

Chapter 6

Financial Services Compensation Scheme Funding

6.5 Compensation costs

6.5.1 **R** [deleted]

Allocation

6.5.2-A **R** The *FSCS* must allocate any *compensation costs levy*:

- (1) first, to the relevant *classes* (other than the *deposit acceptors' contribution class*) in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*; and
- (1A) next, amongst the *categories* (if any) within each *class*:
 - (a) in proportion to the *categories' unused levy limits* as at the date of the levy;
 - (b) up to those *levy limits*, subject to the conditions in ■ FEES 6.5.2-AAR; and
- (2) thereafter, where the *levy limit* for a *class* has been reached (whether as a result of *compensation costs* or *specific costs* or both), to the *retail pool*, in accordance with, and subject to, ■ FEES 6.5A and subject to the conditions in ■ FEES 6.5.2-AA.

Cap and clawback caused by other levies on insurers, investment providers and deposit takers

6.5.2-AA **R** (1) This *rule* applies in relation to a relevant *category* or *class* in the table below.

Relevant category or class	Relevant unused levy limit	Corresponding funding class
Category 1.2 (General insurance provision)	Levy limit of the corresponding funding class in the <i>PRA Rulebook</i> , minus any levy imposed:	Corresponding funding class in the <i>PRA Rulebook</i>
Category 2.2 (Life insurance provision)	(a) on that class by the <i>FSCS</i> under the <i>PRA's rules</i> ; and	
Category 2.4 (Structured deposits provision)	(b) on the relevant <i>category</i> or <i>class</i> by the <i>FSCS</i> under the <i>FCA's rules</i> ;	
<i>Deposit acceptors' contribution class</i>		

Relevant category or class	Relevant unused levy limit	Corresponding funding class
Category 2.3 (Investment provision)	in the same <i>financial year</i> Levy limit for class 3 (Investment Provision Claims) minus any <i>compensation costs levies</i> or <i>specific costs levies</i> imposed by the <i>FSCS</i> in the same <i>financial year</i>	Class 3 (Investment Provision Claims)

- (2) An allocation under step (1A) or (2) of ■ FEES 6.5.2-AR to a relevant *category* or *class* must be capped as necessary so as not at that time to exceed the relevant unused levy limit in the table in (1), with any outstanding amount reallocated starting with that step.
- (3) If a relevant unused levy limit in the table in (1) is exceeded by a subsequent levy imposed on the corresponding funding class by the *FSCS* (under the *PRA's* or *FCA's* rules) in the same *financial year*, the *FSCS* must recover any previous contributions by the relevant *category* or *class* in the way set out in (4), but only to the extent necessary to correct that relevant unused levy limit excess.
- (4) If (3) applies, then the *FSCS* must, as far as reasonably possible:
 - (a) in the case of a previous contribution by a relevant *category* under ■ FEES 6.5.2-AR(1A):
 - (i) impose a levy on the other *categories* in the *class* to which the relevant *category* belongs and thereafter to the other *firms* in the *retail pool*, applying ■ FEES 6.5.2-AR(1A) and (2); and
 - (ii) credit the recovered amount to the relevant *category*.
 - (b) in the case of a previous contribution by a relevant *category* or *class* to the *retail pool* under ■ FEES 6.5.2-AR(2):
 - (i) impose a levy on the other *firms* in the *retail pool* in accordance with, and subject to, ■ FEES 6.5A; and
 - (ii) credit the recovered amount to the relevant *category* or *class*.
- (5) The *FSCS* may, before imposing a levy under (4), raise funds to correct the unused levy limit excess by commercial or other borrowing, or by utilising funds as set out in, and subject to, ■ FEES 6.3.17R.

