

## Chapter 2

# General Provisions

2.1 Introduction

Application

2.1.1 **R** Except to the extent referred to in **FEES 2.1.1A R**, this chapter applies to every *person* who is required to pay a fee or share of a levy to the *FCA* , *FOS Ltd* or *FSCS*, as the case may be, by a provision of the *Handbook*.

2.1.1A **R** This chapter does not apply in relation to:

- (1) **FEES 5.5A**; or
- (2) **FEES 5 Annex 2R**; or
- (3) **FEES 5 Annex 3R**; or
- (4) a *PSR fee*; or
- (5) [deleted]
- (6) [deleted]
- (7) the *FOS ADR levy*.

2.1.2 **R** **FEES 2.2.1R** does not apply in respect of any fee payable under **FEES 3** (Application, notification and vetting fees).

2.1.3 **G** The provisions for late payments in **FEES 2.2.1R** do not apply to fees payable under **FEES 3** as applications, notifications and requests for vetting are generally regarded as incomplete until the relevant fee is paid.

Purpose

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 *FCA* or a share of the *FSCS* levy.

2.1.5 **G**

- (1) The following enable the *FCA* to charge fees to cover its costs and expenses in carrying out its functions:
  - (a) paragraph 23 of Schedule 1ZA of the *Act*;
  - (b) regulation 92 of the *Payment Services Regulations*;

		<ul style="list-style-type: none"> <li>(c) regulation 59 of the <i>Electronic Money Regulations</i>;</li> <li>(d) article 25(a) of the <i>MCD Order</i>;</li> <li>(e) regulation 21 of the <i>Small and Medium Sized Businesses (Credit Information) Regulations</i>.</li> <li>(f) regulation 18 of the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i>;</li> <li>(g) regulation 40 of the <i>DRS Regulations</i>; and</li> <li>(h) paragraph 25 of the Schedule 1 to the <i>MiFI Regulations</i>.</li> </ul> <p>(2) The corresponding provisions for the <i>FSCS</i> levy, <i>FOS</i> levies, and <i>CFEB</i> levies are set out in ■ FEES 6.1, ■ FEES 5.2 and ■ FEES 7.1.4G respectively.</p> <p>(3) Case fees payable to the <i>FOS Ltd</i> are set out in ■ FEES 5.5B.</p> <p>(4) <i>Fee-paying payment service providers, fee-paying electronic money issuers, CBTL firms, designated finance platforms and designated credit reference agencies</i> are not required to pay the <i>FSCS</i> levy but are liable for <i>FOS</i> levies.</p>
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2.1.5A	G	Regulation 92 of the <i>Payment Services Regulations</i> and regulation 59 of the <i>Electronic Money Regulations</i> each provide that the functions of the <i>FCA</i> under the respective regulations are treated for the purposes of paragraph 23 of Schedule 1ZA to the <i>Act</i> as functions conferred on the <i>FCA</i> under the <i>Act</i> . Paragraph 23(7) however, has not been included. This is the <i>FCA</i> 's 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.
2.1	G	Article 25 of the <i>MCD Order</i> provides that the functions under the <i>MCD Order</i> are to be treated for the purposes of paragraph 23 of Schedule 1ZA to the <i>Act</i> as functions conferred on the <i>FCA</i> under the <i>Act</i> .
2.1.5C	G	<p>(1) The <i>FCA</i> also has a fee-raising power as a result of:</p> <ul style="list-style-type: none"> <li>(a) regulation 21 of the <i>Small and Medium Sized Business (Credit Information) Regulations</i>;</li> <li>(b) regulation 18 of the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i>;</li> <li>(c) regulation 40 of the <i>DRS Regulations</i>; and</li> <li>(d) paragraph 25 of the Schedule 1 to the <i>MiFI Regulations</i>.</li> </ul> <p>(2) The <i>FCA</i>'s functions under these regulations are treated as functions conferred on the <i>FCA</i> under the <i>Act</i> for the purposes of its fee-raising power in paragraph 23 of Schedule 1ZA to the <i>Act</i> or as if they had similar effect for these purposes.</p>

- 2.1.6** G The *FCA's* fees payable will vary from one *fee year* to another, and will reflect the *FCA's* funding requirement for that period and the other key components, as described in ■ **FEES 2.1.7G**. Periodic fees, which will normally be payable on an annual basis, will provide the majority of the funding required to enable the *FCA* to undertake its statutory functions.
- 2.1.7** G The key components of the *FCA* fee mechanism (excluding the *FSCS* levy, the *FOS* levy and case fees which are dealt with in ■ **FEES 5** and ■ **FEES 6**) are:
- (1) a funding requirement derived from:
    - (a) the *FCA's* financial management and reporting framework;
    - (b) the *FCA's* budget; and
    - (c) adjustments for audited variances between budgeted and actual expenditure in the previous accounting year, and reserves movements (in accordance with the *FCA's* reserves policy);
  - (2) mechanisms for applying penalties received during previous financial years for the benefit of fee payers;
  - (3) fee-blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the *FCA's* regulatory objectives;
  - (4) a costing system to allocate an appropriate part of the funding requirement to each fee-block; and
  - (5) tariff bases, which, when combined with fee tariffs, allow the calculation of fees.
- 2.1.8** G The amount payable by each fee payer will depend upon the category (or categories) of regulated activity or exemption, or other relevant activity applicable to that *person* (fee-blocks). It will, in most cases, also depend on the amount of the business that *person* conducts in each category (fee tariffs).
- 2.1.9** G By basing fee-blocks on categories of business, the *FCA* aims to minimise cross-sector subsidies. The membership of the fee-blocks is identified in the *FEES* provisions relating to the type of fees concerned.
- 2.1.9A** G *PRA-authorised persons* and *persons* seeking to become *PRA-authorised persons* should note that the *FCA* and the *PRA* have agreed for the *FCA* to act as the *PRA's* collection agent for *PRA* fees. Where applicable, both *PRA* and *FCA* fees should be paid as a single payment to the *FCA*, which will receive the payment in its own capacity in respect of *FCA* fees and in its

