

Chapter 6

Financial Services Compensation Scheme Funding

6.1 Application

6.1.1 **R** This chapter applies to:

- (1) every *participant firm*;
- (2) the *FSCS*; and
- (3) the *Society*.

6.1.2 **G** (1) Firms which are not *participant firms* (such as certain types of service companies, ICVCs and, for the purposes of **FEES 6**, *pre-IP completion day incoming EEA firms*) are not required to contribute towards the funding of the compensation scheme.

(2) The fees levied in relation to the carrying on of *insurance market activities* by *members* will be imposed on the *Society* rather than individually on each *member* (see **FEES 6.3.24 R**).

Purpose

6.1.3 **G** The purpose of this chapter is to set out the requirements on *participant firms* to pay levies imposed by the *FSCS* to provide funding for its functions under *COMP*. The *PRA Rulebook* deals with funding for the *FSCS*'s functions for depositor protection and policyholder protection.

General structure

6.1.4 **G** Section 213(3)(b) of the *Act* requires the *appropriate regulator* to make *rules* to enable the *FSCS* to impose levies on *authorised persons*, and on *recognised investment exchanges* that are *operating a multilateral trading facility* or *operating an organised trading facility*, in order to meet its expenses. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

6.1.4A **G** Section 224F of the *Act* enables the *appropriate regulator* to make *rules* to enable the *FSCS* to impose levies on *authorised persons* (or any class of *authorised persons*) in order to meet its management expenses incurred if, under Part 15A of the *Act*, it is required by HM Treasury to act in relation to *relevant schemes*. But those *rules* must provide that the *FSCS* can impose a levy only if the *FSCS* has tried its best to obtain reimbursement of those expenses from the *manager of the relevant scheme*.

6.1.5 **G** The *FSCS* may impose three types of levy: a *management expenses levy* (consisting of a *base costs levy* and a *specific costs levy*), a *compensation costs levy* and a *MERS levy*. The *FSCS* has discretion as to the amount and timing of the levies imposed.

6.1.6 **G** In calculating a *compensation costs levy*, the *FSCS* may include up to the greater of one third of the *compensation costs* expected in the 36-month period following the 1 April of the *financial year* of the *compensation scheme* in relation to which the levy is imposed, or the *compensation costs* expected in the 12 *months* following that date.

6.1.6A **G** The total amount of all *management expenses levies* attributable to a *financial year* and levied by the *FSCS* under this chapter or under the *PRA Rulebook* will be restricted to the amount set out on an annual basis in ■ FEES 6 Annex 1 R.

6.1.7A **G** In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into seven *classes*: the General Insurance Distribution Claims *class*; the Investment Intermediation Claims *class*; the Investment Provision Claims *class*; the Home Finance Intermediation Claims *class*; the Debt Management Claims *class*; the *deposit acceptors' contribution class*; and the Funeral Plans Claims *class*. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

6.1.8 **G** The provisions on the allocation of levies to *classes* meet a requirement of section 213(5) of the *Act* that the *FCA*, in making rules to enable the *FSCS* to impose levies, must take account of the desirability of ensuring that the amount of the levies imposed on a particular class of *authorised person* reflects, so far as practicable, the amount of claims made, or likely to be made, in respect of that class of person.

The management expenses levy

6.1.9 **G** Section 223 of the *Act* (Management expenses) prevents the *FSCS* from recovering, through a levy, any *management expenses* attributable to a particular period in excess of the limit set in *COMP* as applicable to that period. 'Management expenses' are defined in section 223(3) to mean expenses incurred or expected to be incurred by the *FSCS* in connection with its functions under the *Act*, except:

- (1) expenses incurred in paying compensation;
- (2) expenses incurred as a result of the *FSCS* making the arrangements to secure continuity of insurance to make payments to or in respect of policyholders or to safeguard policyholders, under *PRA rules* made under sections 216(3) or (4), 217(1) or 217(6) of the *Act*;
- (2A) expenses incurred as a result of the *FSCS* making the arrangements to secure continuity of *funeral plan contracts* or to make payments under *FCA rules* made under sections 215A(3) or (4) of the *Act*;

- (3) expenses incurred under section 214B or section 214D of the *Act* as a result of the *FSCS* being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009; and
- (4) expenses incurred under Part XVA of the *Act* as a result of the *FSCS* being required by HM Treasury to act in relation to a *relevant scheme*.

