

**FEES (No. 2) INSTRUMENT 2001**

**Powers exercised**

- A. The Financial Services Authority makes the rules and gives the guidance in this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (the "Act"):
- Section 156 of the Act (General supplementary powers);
  - Section 157(1) of the Act (Guidance);
  - Paragraph 17(1) of Schedule 1 to the Act (Fees).
- B. The provisions of the Act relevant to making rules and listed above are specified for the purpose of section 153(2) of the Act (Rule-making instruments).

**Commencement**

- C. This instrument shall come into force as follows:
- (i) paragraph D comes into force on 1 January 2002; and
  - (ii) paragraph E comes into force immediately.

**Amendment of AUTH**

- D. AUTH is amended by deleting AUTH 4 (including AUTH 4 Ann 1R) and replacing it with the provisions in the Annex to this instrument.

**Amendment of SUP**

- E. SUP is amended as follows:
- (i) delete the number of 6.3.21G and move the text so that it becomes the final sentence of SUP 6.3.20G;
  - (ii) renumber SUP 6.3.22G as SUP 6.3.21G;
  - (iii) insert the following new rule after SUP 6.3.21G:

"6.3.22 R If a *firm* applies for a variation of its *Part IV permission*, it must pay the fee specified in Part 3 of *AUTH 4 Annex 1R* in either of the following cases:

- (1) if the variation is granted, the business of the *firm* will fall within one or more fee blocks specified in Part 5 of *AUTH 4 Annex 1R* not applicable before the grant of the variation; or
- (2) any other circumstances specified in Part 3 of *AUTH 4 Annex 1R* apply."

**Citation**

F. This instrument may be cited as the Fees (No. 2) Instrument 2001.

By order of the Board  
20 December 2001

# ANNEX

Authorisation

## Chapter 4

# Authorisation Fees

4

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## 4.1 Introduction

### Application

#### 4.1.1

**R**

03.09.01/001

This chapter applies to:

- (1) every applicant for *Part IV permission* (including an *incoming firm* applying for *top-up permission*);
- (2) every *Treaty firm* that wishes to exercise a *Treaty right* to qualify for *authorisation* under Schedule 4 to the *Act* (Treaty rights) in respect of *regulated activities* for which it does not have an *EEA right*; and
- (3) an applicant for a certificate under article 54 of the *Regulated Activities Order*.

#### 4.1.2

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03.09.01/001

This chapter does not apply to:

- (1) an *EEA firm* that wishes to exercise an *EEA right*; or
- (2) an *ICVC*; or
- (3) a *UCITS qualifier*.

### Purpose

#### 4.1.3

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03.09.01/001

The purpose of this chapter is to set out the requirements on applicants for *Part IV permission*, and *Treaty firms* qualifying for *authorisation* under Schedule 4 to the *Act* (Treaty rights), to pay fees.

### Background

#### 4.1.4

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03.09.01/001






*GEN 3* (FSA Fees – General Provisions) applies to fees required by this chapter.

#### 4.1.5

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03.09.01/001

Most of the detail of what fees are payable by applicants and *Treaty firms* is set out in ■ AUTH 4 Ann 1R, the provisions of which will vary from one financial year to another. Accordingly a fresh ■ AUTH 4 Ann 1R will come into force, following consultation, for each financial year.

- 4.1.6**  The rates set for authorisation fees represent an appropriate proportion of the costs of the FSA in processing the application or exercise of *Treaty rights*.  
03.09.01/001
- 4.1.7**  Applications (and exercises of *Treaty rights*) are categorised by the FSA for the purpose of fee raising as complex, moderately complex and straightforward as identified in AUTH 4 Ann 1R. This differentiation is based on the *permitted activities* sought and does not reflect the FSA's risk assessment of the applicant (or *Treaty firm*).
- 4.1.8**  A potential applicant (or *Treaty firm*) has the opportunity to discuss its proposed application (or exercise of *Treaty rights*) with the FSA before submitting it formally (see ■ AUTH 3.9.1G). If an applicant (or *Treaty firm*) does so, the FSA will be able to use that dialogue to make an initial assessment of the fee categorisation and therefore indicate the authorisation fee that should be paid.  
03.09.01/001
- 4.1.9**  See ■ AUTH 3.9 in relation to the procedures for making applications for *Part IV permission* and ■ AUTH 5 for procedures for the exercise of *Treaty rights* by *Treaty firms*.  
03.09.01/001
- 4.1.10**  Authorisation fees are not refundable.  
03.09.01/001

## 4.2 Obligation to Pay Authorisation Fees

### General

- 4.2.1** **R** 03.09.01/001 A person to whom this chapter applies must pay to the FSA an authorisation fee for each application made (or exercise of a *Treaty right*), as set out in ■ AUTH 4 Ann 1R.

