

FEES (MISCELLANEOUS AMENDMENTS) (NO 8) INSTRUMENT 2015

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137T (General supplementary powers);
 - (2) section 139A (Power of the FCA to give guidance);
 - (3) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (4) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body).
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2015.

Amendments to the FCA Handbook

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

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 8) Instrument 2015.

By order of the Board of the Financial Conduct Authority
24 March 2015

Annex

Amendments to the Fees manual (FEES)

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

1 Fees Manual

1.1 Application and Purpose

...

Application

1.1.2 R This manual applies in the following way:

...

(2) *FEES* 1, 2 and 4 apply to:

...

- (m) every *AIFM* applying to become a *small registered UK AIFM* and every *small registered UK AIFM*; ~~and~~
- (n) every *AIFM* notifying the *FCA* under regulation 57, 58 and 59 of the *AIFMD UK regulation* and every *AIFM* which has made such a notification; and
- (o) each of the following that makes *transactions reports* directly to the *FCA* under *SUP 17* (Transaction reporting):
 - (i) a *firm*;
 - (ii) a third party acting on a *firm's* behalf;
 - (iii) an *approved reporting mechanism*;
 - (iv) an operator of a *regulated market*; and
 - (v) an operator of an *MTF*.

...

3 Application, Notification and Vetting Fees

...

3.2.7 R Table of application, notification, vetting and other fees payable to the FCA

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable	(3) Due date
<p>(a) Any applicant for <i>Part 4A permission</i> (including an <i>incoming firm</i> applying for <i>top-up permission</i>) whose fee is not payable pursuant to sub-paragraph (ga) of this table.</p>	<p>(1) Unless (2) applies, in respect of a particular application, the highest of the tariffs set out in <i>FEES 3 Annex 1R part 1</i> which apply to that application.</p> <p>(2) In respect of a particular application which is:</p> <p>(i) a straightforward or moderately complex case for the purposes of <i>FEES 3 Annex 1R part 1</i>, and</p> <p>(ii) only involves a simple change of legal status as set out in <i>FEES 3 Annex 1R part 6</i>,</p> <p>the fee payable is 50% of the tariff that would otherwise be payable in <i>FEES 3 Annex 1R</i></p> <p><u>When both (A) and (B) apply, 50% of the tariff payable under (1):</u></p> <p><u>(A) the application only involves a simple change of legal status as set out in <i>FEES 3 Annex 1R part 6</i>; and</u></p> <p><u>(B) the application is:</u></p> <p><u>(i) a straightforward case under paragraph 2(d) or 3(g) of <i>FEES 3 Annex 1R</i>;</u></p> <p><u>(ii) a moderately complex case under paragraph 2(e) or 3(h) of</u></p>	<p>On or before the application is made</p>

	<u>FEES 3 Annex 1R; or</u> <u>(iii) a limited permission case under paragraph 3(i) of FEES 3 Annex 1R.</u>	
...		
<p>(u) Any of the following:</p> <p>(i) an operator of an approved reporting mechanism;</p> <p>(ii) a firm;</p> <p>(iii) a third party acting on behalf of a firm;</p> <p>(iv) a market operator;</p> <p>(v) an MTF operator;</p> <p>that satisfies the following conditions:</p> <p>(1) it provides transaction reports directly to the FCA;</p> <p>(2) having made changes to its reporting systems, it asks the FCA to support the testing of the compatibility of its systems with the FCA's systems.</p> <p>[deleted]</p>	<p>As set out FEES 3 Annex 7.</p>	<p>Within 30 days of the date of the invoice.</p>
...		

...

FEES 3 Annex 7R is deleted in its entirety. The deleted text is not shown.

...

4 Periodic fees

...

4.2 Obligation to pay periodic fees

...

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

4.2.6 R (1) ~~Unless (2) applies, for~~ For the *fee year* during which the event described in column (4) of the table in *FEES* 4.2.11R and/or *FEES* 4.2.11AR, giving rise to, or giving rise to an increase in, the fee payable in *FEES* 4.2.1R occurs, the periodic fee required under *FEES* 4.2.1R is modified for:

...

(2) ~~For recognised bodies, if the recognition order is made during the course of the relevant fee year the periodic fee required is set out in Column (4) of the table in FEES 4.2.11R. [deleted]~~

...

4.2.11 R Table of periodic fees payable to the *FCA*

1 Fee payer	2 Fee payable	3 Due date	4 Events occurring during the period leading to the modified periodic fee
...
<i>A small registered UK AIFM</i>
<u>Each of the following that makes transaction reports directly to the FCA under SUP 17 (Transaction reporting):</u>	<u>FEES 4 Annex 3AR</u>	<u>Within 30 days of the date of the invoice</u>	<u>The FCA enters into arrangements with the fee payer under which it can make transaction reports directly to the FCA</u>

<p><u>(1) a firm;</u></p> <p><u>(2) a third party acting on a firm's behalf;</u></p> <p><u>(3) an approved reporting mechanism;</u></p> <p><u>(4) an operator of a regulated market; and</u></p> <p><u>(5) an operator of an MTF.</u></p>			
---	--	--	--

...

