

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) the *pensions guidance levy*; or
- (6) the *pensions guidance providers' levy*; or
- (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*;

- (c) regulation 59 of the *Electronic Money Regulations*;
 - (d) article 25(a) of the *MCD Order*;
 - (e) regulation 21 of the *Small and Medium Sized Businesses (Credit Information) Regulations*.
 - (f) regulation 18 of the *Small and Medium Sized Business (Finance Platforms) Regulations*;
 - (g) regulation 40 of the *DRS Regulations*; and
 - (h) paragraph 25 of the Schedule 1 to the *MiFI Regulations*.
- (2) The corresponding provisions for the *FSCS* levy, *FOS* levies, and *CFEB* levies are set out in ■ FEES 6.1, ■ FEES 5.2 and ■ FEES 7.1.4G respectively.
- (3) Case fees payable to the *FOS Ltd* are set out in ■ FEES 5.5B.
- (4) *Fee-paying payment service providers, fee-paying electronic money issuers, CBTL firms, designated finance platforms and designated credit reference agencies* are not required to pay the *FSCS* levy but are liable for *FOS* levies.
- 2.1.5-A G
- 2.1.5A G Regulation 92 of the *Payment Services Regulations* and regulation 59 of the *Electronic Money Regulations* each provide that the functions of the *FCA* under the respective regulations are treated for the purposes of paragraph 23 of Schedule 1ZA to the *Act* as functions conferred on the *FCA* under the *Act*. Paragraph 23(7) however, has not been included. This is the *FCA*'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 *MCD Order* provides that the functions under the *MCD Order* are to be treated for the purposes of paragraph 23 of Schedule 1ZA to the *Act* as functions conferred on the *FCA* under the *Act*.
- 2.1.5C G
- (1) The *FCA* also has a fee-raising power as a result of:
 - (a) regulation 21 of the *Small and Medium Sized Business (Credit Information) Regulations*;
 - (b) regulation 18 of the *Small and Medium Sized Business (Finance Platforms) Regulations*;
 - (c) regulation 40 of the *DRS Regulations*; and
 - (d) paragraph 25 of the Schedule 1 to the *MiFI Regulations*.
 - (2) The *FCA*'s functions under these regulations are treated as functions conferred on the *FCA* under the *Act* for the purposes of its fee-raising power in paragraph 23 of Schedule 1ZA to the *Act* or as if they had similar effect for these purposes.

- 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, and the *CFEB* levy which are dealt with in ■ FEES 5, ■ FEES 6 and ■ FEES 7) 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, *SFGB* levy or *DA* levy, before the end of the date on which it is due, under the relevant provision in ■ FEES 4, ■ 5, ■ 6, ■ 7, ■ 7A or ■ 7B, 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, *CFEB* levies, *SFGB* levies and a *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, *CFEB* levies, *SFGB* levies, and a *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, *CFEB* levies, *SFGB* levies and a *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** **R** 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, *CFEB* levy, *SFGB* levy or *DA* levy would be inequitable, the *FCA* or the *FSCS* as relevant, may (unless **FEES 2.3.2B R** applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.
- 2.3.2** **R** 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 or *DA* levy which has been paid would be inequitable, the *FCA* the *FSCS* or the *CFEB*, may (unless **FEES 2.3.2B R** applies) refund all or part of that fee or levy.
- 2.3.2A** **G** 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** **R** 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** **R** For **FEES 7A** and **FEES 7B**, 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 or *DA* levy subject to the claim relates.
- 2.3.3** **G** [deleted]

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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 7 (The CFEB levy) and ■ FEES 7A (The SFGB levy), and ■ FEES 7B (The DA levy) are stated net of VAT. Where VAT is applicable this must also be included.