

FEES (PAYMENT SERVICES) INSTRUMENT 2009

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the powers and related provisions in or under:
- (1) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):
 - (a) regulation 82 (Reporting requirements);
 - (b) regulation 92 (Costs of supervision); and
 - (c) regulation 93 (Guidance); and
 - (2) the following provisions of the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 156 (General supplementary powers); and
 - (b) paragraph 17(1) (Fees) of Schedule 1 (The Financial Services Authority).
- 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 May 2009.

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 (Payment Services) Instrument 2009.

By order of the Board
23 April 2009

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text.

Insert the following new definition in the appropriate alphabetical position.

<u>fee-paying payment service provider</u>	<u>a payment institution, a full credit institution or an e-money issuer. A full credit institution or an e-money issuer that is an EEA firm is only a fee-paying payment service provider if it is exercising an EEA right in accordance with Part 2 of Schedule 3 to the Act (exercise of passport rights) to provide payment services in the United Kingdom.</u>
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Amend the following definition as shown.

<i>firm</i>	<p>...</p> <p>(4) ...</p> <p>(5) <u>(in FEES 3) includes a fee-paying payment service provider in accordance with FEES 3.1.1AR.</u></p> <p>...</p>
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Annex B

Amendments to the Fees manual (FEES)

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

Application

1.1.2 R This manual applies in the following way:

(1) *FEES* 1, 2 and 3 apply to:

...

(o) every *firm* applying for or being concerned in an application for permission to use an *advanced prudential calculation approach* or *guidance* on the availability of such a permission (including any future proposed amendments to those approaches); ~~and~~

(p) every *firm* or *person* referred to in category (u) of Column 1 of *FEES* 3.2.7R; ~~;~~

(q) every applicant applying for authorisation as an *authorised payment institution* or registration as a *small payment institution* under the *Payment Services Regulations*; and

(r) every applicant for variation of its authorisation or registration under the *Payment Services Regulations*.

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Purpose

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2.1.5 G Paragraph 17 of Schedule 1 and section 99 to 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 are set out in *FEES* 6.1 and *FEES* 5.2 respectively.

2.1.5A G Regulation 92 of the *Payment Services Regulations* provides that the functions of the *FSA* under the regulations are treated for the purposes of paragraph 17 of Schedule 1 to the *Act* as functions conferred on the *FSA* under the *Act*. Paragraphs 17(2) and (3) however, have not been included by the *Payment Services Regulations*. These are, respectively, the *FSA* obligation to ensure that the amount of penalties received or expected to be received are not to be taken into account in determining the amount of any fee payable and the provision that allows fees to be raised to repay borrowed monies in respect of expenses incurred, before or after the coming

into force of the Act or the Bank of England Act 1998.

...

- 2.1.11 G Whilst paragraph 17(2) of Schedule 1 to the Act has not been applied to the fee-raising power of the FSA under the Payment Services Regulations, regulation 92(2) of these regulations requires the FSA to apply amounts paid to it by way of penalties imposed under the regulations towards expenses incurred in carrying out its functions under the regulations, or for any incidental purpose.

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Recovery of Fees

- 2.2.3 G Paragraph 17(4) 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 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 *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).

...

- 3.1.1 R ...

- 3.1.1A R A reference to “firm” in this chapter includes a reference to a fee-paying payment service provider but not one which is a small e-money issuer.

...

- 3.1.6 G ...

- 3.1.6A G Application fees for authorisation or registration under the Payment Services Regulations are set out in FEES 3 Annex 8R. The fee depends on the type of payment services a firm wishes to provide and whether it will be a small payment institution or an authorised payment institution. The fee may also depend on the number of agents it has.

...

- 3.2.5 G (1) The appropriate authorisation or registration fee is an integral part of an application for, or an application for a variation of, a Part IV permission or authorisation, registration or variation under the Payment Services Regulations. Any application received by the *FSA* without the accompanying appropriate fee, in full and without deduction (see *FEES* 3.2.1R), will not be treated as an application made, incomplete or otherwise, in accordance with section 51(3)(a), or section 44, of the Act or regulation 5(3) or 12(3) of the Payment Services Regulations. Where this is the case, the *FSA* will contact

the applicant to point out that the application cannot be progressed until the appropriate fee has been received. In the event that the appropriate authorisation fee, in full and without deduction, is not forthcoming, the application will be returned to the applicant and no application will have been made.