6.5.2-AB G

- (1) This is an example of the effect of levies under the *PRA's* rules on levies on *category* 1.2 (General insurance provision), as a result of ■ FEES 6.5.2-AAR.
- (2) The *FSCS* allocates a *compensation costs levy* and *specific costs levy* totalling £205 million to *class* 1 (General Insurance Distribution Claims) under ■ FEES 6.5.2-AR (see ■ FEES 6.4.6AR). For the purposes of this example, this is the first levy imposed by the *FSCS* in that *financial year*. As a result of ■ FEES 6.5.2-AR(1A), £155 million is allocated to *category* 1.1 and £50 million to *category* 1.2.

- (3) The *FSCS* next imposes a levy under the *PRA's* rules on the funding class (general insurers) that corresponds to *category 1.2*. That levy is equal to the levy limit for that funding class (general insurers) in the *PRA Rulebook*.
- (4) As a result of ■ FEES 6.5.2-AAR(3) and (4), the *FSCS* must raise £50 million by imposing a levy on *category 1.1* and credit those funds by way of repayment to *category 1.2*.
- (5) The *FSCS* then allocates a further *compensation costs levy* and *specific costs levy* totalling £50 million to *class 1* under ■ FEES 6.5.2-AR. As a result of ■ FEES 6.5.2-AAR(2), the *FSCS* must allocate the whole amount of that further levy to *category 1.1*.
- (6) Subsequently but in the same *financial year*, the *FSCS* incurs further *compensation costs* and *specific costs* attributable to *class 1* and totalling £75 million. However, if £75 million were allocated to *class 1*, it would cause *category 1.1* to exceed its *levy limit* of £310 million when combined with the £255 million that *category 1.1* has already paid in that *financial year*. Accordingly, the *FSCS* imposes a further *compensation costs levy* and *specific costs levy* totalling £75 million and allocates it as follows:
 - (a) £55 million to *category 1.1*, bringing the total levies paid by that *category* in the *financial year* to its *levy limit*;
 - (b) £0 to *category 1.2*; and
 - (c) £20 million to the *retail pool* in accordance with ■ FEES 6.5.2-AR(2).

6.5.2A G The use made by *FSCS* of borrowing facilities to provide liquidity until the next levy does not affect the attribution of *compensation costs*, nor the allocation of *compensation cost levies*; the allocation of a *compensation costs levy* occurs at the time that the *FSCS* imposes a levy.

6.5.2B G [deleted]

6.5.2C G [deleted]

6.5.3 R If a *participant firm* which is *in default* has carried on a *regulated activity* other than in accordance with a *permission*, the *FSCS* must treat any *compensation costs* or *specific costs* arising out of that activity as if the relevant *permission* were held by the *participant firm*.

6.5.4 R If the relevant *person* in default is an *appointed representative*, the *FSCS* must treat any *compensation costs* or *specific costs* arising out of a *regulated activity* for which his *principal* has not accepted responsibility to as if the *principal* had accepted responsibility.

Participant firm's share of a levy

6.5.5 R (1) A *participant firm* must pay to the *FSCS* a share of each *compensation costs levy* allocated to the *classes* and *categories* of which it is a member unless either the *firm* is exempt under ■ FEES 6.2 (Exemption)

or the *FSCS* has chosen to exercise its discretion under ■ FEES 6.3.23 R in respect of that *firm*.

(2) [deleted]

6.5.6A **R** The *FSCS* must calculate each *participant firm's* share of a *compensation costs levy* (subject to ■ FEES 6.3.22 R (Adjustments to calculation of levy shares)) by:

- (1) identifying each of the relevant *classes* and *categories* to which each *participant firm* belongs, using the statement of business most recently supplied under ■ FEES 6.5.13 R (1);
- (2) identifying the *compensation costs* falling within ■ FEES 6.3.1R allocated, in accordance with ■ FEES 6.5.2-AR, to the *classes* and *categories* identified in (1);
- (3) calculating, in relation to each relevant *class* and *category*, the *participant firm's* tariff base (see ■ FEES 6 Annex 3AR) as a proportion of the total tariff base of all *participant firms* in the *class* or *category* as the case may be;
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* or *category* is relevant, adding together the figure in (4) for each *class* or *category*.

