* and *guidance* in *FEES* apply. *FEES* 2 (General Provisions) contains general provisions which may apply to any type of fee payer. *FEES* 3 (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event for example various application fees (including those in relation to authorisation, variation of *Part IV permission*, *listing* and the Basel Capital Accord) and fees relating to certain notifications and document vetting requests. *FEES* 4 (Periodic fees) covers all periodic fees and transaction reporting fees. *FEES* 5 (Financial Ombudsman Service Funding) relates to *FOS* levies and case fees and *FEES* 6 (Financial Services Compensation Scheme Funding) relates to the *FSCS* levy. *FEES* 7 relates to the *CFEB* *levy*.

Application

1.1.2 R This manual applies in the following way:

…

(5) *FEES* 1, 2 and 7 apply to:

(a) every *person* having a *Part IV permission*;

(b) an *incoming EEA firm*;

(c) an *incoming Treaty firm*;

(d) the *Society of Lloyd's*.

…

2 General Provisions

…

2.1.4 G The purpose of this chapter is to set out the general provisions applicable to those who are required to pay fees or levies to the *FSA*, case fees to the *FOS Ltd* or a share of the *FSCS* levy.

2.1.5 G Paragraph 17 of Schedule 1 to and section 99 of the *Act* and regulation 92 of

the *Payment Services Regulations* enable the *FSA* to charge fees to cover its costs and expenses in carrying out its functions. The corresponding provisions for the *FSCS* levy, ~~and~~ *FOS* levies and case fees and *CFEB levies* are set out in *FEES* 6.1, ~~and~~ *FEES* 5.2 and *FEES* 7.1.8G respectively. *Fee-paying payment service providers* are not required to pay the *FSCS* levy but are liable for *FOS* levies.

…

2.1.7 G The key components of the *FSA* fee mechanism (excluding the FSCS levy, ~~and~~ the FOS levy and case fees, and the *CFEB levy* which are dealt with in *FEES* 5, ~~and~~ *FEES* 6 and *FEES* 7) are:

…

…

Late Payments

2.2.1 R If a *person* does not pay the total amount of a periodic fee (including fees relating to *transaction reports* to the *FSA* using the *FSA's* Transaction Reporting System (see *SUP* 17)), *FOS* levy or case fee, ~~or~~ share of the *FSCS* levy or *CFEB levy*, before the end of the date on which it is due, under the relevant provision in *FEES* 4, 5, ~~or~~ 6~~,~~ or 7, that *person* must pay an additional amount as follows:

(1) if the fee was not paid in full before the end of the due date, an administrative fee of £250; plus

(2) interest on any unpaid part of the fee at the rate of 5% per annum above the Bank of England’s repo rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due.

2.2.2 G The *FSA*, (for periodic fees, *FOS*, ~~and~~ *FSCS* levies and *CFEB levies*), and *FOS Ltd* (for *FOS* case fees), expect to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. *FOS* case fees are invoiced on a monthly basis. Accordingly it will generally be the case that a *person* will have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

Recovery of Fees

2.2.3 G Paragraph 17(4) and paragraph 19B of Schedule 1 and section 99(5) to the *Act* permit the *FSA* to recover fees (including fees relating to *payment services* and, where relevant, *FOS* levies and *CFEB levies*), and section 213(6) permits the *FSCS* to recover shares of the *FSCS* levy payable, as a debt owed to the *FSA* and *FSCS* respectively, and the *FSA* and the *FSCS*, as relevant, will consider taking action for recovery (including interest) through the civil courts. Also, *FOS Ltd* (in respect of case fees) may take steps to recover any money owed to it (including interest).

2.2.4 G In addition, the *FSA* may be entitled to take regulatory action in relation to the non-payment of fees, ~~and~~ *FOS* levies and *CFEB levies*. The ~~FSA~~ *FSA* may also take regulatory action in relation to the non-payment of *FOS* case fees or share of the *FSCS* levy, after reference of the matter to the *FSA* by *FOS Ltd* or the *FSCS* respectively. What action (if any) that is taken by the *FSA* will be decided upon in the light of the particular circumstances of the case.

…

2.3.1 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, ~~or~~ *FOS* levy or *CFEB levy* would be inequitable, the *FSA*, the *FSCS* or *FOS Ltd*, as relevant, may (unless *FEES* 2.3.2BR applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.

2.3.2 R If it appears to the *FSA*, the *FSCS* (in relation to any *FSCS* levy only) or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FSA*, the *FSCS*, ~~or~~ the *FOS Ltd* or the *CFEB*, as relevant, of a fee, *FSCS* levy, ~~or~~ *FOS* levy or *CFEB levy* which has been paid would be inequitable, the *FSA*, the *FSCS*, ~~or~~ the *FOS Ltd* or the *CFEB*, may (unless *FEES* 2.3.2BR applies) refund all or part of that fee or levy.