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3.2.7 R Table of application, notification and vetting fees

(1) Fee payer	(2) fee payable	Due date
...		
<u>(y) An applicant for authorisation as an authorised payment institution under regulation 5 of the Payment Services Regulations</u>	<u>The highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</u> <u>Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1R Part 6, the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 8R</u>	<u>On or before the date the application is made.</u>
<u>(z) An application by a small payment institution for authorisation as an authorised payment institution because regulation 15 of the Payment Services Regulations applies</u>	<u>The highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</u>	<u>On or before the date the application is made.</u>
<u>(za) An applicant for registration as a small payment institution under regulation 12 of the Payment Services Regulations</u>	<u>FEES 3 Annex 8R, paragraph (1).</u> <u>Where an application only involves a simple change of legal status as set out in FEES 3 Annex 1R Part 6, the fee payable is 50% of the tariff that would otherwise be payable in FEES 3 Annex 8R.</u>	<u>On or before the date the application is made.</u>

<p><u>(zb) An authorised payment institution applying to vary its authorisation under regulation 8 of the Payment Services Regulations.</u></p>	<p><u>(1) If the payment services carried on by the authorised payment institution prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the Payment Services Regulations and any of the payment services in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</u></p> <p><u>(2) Where the authorised payment institution:</u></p> <p><u>(i) already has authorisation to provide payment services within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the Payment Services Regulations and wishes to add one or more other services in (a) to (g); or</u></p> <p><u>(ii) has authorisation to provide payment services in either paragraph (f) or (g) of Part 1 of Schedule 1 to the Payment Services Regulations and wishes to extend its authorisation to include the other paragraph ((f) or (g));</u> <u>the fee payable is £250 irrespective of the number of agents it has.</u></p> <p><u>(3) In cases where the variation involves only the reduction (and no increases) of the types of payment services to be carried on after the variation, no fee is payable.</u></p>	<p><u>On or before the date the application is made.</u></p>
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<p><u>(zc) A small payment institution applying to vary its registration under regulation 12 of the Payment Services Regulations</u></p>	<p><u>(1) If the payment services carried on by the small payment institution prior to the variation only fall within paragraph (f) or (g) of Part 1 of Schedule 1 to the Payment Services Regulations and any of the payment services in paragraphs (a) to (e) of that Schedule will apply after variation, the fee is 50% of the highest of the tariffs set out in FEES 3 Annex 8R which apply to that application.</u></p> <p><u>(2) Where the small payment institution:</u></p> <p><u>(i) is already registered to provide payment services within any one or more of paragraphs (a) to (e) of Part 1 of Schedule 1 to the Payment Services Regulations and wishes to add one or more other of the services in (a) to (g); or</u></p> <p><u>(ii) is registered to provide payment services in either paragraph (f) or (g) of Part 1 of Schedule 1 to the Payment Services Regulations and wishes to extend its registration to include the other paragraph ((f) or (g));</u></p> <p><u>the fee payable is £250 irrespective of the number of agents it has.</u></p> <p><u>(3) In cases where the variation involves only the reduction (and no increases) of the types of payment services to be carried on after the variation, no fee is payable.</u></p>	<p><u>On or before the date the application is made.</u></p>
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<p><u>(zd) A financial institution notifying the FSA in accordance with regulation 121(2)(a) of the <i>Payment Services Regulations</i>.</u></p>	<p><u>50% of the highest of the tariffs set out in FEES 3 Annex 8R, paragraphs (2) to (5) which apply to that application.</u></p>	<p><u>On or before the date the application is made.</u></p>
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3 Annex 1R Authorisation fees payable

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Part 6 - Change of legal status

<p>An application involving only a simple change of legal status for the purposes of FEES 3.2.7R(a), <u>FEES 3.2.7R(y)</u> and <u>FEES 3.2.7R(za)</u> is from an applicant:</p>	
<p>(1) which is a new legal entity intending to carry on the business, using the same business plan, of an existing <i>firm</i> with no outstanding regulatory obligations cancelling its <i>Part IV permission, authorisation or registration under the <u>Payment Services Regulations</u></i>, and</p>	
<p>(2) which is to:</p>	
	<p>(a) have the same or narrower <u>permission, scope of authorisation or registration under the <i>Payment Services Regulations</i></u>, and the same <i>branches</i> (if any), as the <i>firm</i>;</p>
	<p>(b) assume all of the rights and obligations in connection with the <i>regulated activities</i> and <u>payment services</u> carried on by the <i>firm</i>;</p>
	<p>...</p>

...

3 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

Authorisation and registration fees payable

<u>Application type for authorisation or registration under Part 2 of the <i>Payment Services Regulations</i></u>	<u>Amount payable</u>
<u>(1) <i>small payment institution</i></u>	<u>£500</u>
<u>(2) <i>authorised payment institution</i> - where the applicant is applying for authorisation to provide <i>payment services</i> in paragraph(s) (f) (money remittance) and/or (g) (consent given by electronic device) of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i></u>	<u>£1,500</u>
<u>(3) <i>authorised payment institution</i> - where the applicant is applying for authorisation to provide <i>payment services</i> in any one or more of paragraph(s):</u> <u>(a) (cash placed on payment account);</u> <u>(b) (cash withdrawals enabled);</u> <u>(c) (execution of direct debts, etc);</u> <u>(d) (execution of direct debits, etc where credit line available);</u> <u>(e) (issuing payments and transactions)</u> <u>of Part 1 of Schedule 1 to the <i>Payment Services Regulations</i>.</u>	<u>£5,000</u>
<u>(4) <i>authorised payment institution</i> - where the applicant has or intends to have between 2,500 and 5,000 <i>agents</i></u>	<u>£12,500</u>
<u>(5) <i>authorised payment institution</i> - where the applicant has or intends to have more than 5,000 <i>agents</i></u>	<u>£25,000</u>