### Amount

- 4.2.2** **R** 03.09.01/001 In respect of a particular application (or exercise) the authorisation fee referred to in ■ AUTH 4.2.1R is the highest of the tariffs set out in part 1 of ■ AUTH 4 Ann 1R which apply to that application (or exercise).
- 4.2.3** **G** 03.09.01/001 If an application (or exercise of a *Treaty right*) falls within more than one category, only one fee is payable. That fee is the one for the category to which the highest fee tariff applies.

### Due date and method of payment

- 4.2.4** **R** 03.09.01/001 The sum payable under ■ AUTH 4.2.2R must be paid:
- (1) by bankers draft, cheque or other payable order;
  - (2) in full without deduction; and
  - (3) on or before the date on which the application is made (or notice of exercise is given).
- 4.2.5** **G** 03.09.01/001 An application for a *Part IV permission* will not be complete until the appropriate fee is paid, and the six month period for consideration will not start until that time (see further ■ AUTH 3.9.30G).

### Modification for certain Treaty firms

- 4.2.6** **R** 03.09.01/001 If a certificate has been issued under paragraph 3(4) of schedule 4 to the *Act* in respect of an exercise of a *Treaty right*, no sum payable under ■ AUTH 4.2.2R.

4.2.7

**R**

03.09.01/001

If no certificate has been issued under paragraph 3(4) of schedule 4 to the *Act* in respect of an exercise of a *Treaty right*, the sum payable is as specified in Part 4 of ■ AUTH Ann 1R.

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## 4.3 Obligation to pay certification fees

### General

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- 4.3.1** **R** 15.11.01/001 An applicant for a certificate under article 54 of the *Regulated Activities Order* must pay to the FSA the application fee specified in Part 6 of ■ AUTH 4 Ann 1R.

### Due date and method of payment

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- 4.3.2** **R** 15.11.01/001 The application fee must be paid:
- (1) by bankers draft, cheque or other payable order;
  - (2) in full without deduction; and
  - (3) on or before the date on which the application is made.
- 4.3.3** **G** 15.11.01/001 An application for an article 54 certificate will be treated as incomplete until the application fee has been paid.

## Authorisation fees payable in relation to the period from 1st January 2002 to 31 March 2002

### Part 1 – Authorisation fees payable

#### 1 Table

Application type (see Part 2)	Amount payable
(a) Straightforward	£2,000
(b) Moderately complex	£5,000
(c) Complex	£25,000

### Part 2 – Complexity Groupings

#### 2 Table Straightforward Cases

Activity grouping	Description
A.3	Friendly societies only
A.4	Friendly societies only
A.12	Advisory arrangers, dealers or brokers (holding or controlling client money and/or assets)
A.13	Advisory arrangers, dealers or brokers (not holding or controlling client money and/or assets)
A.14	Corporate finance advisers
A.15	Advisory only firms

#### 3 Table Moderately Complex Cases

Activity grouping	Description
A.5	Managing agents at Lloyd's
A.7	Fund managers (holding or controlling client money and/or assets)
A.8	Fund managers (not holding or controlling client money and/or assets)
A.9	Operators, trustees and depositaries of collective investment schemes
A.10	Firms dealing as principal
A.11	Execution only arrangers, dealers or brokers

#### 4 Table Complex Cases

Activity grouping	Description
A.1	Deposit acceptors

A.3	Firms conducting insurance activities subject only to prudential regulation (excluding friendly societies)
A.4	Firms conducting insurance activities subject to both prudential and conduct of business regulation (excluding friendly societies)

### Part 3 – Variation of Permission Fees

- 5 The fee payable under SUP 6.3.22R is 50% of that payable under AUTH 4.2.2R.
- 6 There are no circumstances specified for the purposes of SUP 6.3.22R(2).

### Part 4 – Authorisation Fees for Treaty Firms

- 7 If the Treaty firm wishes to undertake the permitted activities in question through its branch in the United Kingdom, the fee is 50% of the fee that would be payable under.
- 8 If the Treaty firm wishes to undertake the permitted activities in question by providing services in the United Kingdom, the fee is 25% of the fee which would be payable under.

### Part 5 – Activity Groupings

- 9 The activity group definitions below reflect those published in CP111 in September 2001.