…

2.4.1 R All fees payable or any stated hourly rate under *FEES* 3 (Application, notification and vetting fees), ~~and~~ *FEES* 4 (Periodic fees) and *FEES* 7 (The CFEB levy) are stated net of VAT. Where VAT is applicable this must also be included.

…

Insert the following new chapter after FEES 6. The text is not underlined.

7 The CFEB levy

7.1 Application and Purpose

Application

7.1.1 R This chapter applies to every person listed in *FEES* 1.1.2R(5).

Purpose

7.1.2 G The purpose of this chapter is to set out the requirements on the persons listed in *FEES* 7.1.1R to pay annual *CFEB levies* in order to establish and fund the *CFEB*.

7.1.3 G Section 6A(1) of the *Act* (Enhancing public understanding of financial

matters etc) requires the *FSA* to establish the *CFEB* in order to enhance:

(1) the understanding and knowledge of members of the public of financial matters (including the UK financial system); and

(2) the ability of members of the public to manage their own financial affairs.

7.1.4 G Paragraph 12(1) of Part 2 of Schedule 1A to the *Act* enables the *FSA* to make *rules* requiring any *authorised persons* or class of *authorised persons* to pay to the *FSA* specified amounts or amounts calculated in a specified way in order to meet a proportion of:

(1) the expenses incurred by the *FSA* in establishing the *CFEB*; and

(2) the expenses incurred, or expected to be incurred, by the *CFEB* in connection with the discharge of the functions described in *FEES* 7.1.3G.

7.1.5 G *FEES* 7 sets out the *rules* referred to in FEES 7.1.4G.

7.1.6 G The *FSA* must have regard to other anticipated sources of funding of the costs described in *FEES* 7.1.4G when setting the *CFEB levy*.

7.1.7 G The amounts to be paid under the *CFEB levy* may include a component to cover the *FSA's* expenses in collecting the payments.

7.1.8 G The *FSA* must pay to the *CFEB* the amounts that it receives under the *CFEB levy* apart from amounts in respect of its collection costs (which it may keep).

7.1.9 G Paragraph 7(1) of Part 1 of Schedule 1A to the *Act* requires the *CFE*B to adopt an annual budget which has been approved by the *FSA*.

7.1.10 G This chapter sets out the method by which the *CFEB levy* will be calculated. Details of the actual levy payable will vary from year to year, depending on the *CFEB's* annual budget. These details are set out in *FEES* 7 Annex 1R. New details will be prepared and consulted on for each financial year.

7.2 The CFEB levy

Obligation to pay CFEB levy

7.2.1 R A *firm* must pay each *CFEB levy* applicable to it:

(1) in full and without deduction (unless permitted or required by a provision in *FEES*); and

(2) in accordance with the provisions of *FEES* 4.3.6R.

Calculation of CFEB levy

7.2.2 R The *CFEB levy* is calculated as follows:

(1) identify each of the activity groups set out in Part 1 of *FEES* 7 Annex 1R that will apply to the business of the *firm* for the relevant period;

(2) for this purpose, the activity groups are defined in accordance with Part 1 of *FEES* 4 Annex 1R;

(3) for each of those activity groups, calculate the amount payable in the way set out in *FEES* 7.2.3R;

(4) add the amounts calculated under (3);

(5) work out whether a minimum fee is payable under Part 2 of *FEES* 7 Annex 1R 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);

(6) add together the amounts calculated under (4) and (5);

(7) modify the result as indicated by the table in *FEES* 4.2.6R;

(8) apply any applicable payment charge specified in *FEES* 4.2.4R to the amount in (7), 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;

(9) make the calculations using information obtained in accordance with *FEES* 4.4.

7.2.3 R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:

(1) calculate the size of the *firm's* tariff base for that activity group using the tariff base calculations in Part 2 of *FEES* 4 Annex 1R and the valuation date requirements in Part 3 of *FEES* 4 Annex 1R;

(2) use the figure in (1) to calculate which of the bands set out in column 2 of the table in Part 1 of *FEES* 7 Annex 1R the *firm* falls into;

(3) add together the fixed sums, as set out in column 3 of the table in Part 1 of *FEES* 7 Annex 1R, applicable to each band identified under (2);

(4) the amount in (3) is the amount payable by the *firm* with respect to that activity group;

(5) however, where a single flat amount is identified in column 3 of the table in Part 1 of *FEES* 7 Annex 1R, that sum is the amount payable by the *firm* with respect to that activity group.