capacity as collection agent for the *PRA* in respect of the *PRA* fees.  
References to this arrangement will be referred to in *FEES* where applicable.

2.1.10 G [deleted]

2.1.11 G [deleted]

2.2 Late Payments and Recovery of Unpaid Fees

Late Payments

2.2.1 **R** If a *person* does not pay the total amount of a periodic fee, *FOS* levy, or share of the *FSCS* levy, *CFEB* levy or *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy before the end of the date on which it is due, under the relevant provision in ■ FEES 4, 4A, 5, 6, 7, 7A, 7C or 7D 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 Official Bank 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 *FCA*, (for *FCA* and *PRA* periodic fees, *FOS* and *FSCS* levies, *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy), expects to issue invoices at least 30 days before the date on which the relevant amounts fall due. 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**

- (1) Paragraph 23(8) of Schedule 1ZA of the *Act* permits the *FCA* to recover fees (including fees relating to *payment services*, the issuance of *electronic money*, *CBTL firms*, *data reporting services providers*, *designated credit reference agencies*, *designated finance platforms* and, where relevant, *FOS* levies, *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy).
- (2) Section 213(6) of the *Act* permits the *FSCS* to recover shares of the *FSCS* levy payable, as a debt owed to the *FCA* and *FSCS* respectively.
- (3) The *FCA* and *FSCS*, as relevant, will consider taking action for recovery (including interest) through the civil courts.

2.2.4 **G** In addition, the *FCA* may be entitled to take regulatory action in relation to the non-payment of fees, *FOS* levies, *SFGB* levies, *TPR SFGB* levies and a *TPR DA* levy. The *FCA* may also take regulatory action in relation to the non-payment of a share of the *FSCS* levy, after reference of the matter to the *FCA* by the *FSCS*. What action (if any) that is taken by the *FCA* will be decided upon in the light of the particular circumstances of the case.



2.3 Relieving Provisions

Remission of Fees and levies

- 2.3.1

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If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy, *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy would be inequitable, the *FCA* or the *FSCS* 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

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If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which ■ FEES 2.3.1R does not apply, the retention by the *FCA*, the *FSCS*, or the *CFEB*, as relevant, of a fee, *FSCS* levy, *FOS* levy, *CFEB* levy, *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy which has been paid would be inequitable, the *FCA*, the *FSCS* or the *CFEB*, may (unless FEES 2.3.2BR applies) refund all or part of that fee or levy., *FSCS* levy
- 2.3.2A

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A poor estimate or forecast by a fee or levy payer, when providing information relevant to an applicable tariff base, is unlikely, of itself, to amount to an exceptional circumstance for the purposes of ■ FEES 2.3.1 R or ■ FEES 2.3.2 R. By contrast, a mistake of fact or law by a fee or levy payer may give rise to such a claim.
- 2.3.2B

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The *FCA* or the *FSCS* may not consider a claim under ■ FEES 2.3.1 R and/or ■ FEES 2.3.2 R to reduce, remit or refund any overpaid amounts paid by a fee or levy payer in respect of a particular period, due to a mistake of fact or law by the fee or levy payer, if the claim is made by the fee or levy payer more than 2 years after the beginning of the period to which the overpayment relates.
- 2.3.2C

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For ■ FEES 7A, ■ FEES 7C and ■ FEES 7D, the *FCA* is entitled not to consider a claim under ■ FEES 2.3.1R or ■ FEES 2.3.2R to refund any overpaid amounts due to a mistake of fact or law by the fee-paying *firm* if the claim is made more than two years after the beginning of the period to which the *SFGB* levy, *TPR SFGB* levy or *TPR DA* levy subject to the claim relates.
- 2.3.3

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[deleted]

2.4 VAT

2.4.1 **R** All fees payable or any stated hourly rate under **FEES 3** (Application, notification and vetting fees), **FEES 4** (Periodic fees), **FEES 4A** (Periodic fees for *TP persons, supervised run-off firms* and *CRO firms*), **FEES 7** (The CFEB levy), **FEES 7A** (The *SFGB* levy), **FEES 7C** (SFGB levy for *TP persons* and *supervised run-off firms*) and **FEES 7D** (DA levy for *TP persons* and *supervised run-off firms*) are stated net of VAT. Where VAT is applicable this must also be included.