

Fees Manual (Financial Ombudsman Service Fees) Instrument 2005

Powers Exercised

- A The Financial Ombudsman Service Limited (FOS) amends the Financial Services Authority's (FSA) complaints sourcebook (DISP) and makes rules in FEES 1, 2 & 5, in so far as those rules relate to case fees and/or the voluntary jurisdiction, in the form set out in the Annex A and B, in the exercise of the following powers in the Financial Services and Markets Act 2000 (FSMA):
- (1) Section 227 (Voluntary Jurisdiction);
 - (2) Schedule 17 paragraph 18 (Terms of Reference to the Scheme); and
 - (3) Schedule 17 paragraph 15 (Fees).

Approval and Consent

- B The amendments have not yet been approved or consented to by the Financial Services Authority. They are therefore made subject to the approval and consent of the Financial Services Authority.

Commencement

- C This instrument comes into force on 1 January 2006 subject to the approval of the Financial Services Authority having been received before that time.

Amendment of the Handbook

- D The modules of the FSA's Handbook of rules and guidance are amended or introduced in accordance with Annex A and B to this Instrument.

Citation

- E This instrument may be cited as the Fees Manual (Financial Ombudsman Service Fees) Instrument 2005.

ANNEX A

The amendments in this Instrument relating to the provisions set out below have been made exclusively by the FOS subject to the approval and consent of the FSA, and not by the FSA:

FEES reference	DISP reference
N/A	4.2.12
N/A	4.2.13
5.5.1R	5.6.1R
5.5.3R	5.6.3R
5.5.4R	5.6.4R
5.5.6R	5.6.6R
5.5.7R	5.6.7R
5.5.8R	5.6.8R
5.5.10R	5.6.10R
5.5.11R	5.6.11R
5.5.12R	5.6.12R
5.5.15R	5.6.15R
5.7.2R	5.8.2R
5.7.3R	5.8.4R
5.9.1R	5.10.1R

The amendments in this Instrument relating to the parts of the provisions set out below, to the extent that they relate solely to rule making powers exercisable by FOS under parts III and IV of schedule 17 of FSMA, have been made exclusively by FOS subject to the approval and consent of the FSA, and not by the FSA:

FEES reference	DISP reference
2.1.1R	
2.2.1R	5.8.6R
2.3.1R	5.8.8R
2.3.2R	5.8.9R
5.1.1R and 1.1.2R	5.1.1R
5.1.4R	5.1.4R
5.1.5R	5.1.5R
5.1.6R	5.1.6R

Annex B Fees Manual

FOS makes the amendments set out below only to the extent that they relate to provisions (or parts of provisions) set out in the tables in Annex A. All other amendments shown are made exclusively by the FSA and are shown for clarity.

In Part 1 of this Annex all of the text is new and is not underlined. Where text is to be removed from the existing Handbook and re-located in an annex to a chapter of the Fees manual, this text is not copied out, but the existing location of the text is given and any amendments made (as a result of the consolidation) is described.

In Part 2 of this Annex, underlining indicates new text and striking through indicates deleted text. Where an entire section is being deleted, the place where the change will be made is indicated and the text will not be struck through.

Part 1

In so far as the changes are set out in the tables in Annex A, then, insert the relevant provisions of the Fees manual (FEES) in Block 1 (High Level Standards) after General Provisions as follows:

Fees Manual

1.1 Application and Purpose

1.1.1 G *FEES* applies to all *persons* required to pay a fee or levy under a provision of the *Handbook*. The purpose of this chapter is to set out to whom the *rules* and *guidance* in *FEES* apply. *FEES* 2 (General Provisions) contains general provisions which may apply to any type of fee payer. *FEES* 3 (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event for example various application fees (including those in relation to authorisation, variation of *Part IV permission*, *listing* and guidance in relation to the Basel Capital Accord) and fees relating to certain notifications and document vetting requests. *FEES* 4 (Periodic fees) covers all periodic fees and transaction reporting fees. *FEES* 5 (Financial Ombudsman Service Funding) relates to *FOS* levies and case fees and *FEES* 6 (Financial Services Compensation Scheme Funding) relates to the *FSCS* levy.