7.2.4 R For the purposes of *FEES* 7.2.3R:

(1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:

(a) it has reasonable grounds for believing that the costs of identifying the *firm's UK* business separately from its non-*UK* business in the way described in Part 2 of *FEES* 4 Annex 1R are disproportionate to the difference in fees payable; and

(b) it notifies the *FSA* in writing at the same time as it provides the information concerned under *FEES* 4.4 (Information on which fees are calculated), or, if earlier, at the time it pays the fees concerned;

(2) for a *firm* which has not complied with *FEES* 4.4.2R (Information on which fees are calculated) for this period, the *CFEB levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

7.2.5 R For an *incoming EEA firm* or an *incoming Treaty firm*, the calculation required by *FEES* 7.2.3R is modified to the extent that the *CFEB levies* set out in Part 1 of *FEES* 7 Annex 1R are applied only to the *regulated activities* of the *firm* which are carried on in the *United Kingdom.*

Amount payable by the Society of Lloyd's

7.2.6 R The *CFEB levy* in relation to the *Society* is specified against its activity group in Part 1 of *FEES* 7 Annex 1R.

FEES 4 rules incorporated into FEES 7 by cross-reference

7.2.7 G The *Handbook* provisions relating to the *CFEB levy* are meant to follow closely the provisions relating to the payment of periodic fees under *FEES* 4.3.1R. In the interests of brevity, not all of these provisions are set out again in *FEES* 7. In some cases, certain *FEES* 4 rules are applied to the payment of the *CFEB levy* by individual *rules* in *FEES* 7. The rest are set out in the table in *FEES* 7.2.9R.

7.2.8 R The *rules* set out in the table in *FEES* 7.2.9R apply to the *CFEB levy* in the same way as they apply to periodic fees payable under *FEES* 4.3.1R.

7.2.9 R Table of rules in FEES 4 that also apply to FEES 7

***FEES* 4 rules incorporated into *FEES* 7**	**Description**
FEES 4.2.4R	Method of payment
FEES 4.2.6R	Modifications for persons becoming subject to periodic fees during the course of a financial year
FEES 4.2.7R	Calculation of periodic fee for *persons* becoming subject to periodic fees during the course of a financial year
FEES 4.2.7BR	Calculation of periodic fee and tariff base for a *firm's* second financial year
FEES 4.2.8R	How *FEES* 4.2.7R applies in relation to an *incoming EEA firm* or an *incoming Treaty firm*
FEES 4.2.10R	Extension of time
FEES 4.2.11R (first entry only)	Due date and changes in *permission* for periodic fees
FEES 4.3.7 R	Groups of *firms*
FEES 4.3.12R	Modifications for *incoming EEA firms* and *incoming Treaty firms*
FEES 4.3.13R	*Firms* applying to cancel or vary permission before start of period
FEES 4.3.15R	*Firms* acquiring businesses from other *firms*
FEES 4.4.1R to 4.4.6R	Information on which fees are calculated
Part 3 of *FEES* 4 Annex 2R	Tariff modifications applicable to *incoming EEA firms* and *incoming Treaty firms* which have established branches in the *UK*

7.2.10 G References in a *FEES* 4 rule incorporated into *FEES* 7 by cross-reference to a periodic fee should be read as being to the *CFEB levy*. References in a *FEES* 4 *rule* incorporated into *FEES* 7 to *fee-paying payment service providers*, *market operators*, *service companies*, *MTF* operators, *investment* exchanges, *clearing houses*, *designated professional bodies* or Solvency 2 Implementation fees, Solvency 2 Implementation Flat fees, Solvency 2 Special Project fees and Solvency 2 Special Project Flat fees should be disregarded.

7.2.11 G In some cases, a *FEES* 4 *rule* incorporated into *FEES* 7 in the manner set out in *FEES* 7.2.7G will refer to another *rule* in *FEES* 4 that has not been individually incorporated into *FEES* 7. Such a reference should be read as

being to the corresponding provision in *FEES* 7. The main examples are set out in *FEES* 7.2.12G.