#### 10 Table

Activity grouping	Fee-payer falls in the activity group if:
A.1 Deposit acceptors	<p>Its <i>permission</i> includes <i>accepting deposits</i> BUT DOES NOT include one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance;</i></li> <li>• <i>carrying out contracts of insurance.</i></li> </ul>
A.3 Firms conducting insurance activities subject only to prudential regulation	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance;</i></li> <li>• <i>carrying out contracts of insurance;</i></li> </ul> <p>BUT ONLY in respect of specified investments that are:</p> <ul style="list-style-type: none"> <li>– <i>general insurance contracts;</i> or</li> <li>– <i>long-term insurance contracts other than life policies.</i></li> </ul>
A.4 Firms conducting insurance activities subject to both prudential and conduct of business regulation	<p>Its <i>permission</i> includes one or more of :</p> <ul style="list-style-type: none"> <li>• <i>effecting contracts of insurance;</i></li> <li>• <i>carrying out contracts of insurance;</i></li> </ul> <p>both in respect of <i>specified investments</i> including <i>life policies;</i></p> <ul style="list-style-type: none"> <li>• <i>entering as provider into a funeral plan contract.</i></li> </ul>
A.5 Managing agents at Lloyd's	Its <i>permission</i> includes <i>managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's.</i>
A.6 The Society of Lloyd's	It is the <i>Society of Lloyd's.</i>

A.7 Fund Managers (holding or controlling client money and/or assets)	<p>Its <i>permission</i> includes <i>managing investments</i>; AND one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of assets (without arranging)</i>;</li> <li>• <i>arranging safeguarding and administration of assets</i>;</li> <li>• the ability to hold and/or control <i>client money</i>: <ul style="list-style-type: none"> <li>– that is, there is no <i>requirement</i> which prohibits the <i>firm</i> from doing this;</li> <li>– and provided that the <i>client money</i> in question does not only arise from an agreement under which <i>commission</i> is rebated to a <i>client</i>.</li> </ul> </li> </ul>
A.8 Fund Managers (not holding or controlling client money and/or assets)	<p>Its <i>permission</i> includes <i>managing investments</i>; BUT NEITHER of the following:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of assets (without arranging)</i>;</li> <li>• <i>arranging safeguarding and administration of assets</i></li> </ul> <p>AND if it EITHER:</p> <ul style="list-style-type: none"> <li>• has a <i>requirement</i> that prohibits the <i>firm</i> from holding and/or controlling <i>client money</i>; OR</li> <li>• if it does not have such a <i>requirement</i>, only holds/controls <i>client money</i> arising from an agreement under which <i>commission</i> is rebated to a <i>client</i>.</li> </ul>
A.9 Operators, Trustees and Depositories of collective investment schemes	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>establishing, operating or winding up a regulated collective investment scheme</i>;</li> <li>• <i>establishing, operating or winding up an unregulated collective investment scheme</i>;</li> <li>• <i>acting as trustee of an authorised unit trust scheme</i>;</li> <li>• <i>acting as the depository or sole director of an open-ended investment company</i>;</li> </ul> <p>AND PROVIDED the <i>firm</i> is NOT one of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>corporate finance business</i>;</li> <li>• a <i>venture capital firm</i>.</li> </ul>
A.10 Firms dealing as principal	<p>Its <i>permission</i> includes <i>dealing in investments as principal</i>; BUT NOT if one or more of the following apply:</p> <ul style="list-style-type: none"> <li>• the above activity is carried on exclusively in respect of <i>life policies</i>;</li> <li>• the <i>firm</i> is acting exclusively as a matched principal broker;</li> <li>• the above activity is limited to acting as an <i>operator</i> of a <i>collective investment scheme</i>;</li> <li>• the <i>firm</i> is a <i>corporate finance advisory firm</i>;</li> <li>• the above activity is otherwise limited to carrying out <i>corporate finance business</i>.</li> </ul>