4 Annex R FCA Activity groups, tariff bases and valuation dates
1A

...

<p>Part 3</p> <p>This table indicates the tariff base for each fee-block set out in Part 1.</p> <p>The tariff base in this Part is the means by which the <i>FCA</i> measures the amount of business conducted by a <i>firm</i> for the purposes of calculating the annual periodic fees payable to the <i>FCA</i> by that <i>firm</i>.</p>	
Activity group	Tariff base
...	...
A.7	<p>...</p> <p><u>(4) its permission includes managing an AIF or managing a UCITS (a class 4 firm)</u></p>
...	
A.9	<p>GROSS INCOME</p> <p>(1)</p> <p>For AIFMs (excluding internally managed AIFs), management companies, operators (including ACDs and authorised fund managers of unit trusts or authorised contractual schemes but excluding operators of a personal</p>

	<p><i>pension scheme or a stakeholder pension scheme) and residual CIS operators</i></p> <p>gross income from the activity relating to fee-block A.9 is defined as:</p> <p>the amount of the annual charge on investments in the <i>fund</i> received or receivable in the latest accounting period (this is calculated as a % of the funds invested, typically 1% p.a.);</p> <p>PLUS</p> <p><u>(a) the front-end or exit charge levied on sales or redemptions of <i>collective investment schemes</i> (typically 4-5% of sales/redemptions) in that same accounting period; and</u></p> <p><u>(b) any amount the <i>firm</i> would have levied as such a charge but for a business decision to waive, discount or rebate etc. that charge;</u></p> <p>...</p>
...	

...

4 Annex R FCA Fee rates and EEA/Treaty firm modifications for the period 1 April 2014 to 31 March 2015
2A

Part 1		
This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 <i>FEES</i> 4 Annex 1AR		
...		
Activity group	Fee payable	
...		
A7	For class 1(c), (2) and (3) , <u>(3) and (4) firms</u>	...
...		

...

After FEES 4 Annex 2BR insert the following new Annex 3AR. The text is not underlined.

4 Annex R Fees relating to the direct reporting of transactions to the FCA under
3A SUP 17

This table shows the fees payable by a <i>firm</i> , a third party acting on behalf of a <i>firm</i> , an <i>approved reporting mechanism</i> , an operator of a <i>regulated market</i> or an operator of an <i>MTF</i> that makes <i>transaction reports</i> directly to the <i>FCA</i> under <i>SUP 17</i> (Transaction reporting).	
Fee	Fee amount (£)
Technical support fee	[tbc]
Testing environment fee	[tbc]
Variable transaction-based fee	[tbc] per 100,000 <i>transaction reports</i> or part 100,000 <i>transaction reports</i> processed during the calendar year ending 31 December before the <i>fee year</i> to which the fee relates

...

Amend the following as shown.

4 Annex 11AR Definition of annual income for the purposes of calculating fees in fee blocks A.13, A.14, A.18, A.19 and B. Service Companies

Annual income definition
<p>General definition for all fee-blocks</p> <p>“Annual income” for a particular fee block (the “relevant fee block”) is the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the <i>firm’s</i> accounts during the reporting year in respect of, or in relation to, the provision in the <i>UK</i> of the <i>regulated activities</i> specified in <i>FEES 4 Annex 1AR Part 1</i>, as belonging to the relevant fee block.</p> <p>The figure should be reported for the relevant fee block without netting off the operating costs or business expenses, but including:</p> <p>...</p> <p>(c) the “fair value” of any goods or services the <i>firm</i> provided to <i>clients</i>. This is the <i>commission equivalent</i> or an estimate of the amount the <i>firm</i> would otherwise have received for any <i>regulated activity</i> under (a) above, but for which it has made a business decision to waive or discount its charges.</p> <p><u>Where the firm’s regulated activities are carried on by an appointed representative of the firm</u></p> <p>The <i>firm’s</i> annual income must include income received by an <i>appointed</i></p>

representative carrying a regulated activity in a relevant fee block on behalf of the firm.

The appointed representative's annual income must be calculated in the same way as the firm's. However, to avoid double counting, the appointed representative's annual income must not include any income also recognised in the firm's accounts, including income recognised as a result of a commission sharing arrangement with the appointed representative.

...

4 Annex R Definition of annual income for the purposes of calculating fees in fee blocks CC1 and CC2 11B

Annual income definition for *credit related regulated activities*

“Annual income” is the gross inflow of economic benefits (i.e. cash, receivables, and other assets) recognised in the *firm's* accounts during the reporting year in respect of, or in relation to, the provision in the *UK* of the *regulated activities* specified in *FEES 4 Annex 1AR Part 1* as belonging to fee-blocks CC1 or CC2 as applicable.

The figure should be reported without netting off the operating costs or business expenses, but including:

...