6.5.6B **G** (1) This is an example of the calculation under ■ FEES 6.5.6AR of a *participant firm's* share of a *compensation costs levy* and a *specific costs levy*.

- (2) A *compensation costs levy* and *specific costs levy* totalling £100,000 is allocated to *class 1* (the General Insurance Distribution Claims *class*) under ■ FEES 6.5.2-AR (see ■ FEES 6.4.6AR). That levy of £100,000 is allocated to the *categories* within that *class* under ■ FEES 6.5.2-AR(1A), with the result that £75,610 is allocated to *category 1.1* and £24,390 is allocated to *category 1.2*.
- (3) The reports under ■ FEES 6.5.13R and under the *PRA's* compensation rules show that there are 10 *participant firms* in *category 1.1*, each doing the same amount of business in that *category*; and five *participant firms* each doing the same amount of business in *category 1.2*. Two of the *participant firms* are in both *categories*.
- (4) In this example, as a result of ■ FEES 6.5.6AR, each *participant firm* in *category 1.1* pays a levy of £7,561 and each *participant firm* in *category 1.2* pays a levy of £4,878. The two *participant firms* that are in both *categories* will accordingly each pay a levy in respect of *class 1* totalling £12,439.

Allocation

6.5.6C **R** When identifying the relevant *classes* to which a *TP firm* belongs, the *FSCS* must identify the activity (or activities) in ■ FEES 6 Annex 3AR that most closely matches that for which the *TP firm* is treated as having *Part 4A permission*.

Classes and tariff bases for compensation cost levies and specific costs levies

6.5.8 **G** Guidance on parts of ■ FEES 6 Annex 3AR can be found in ■ FEES 6 Annex 4 G.

New participant firms

6.5.9 **R** A *firm* or a *recognised investment exchange* which becomes a *participant firm* part way through a *financial year* of the *compensation scheme* will not be liable to pay a share of a *compensation costs levy* or *specific costs levy* made in that year.

[**Note:** since a *firm* that becomes a *participant firm* in the course of a *financial year* of the *compensation scheme* will already be obtaining a discount in relation to the *base costs levy* through the modified fee provisions of ■ FEES 4.2.7ER, no *rule* is necessary in ■ FEES 6 for discounts on the *base costs levy*.]

Compensation costs levy for newly authorised firms

6.5.9A **R** [deleted]

6.5.9B **G** [deleted]

6.5.9C **R**

- (1) This *rule* deals with the calculation of:
 - (a) a *participant firm's compensation costs levy* in the *financial year* of the *compensation scheme* following the *financial year* of the *compensation scheme* in which it became a *participant firm*; or
 - (b) a *participant firm's compensation costs levy* in the *financial year* of the *compensation scheme* in which it had its *permission* extended, and the following *financial year* of the *compensation scheme*; and

the tariff base for the *classes* that relate to the relevant *permissions* or extensions, as the case may be.
- (2) Unless this *rule* says otherwise, the tariff base is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (3) The rest of this *rule* only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009.
 - (a) If a *participant firm's* tariff base is calculated using data from a period that begins on or after it became a *participant firm* or on or after the date that the *participant firm* receives its extension of *permission*, as the case may be, the *participant firm* must use that data.
 - (b) If a *participant firm* satisfies the following conditions it must calculate its tariff base under (c) for the *financial year* following the *financial year* of the *compensation scheme* in which it became a *participant firm* or receives its extension of *permission*:
 - (i) it became a *participant firm* or receives its extension of *permission*, as the case may be, between 1 April and 31 December inclusive; and

- (ii) its tariff base, but for this *rule*, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the *financial year* of the *compensation scheme*.
- (c) If a *participant firm* satisfies the conditions in (b) it must calculate its tariff base as follows:
 - (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
 - (ii) the tariff is calculated by reference to the period beginning on the date it became a *participant firm* or had its *permission* extended, and ending on the 31 December before the start of the *financial year* of the *compensation scheme*; and
 - (iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *participant firm* became a *participant firm*, or had its *permission* extended, to the 31 December, as the case may be.
- (d) Where a *participant firm* is required to use the method in (c) it must notify the FSCS of its intention to do so by the date specified in ■ FEES 6.5.13R (Reporting requirements).
- (e) Where a *participant firm* is required to use actual data under this *rule*, ■ FEES 6 Annex 3AR is disapplied, to the extent it is incompatible, in relation to the calculation of that *participant firm's* valuation date in its second financial year.