<p>A.11 Execution-only arrangers, dealers or brokers</p>	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>dealing in investments as agent;</i></li> <li>• <i>arranging (bringing about) deals in investments;</i></li> <li>• <i>making arrangements with a view to transactions in investments;</i></li> <li>• <i>dealing as principal in investments</i> where the activity is carried on exclusively in respect of <i>life policies</i> or where the <i>firm</i> acts as a matched principal broker;</li> </ul> <p>BUT NONE of the following:</p> <ul style="list-style-type: none"> <li>• <i>advising on investments (except pensions transfers and pension opt-outs);</i> or</li> <li>• <i>advising on pension transfers and pension opt-outs.</i></li> </ul> <p>AND PROVIDED the fee-payer is NOT any of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm;</i></li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business;</i></li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>venture capital business;</i></li> <li>• a <i>firm</i> whose activities are limited to acting as an <i>operator, depository or trustee</i> of a <i>collective investment scheme.</i></li> </ul>
<p>A.12 Advisory arrangers, dealers, or brokers (holding or controlling client money and/or assets)</p>	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>dealing in investments as agent;</i></li> <li>• <i>arranging (bringing about) deals in investments;</i></li> <li>• <i>making arrangements with a view to transactions in investments ;</i></li> <li>• <i>dealing as principal in investments</i> where the activity is carried on as a matched principal broker;</li> </ul> <p>AND AT LEAST one of the following:</p> <ul style="list-style-type: none"> <li>• <i>advising on investments (except pension transfers and pension opt-outs);</i></li> <li>• <i>advising on pension transfers and pension opt-outs;</i></li> <li>• <i>advising on syndicate participation at Lloyd's.</i></li> </ul> <p>AND CAN HAVE one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administering of assets;</i></li> <li>• <i>arranging safeguarding and administration of assets;</i></li> <li>• the ability to hold and/or control <i>client money</i>: <ul style="list-style-type: none"> <li>– that is, there is no <i>requirement</i> which prohibits the <i>firm</i> from doing this;</li> <li>– and provided that the <i>client money</i> in question does not only arise from an agreement under which <i>commission</i> is rebated to a <i>client</i>;</li> </ul> </li> </ul> <p>AND PROVIDED the fee-payer is NOT any of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm;</i></li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business;</i></li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>venture capital business;</i></li> <li>• a <i>firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>collective investment scheme;</i></li> <li>• a <i>firm</i> who otherwise meets the requirements to fall in the A.4 activity group.</li> </ul>

A.13 Advisory arrangers, dealers, or brokers (not holding or controlling client money and/or assets)	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>dealing in investments as agent;</i></li> <li>• <i>arranging (bringing about) deals in investments;</i></li> <li>• <i>making arrangements with a view to transactions in investments;</i></li> <li>• <i>dealing as principal in investments where the activity is carried on as a matched principal broker;</i></li> </ul> <p>AND AT LEAST one of the following:</p> <ul style="list-style-type: none"> <li>• <i>advising on investments (except pension transfers and pension opt-outs);</i></li> <li>• <i>advising on pension transfers and pension opt-outs;</i></li> <li>• <i>advising on syndicate participation at Lloyd's;</i></li> </ul> <p>BUT NEITHER of the following:</p> <ul style="list-style-type: none"> <li>• <i>safeguarding and administration of assets;</i></li> <li>• <i>arranging safeguarding and administration of assets;</i></li> </ul> <p>AND MUST EITHER</p> <ul style="list-style-type: none"> <li>• have a <i>requirement</i> that prohibits the <i>firm</i> from holding and/or controlling <i>client money</i>; OR</li> <li>• if it does not have such a <i>requirement</i>, only holds/controls <i>client money</i> arising from an agreement under which <i>commission</i> is rebated to a client;</li> </ul> <p>AND PROVIDED the fee-payer is NOT one of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm</i>;</li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>;</li> <li>• a <i>firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>collective investment scheme</i>;</li> <li>• a <i>firm</i> who otherwise meets the requirements to fall in the A.4 activity group.</li> </ul>
A.14 Corporate finance advisers	The <i>firm</i> is carrying on <i>corporate finance business</i> .
A.15 Advisory only firms	<p>Its <i>permission</i> includes one or more of the following:</p> <ul style="list-style-type: none"> <li>• <i>advising on investments (except pension transfers and pension opt-outs);</i></li> <li>• <i>advising on syndicate participation at Lloyd's</i></li> </ul> <p>BUT MUST NOT include:</p> <ul style="list-style-type: none"> <li>• any of the dealing/arranging activities used in defining the A.11 to A.13 activity groups above;</li> </ul> <p>AND PROVIDED the fee-payer is NOT one of the following:</p> <ul style="list-style-type: none"> <li>• a <i>corporate finance advisory firm</i>;</li> <li>• a <i>firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>;</li> <li>• a <i>firm</i> whose activities are limited to carrying out <i>venture capital business</i>;</li> <li>• a <i>firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>collective investment scheme</i>.</li> </ul>
A.16 Pensions review levy firms	It was liable to pay the Pensions Levy to the PIA in 2001/2002.

## 11 Table

1. The amount payable in relation to each application is £2,000.