(d) for *credit broking* where a *firm* effects an introduction between a *lender* and a *borrower* with a view to the *borrower* entering into a *regulated credit agreement* to finance the purchase of goods and/or services by the *borrower* from the *firm*, the difference between the amount of credit the *lender* provides to the *borrower* and the amount A accepts from the *lender*.

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

The firm's annual income must include income received by an appointed representative carrying a regulated activity in a relevant fee block on behalf of the firm.

The appointed representative's annual income must be calculated in the same way as the firm's. However, to avoid double counting, the appointed representative's annual income must not include any income also recognised in the firm's accounts, including income recognised as a result of a commission sharing arrangement with the appointed representative.

Guidance on the interpretation of this definition is presented in Table 2 of *FEES 4 Annex 13G*.

...

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

Table 1		
The following table sets out the <i>guidance</i> on how a <i>firm</i> should calculate tariffs for fee blocks A.13, A.14, A.18, A.19 and B. Service Companies		
...		
Inclusions		
(7)	Annual income should include	
	...	
	(c)	earnings from those who will become its <i>appointment representatives</i> immediately after authorisation; <u>(i) amounts earned by a <i>firm's appointed representative</i> when carrying on a <i>regulated activity</i> for the <i>firm</i> to which <i>FEES 4 Annex 11AR</i> applies; and</u> <u>(ii) amounts earned by a <i>person</i> who will become the <i>firm's appointed representative</i> immediately after <i>authorisation</i>;</u>
	...	
...		

Table 2		
The following table sets out <i>guidance</i> on how a <i>firm</i> should calculate tariffs for fee blocks CC.1 and CC.2		
...		
Inclusions		
(7)	Annual income should include:	
	...	
	(d)	earnings from those who will become its <i>appointment representatives</i> immediately after authorisation <u>(i) amounts earned by the <i>firm's appointed representatives</i> when carrying on a <i>regulated activity</i> for the <i>firm</i> to which</u>

		<u>FEES 4 Annex 11BR applies; and</u>
		<u>(ii) amounts earned by a <i>person</i> who will become the <i>firm's appointed representative</i> immediately after <i>authorisation</i>;</u> and
	...	
...		

5 Financial Ombudsman Service Funding

...

5.8 Joining the Financial Ombudsman Service

...

Application of FEES 5.8.2R

- 5.8.3 G The table below sets out the period within which a *firm's* tariff base is calculated (the data period) for second year levies calculated under FEES 5.8.2R. The example is based on a *firm* that acquires *permission* on 1 November ~~2009~~ 2014 and has a financial year ending 31 March. Where valuation dates fall before the *firm* receives *permission* it should use projected valuations in calculating its levies.

References in this table to dates or months are references to the latest one occurring before the start of the *FCA's* financial year unless otherwise stated.

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 5.8.2R	Data period under FEES 5.2.8R
Insurers - general	Relevant annual gross premium income <u>and gross technical liabilities</u>	31 March 2009 <u>2014</u> - so projected valuations will be used	1 November to 31 December 2009 <u>2014</u>
Fund managers (including those holding <i>client money/assets</i> and not holding <i>client money/assets</i>)

<p><u>Portfolio managers (including those holding <i>client money</i>/ assets and not holding <i>client money</i>/ assets)</u></p>			
<p><u>Advisory Advisers, arrangers, dealers or brokers holding and controlling <i>client money</i> and/or assets</u></p>	<p>Number of relevant <i>persons</i> approved to perform the <i>customer function</i> with certain exclusions</p> <p><u>Annual income as defined in FEES 4 Annex 11AR</u></p>	<p>Relevant <i>approved persons</i> as at 31 December</p> <p><u>31 December.</u></p> <p><u>This is because the <i>firm's</i> tariff base is calculated by reference to the <i>firm's</i> financial year end in the calendar year before the start of the <i>FCA fee year</i>. Therefore <u>FEES 5.8.2R(3)(c) applies.</u></u></p>	<p>Relevant <i>approved persons</i> as at 31 December</p> <p><u>1 November to 31 December but annualised in accordance with FEES 5.8.2R(3)(c)(iii)</u></p>

...

7 CFEB levies

...

7 Annex R CFEB levies for the period from 1 April 2014 to 31 March 2015
1

This table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group	<i>CFEB levy</i> payable
...	

CC.1	Minimum fee	£10
	<u>Band width (£ thousand of annual income (AI))</u>	<u>Fee (£/£ thousand or part thousand of AI)</u>
	<u>> 250</u>	[...]
...		

...

Appendix 1 **Unauthorised Mutuals Registration Fees Rules**

App 1.1 **Introduction**

...

- App 1.1.2 G (1) The purpose of these rules is to set out the requirements for *registered societies* and *sponsoring bodies* to pay periodic and application fees which, together, will provide the funding for the *FCA's* functions in respect of the registrant-only fee block (Category F).
- (2) This set of rules is in respect of the registration functions relating to registered societies transferred to the *FCA* by ~~Part XXI (Mutual Societies) of the Financial Services and Markets Act 2000 ('the Act')~~ by section 50 of the Financial Services Act 2012, other than friendly societies authorised under section 31 of the *Act*.

...