7.2.12 G Table of additional rules in FEES 4 that also apply to FEES 7

Additional *FEES* 4 rules applicable to *FEES* 7	**Corresponding *FEES* 7 rules**
FEES 4.2.1R	*FEES* 7.2.1R
FEES 4.3.1R	*FEES* 7.2.2R
FEES 4.3.3R	*FEES* 7.2.2R
Part 1 of *FEES* 4 Annex 2R	Part 1 of *FEES* 7 Annex 1R

7 Annex 1 R CFEB levies for the period from 1 July 2010 to 1 July 2011

Part 1

This table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group	*CFEB levy* payable	
A.1	Band Width (£ million of Modified Eligible Liabilities (MELs))	Fixed sum
	> 10 - 140	3.76
	> 140 - 630	3.76
	>630 - 1,580	3.76
	>1,580 - 13,400	3.76
	>13,400	3.76
	Note 1 For a *firm* in A.1 which has a limitation on its *permission* to the effect that it may *accept deposits* from *wholesale depositors* only, this levy is calculated as above less 30%.	

A.2	Band Width (no. of mortgages and/or *home finance transactions*)	Fixed sum
	>50 - 130	0.10
	>130 - 320	0.10
	>320 - 4,570	0.10
	>4, 570 - 37,500	0.10
	>37,500	0.10
A.3	**Gross premium income (GPI)**	
	Band Width (£ million of GPI)	Fixed sum
	>0.5 - 10.5	44.67
	>10.5 - 30	44.67
	>30 - 245	44.67
	>245 - 1, 900	44.67
	>1,900	44.67
	PLUS	
	Gross technical liabilities (GTL)	
	Band Width (£ million of GTL)	Fixed sum
	>1 - 12.5	2.25
	>12.5 - 70	2.25
	>70 - 384	2.25
	>384 - 3,750	2.25
	>3,750	2.25
A.4	**Adjusted annual gross premium income (AGPI)**	

	Band Width (£ million of AGPI)	Fixed sum
	>1 - 5	43.23
	>5 - 40	43.23
	>40 - 260	43.23
	>260 - 4,000	43.23
	>4,000	43.23
	PLUS	
	Mathematical reserves (MR)	
	Band Width (£ million of MR)	Fixed sum
	>1 - 20	1.32
	>20 - 270	1.32
	>270 - 7,000	1.32
	>7,000 - 45,000	1.32
	>45,000	1.32
A.5	Band Width (£ million of Active Capacity (AC))	Fixed sum
	>50 - 150	6.10
	>150 - 250	6.10
	>250 - 500	6.10
	>500 - 1,000	6.10
	>1,000	6.10
A.6	Flat levy	120,590
A.7	For class 1(C), (2) and (3) *firms*:	
	Band Width (£ million of Funds under	Fixed sum

	Management (FuM))	
	>10 - 150	0.73
	>150 - 2,800	0.73
	>2,800 - 17,500	0.73
	>17,500 - 100,000	0.73
	>100,000	0.73
	For class 1(B) *firms*: the fee calculated as for class 1(C) *firms* above, less 15%.	
	For class 1(A) *firms*: the fee calculated as for class 1(C) *firms* above, less 50%.	
A.9	Band Width (£ million of Gross Income (GI))	Fixed sum
	>1 - 4.5	81.63
	>4.5 - 17	81.63
	>17 - 145	81.63
	> 145 - 750	81.63
	>750	81.63
A.10	Band Width (no. of traders)	Fixed sum
	2 - 3	247.24
	4 - 5	247.24
	6 - 30	247.24
	31 - 180	247.24
	>180	247.24
A.12	Band Width (no. of persons)	Fixed sum
	2 - 5	31.57
	6 - 35	31.57
	36 - 175	31.57

	176 - 1,600	31.57
	>1,600	31.57
	For a *professional firm* in A.12 the fee is calculated as above less 10%.	
A.13	For class (2) firms	
	Band Width (no. of persons)	Fixed sum
	2 - 4 3	101.32
	4 - 30	101.32
	31 - 300	101.32
	301 - 2,000	101.32
	>2,000	101.32
	For a *professional firm* in A.13 the fee is calculated as above less 10%.	
A.14	Band Width (no. of persons)	Fixed sum
	2 - 4	111.29
	5 - 25	111.29
	26 - 80	111.29
	81 - 199	111.29
	>199	111.29
A.18	Band Width (£ thousands of Annual Income (AI))	Fixed sum
	>100 - 180	0.85
	>180 - 1,000	0.85
	>1,000 - 12,500	0.85
	>12,500 - 50,000	0.85
	>50,000	0.85

A.19	Band Width (£ thousands of Annual Income (AI))	Fixed sum
	>100 - 325	0.19
	>325 - 10,000	0.19
	>10,000 - 50,750	0.19
	>50,750 - 250,000	0.19
	>250,000	0.19

Part 2	
(1)	This Part sets out the minimum *CFEB levy* applicable to the *firms* specified in (3) below.
(2)	The minimum *CFEB levy* payable by any *firm* referred to in (3) is £10.
(3)	A *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.

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