[Note: ■ FEES 6.5.9CR was previously in ■ FEES 6.4.10AR.]

Application of FEES 6.5.9CR

6.5.9D

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The table below sets out the period within which a *participant firm's* tariff base is calculated (“the data period”) for second year levies calculated under ■ FEES 6.5.9CR. The example is based on a *participant firm* that extends its *permission* on 1 November 2009 and has a financial year ending 31 March.

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

Type of permission acquired on 1 November	Tariff base	Valuation date but for FEES 6.5.9CR	Data period under FEES 6.5.9CR
<i>Dealing in investments as agent</i> in relation to General Insurance Distribution	<i>Annual eligible income</i>	Financial year ended 31 March 2009 – so projected valuations will be used.	1 November to 31 December 2009

[Note: ■ FEES 6.5.9DG was previously in ■ FEES 6.4.10BG.]

Membership of several classes

6.5.10

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[deleted]

6.5.11

R

[deleted]

6.5.12 **G** A *participant firm* may belong to more than one *class*.

Reporting requirements

6.5.13 **R**

- (1) Unless exempt under **■ FEES 6.2.1A R**, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the *financial year*, by the date requested by the *FCA*) with a statement of:
 - (a) *classes* and *categories* to which it belongs; and
 - (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by **■ FEES 6 Annex 3AR** (Financial Services Compensation Scheme - classes)) ending before the relevant year in relation to each of those *classes* and *categories*.
- (2) In this *rule* the relevant year means the year in which the month of February referred to in (1) falls.
- (3) Where the *FCA* grants a *person's* application for annulment of a cancellation or variation of *Part 4A permission* under Schedule 6A to the *Act* and on the date the annulment takes effect the time for providing the statement in (1) has passed, then the requirement to have provided the statement does not apply, but a *person* must comply with (1) and (2), by providing the statement to the *FCA* on the date on which the *person's* annulment takes effect.
- (4) [deleted]

6.5.13A **G** For example, when the tariff base for a particular *class* is based on a *firm's annual eligible income* the valuation period for that *class* is the *firm's* last financial year ending in the year to 31 December preceding the *financial year* of the *compensation scheme* for which the calculation is being made.

6.5.14 **R** If the information in **■ FEES 6.5.13 R** has been provided to the *FCA* under other *rule* obligations, or in accordance with the *PRA Rulebook*, a *participant firm* will be deemed to have complied with **■ FEES 6.5.13 R**.

6.5.14A **G** The *FSCS* may use information provided in accordance with the *PRA Rulebook* or the *FCA's rules* even where that information is provided other than by the end of February each year.

6.5.14B **R** The *FSCS* may use information provided in accordance with the *PRA Rulebook* or the *FCA's rules* that relates to a previous period, if that information has not yet been provided in respect of the *financial year* of the *compensation scheme* in which a levy is being imposed, applying **■ FEES 6.5.16R(2)**.

6.5.16 **R** If a *participant firm* does not submit a complete statement by the date on which it is due in accordance with **■ FEES 6.5.13 R** and any prescribed submission procedures:

- (1) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee under ■ FEES 4 Annex 2A R, Part 1 or ■ FEES 5.4.1 R for the same *financial year*); and
- (2) the *compensation costs levy* and any *specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if it has become a *participant firm* part way through a *financial year*, on the basis of the information provided to the FCA for the purposes of ■ FEES 4.4.2 R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

6.5.17

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