6.1.10 G *A management expenses levy* may consist of two elements. The first is a *base costs levy*, for 50% of the base costs of running the *compensation scheme* in a *financial year*, that is, costs which are not dependent upon the level of activity of the *compensation scheme* and which therefore are not attributable to any specific *class*. The *PRA* allocates the other 50% of the base costs under its rules. Included in base costs are items such as the salary of the members of the board of the *FSCS*, the costs of the premises which the *FSCS* occupies, and its audit fees. It would also likely include the cost of any insurance cover secured by *FSCS* against the risk of it paying claims out in circumstances where the *levy limit* of the particular *class* to which the claim would otherwise be attributable has exceeded its *levy limit* for the year, as the insurance cover is likely to benefit all *classes* which may have costs allocated to them if the *levy limit* of another *class* is breached. The amount that each *participant firm* pays towards a *base costs levy* is calculated by reference to the *regulatory costs* paid by the *firm*. All *participant firms* are liable to contribute towards a *base costs levy*.

6.1.11A G The second element of a *management expenses levy* is a *specific costs levy* for the "specific costs" of running the *compensation scheme* in a *financial year*. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which gives rise to those costs up to the relevant *levy limits*. *Specific costs* attributable to certain *classes*, which exceed the *class levy limits*, may be allocated to the *retail pool*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the *financial year* of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* imposed on a *class* is calculated by reference to the amount of business conducted by the *firm* in that *class*, or *categories* within that *class*. Each *class* or *category* has a "tariff base" for this purpose, set out in ■ FEES 6 Annex 3AR. *Participant firms* may be exempt from contributing to the *specific costs levy*.

6.1.12 G [deleted]

6.1.13 G The limit on the *management expenses* attributable to the forthcoming *financial year* of the *compensation scheme* will be consulted on in January each year.

The compensation costs levy

6.1.14 **G** In imposing a *compensation costs levy* in each *financial year* of the *compensation scheme* the *FSCS* will take into account the *compensation costs* which the *compensation scheme* has incurred and has not yet raised through levies, any recoveries it has made using the rights that have been assigned to it or to which it is subrogated and a further amount calculated taking into account:

- (1) [deleted]
- (2) [deleted]
- (3) the *compensation costs* it expects to incur in the *financial year* of the *compensation scheme* in relation to which the levy is imposed; or, if greater
- (4) one third of the *compensation costs* it expects to incur in the 36 *months* following 1 April of the *financial year* of the *compensation scheme* in relation to which the levy is imposed (see ■ FEES 6.3.1R (Imposing management expenses and compensation costs levies)).

6.1.15 **G** *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred:

- (1) [deleted]
- (2) [deleted]
- (3) [deleted]
- (4) as a result of the *FSCS* being required by HM Treasury to make payments in connection with the exercise of the stabilisation power under Part 1 of the Banking Act 2009;
- (5) in paying interest, principal and other costs from borrowing to allow the *FSCS* to pay claims attributable to a particular *class*; or
- (6) in connection with making arrangements to secure continuity of *funeral plan contracts*;

are also treated as *compensation costs*. *Compensation costs* are attributed to the *class* which gives rise to the costs up to relevant *levy limits*. *Classes* (other than the *deposit acceptors' contribution class*) may be funded, for *compensation costs levies* beyond the *class levy limit*, by the *retail pool*.

Participant firms that are members of more than one class

6.1.16 **G** If a *participant firm* is a member of more than one *class*, the total *compensation costs levy* and *specific costs levy* for that *firm* in a particular year will be the aggregate of the individual levies calculated for the *firm* in respect of each of the *classes* for that year. Each *class* has a *levy limit* which is the maximum amount of *compensation costs* and *specific costs* which may be allocated to a particular *class* in a *financial year* for the purposes of a levy.

The retail pool
.....

6.1.16A **G** The *FCA* has made *rules* providing that *compensation costs* and *specific costs* attributable to the *classes* (other than the *deposit acceptors' contribution class*), and which exceed the *class levy limits*, may be allocated to the *retail pool*. Levies allocated to the *retail pool* are then allocated amongst the other such *classes*, together with the *deposit acceptors' contribution class*. The *deposit acceptors' contribution class* may contribute to *compensation costs levies* or *specific costs levies* funded by the *retail pool*, but may not itself receive any such funding.

6.1.17 **G** [deleted]