1.1.2 R Application

This manual applies in the following way:

- (1) *FEES* 1, 2 and 3 apply to:
 - (a) every applicant for *Part IV permission* (including an *incoming firm* applying for *top-up permission*);
 - (b) 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*;
 - (c) every applicant for a certificate under article 54 of the *Regulated Activities Order*;
 - (d) every applicant for an *authorisation order* for, or for recognition of, a

collective investment scheme;

- (e) every operator of a scheme making a notification under section 264 or section 270 of the *Act*;
- (f) every *person* seeking to become a *designated professional body*;
- (g) every applicant for recognition as a *recognised body* under Part XVIII of the *Act* (Recognised investment exchanges and clearing houses);
- (h) every applicant for *listing* (under the *listing rules*);
- (i) every applicant for approval as a *sponsor* (under the *listing rules*);
- (j) every *issuer* (under the *listing rules*) of tranches from debt issuance programmes and *securitised derivative* tranches;
- (k) every *issuer* (under the *listing rules*) involved in specific events or transactions during the year where documentation is subject to transaction vetting by the *FSA*;
- (l) under the *prospectus rules* every *issuer, offeror or person* requesting approval or vetting of the documents arising in relation to specific events or transactions that it might be involved in during the year;
- (m) every applicant to be listed as a *designated investment exchange*;
- (n) every *firm* applying for variation of its *Part IV permission*; and
- (o) every *firm* applying for *guidance* on the availability of a *waiver* or concession in connection with future *rules* implementing the revised Basel Capital Accord (including any amendments).

(2) *FEES* 1, 2 and 4 apply to:

- (a) every *firm* (except an *ICVC* or *UCITS qualifier*);
- (b) every *manager* of an *authorised* unit trust;
- (c) every *ACD* of an *ICVC*;
- (d) every *person* who, under the constitution or founding arrangements of a recognised scheme, is responsible for the management of the property held for or within the *scheme*;
- (e) every *designated professional body*;
- (f) every *recognised body*;
- (g) under the Listing Rules every *issuer* of *shares*, depositary receipts and *securitised derivatives*;
- (h) under the Listing Rules every *sponsor*; and
- (i) under the Disclosure Rules every *issuer* of *shares*, depositary receipts and securitised derivatives.

(3) *FEES* 1, 2 and 5 apply to:

- (a) every *firm* which is subject to the *Compulsory Jurisdiction* of the *Financial Ombudsman Service*; and
 - (b) every other *person* who is subject to the *Compulsory Jurisdiction* in relation to *relevant complaints*.
- (4) *FEES* 1,2 and 6 apply to:
- (a) every *participant firm*;
 - (b) the *FSCS*; and
 - (c) the *Society*.

1.1.3 G The relevant provisions of *FEES* 5 and *FEES* 2 are applied to *VJ participants* by the *standard terms* (see *DISP* 4).

1.1.4 G Purpose

The purpose of this manual is to set out the fees applying to the *persons* set out in *FEES* 1.

FEES 2 (General Provisions)

2.1 Introduction

Application

2.1.1 R This chapter applies to every *person* who is required to pay a fee or share of a levy to the *FSA*, *FOS Ltd* or *FSCS*, as the case may be, by a provision of the *Handbook*.

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 *FSA*, case fees to *FOS Ltd* or a share of the *FSCS* levy.

2.1.5 G Paragraph 17 of Schedule 1 and section 99 to the *Act* 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.

2.1.6 G The *FSA* fees payable will vary from one financial year to another, and will reflect the *FSA*'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 *FSA* to undertake its statutory functions.

2.1.7 G The key components of the *FSA* fee mechanism (excluding the *FSCS* levy

and FOS levy and case fees, which are dealt with in *FEES* 5 and 6) are:

- (1) a funding requirement derived from:
 - (a) the *FSA's* financial management and reporting framework;
 - (b) the *FSA'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 *FSA'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 *FSA'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 *FSA* 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.

2.1.10 G Paragraph 17(2) of Schedule 1 and section 99(3) to the *Act* prohibit the *FSA* from taking account of penalties received when setting its periodic and other fees. Accordingly periodic fees are specified without reference to the penalties received. However, the *FSA* normally expects to allocate those penalties to the fee-blocks within which the penalty payers fall, by way of a deduction from the periodic fee. Any deductions of this sort are set out in the relevant fees provisions or will be notified to the fee payer at the relevant time.

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 case fee, or share of the *FSCS* levy, on the date on which it is due, under the relevant provision in *FEES* 4, 5 or 6, 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) if the fee was not paid in full before the end of 15 *days* after the due date, interest on any unpaid part of the fee at the rate of 5% per annum above the Bank of England's repo 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 *FSA*, (for periodic fees, *FOS* and *FSCS* levies), and *FOS Ltd* (for *FOS* case fees), expect to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. *FOS* case fees are invoiced on a monthly basis. 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, and at least 45 *days* before any interest becomes payable.

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 (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).

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

2.3 Relieving Provisions

Remission of Fees

- 2.3.1 R If it appears to the *FSA*, or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case, the payment of any fee or *FOS* levy would be inequitable, the *FSA* or *FOS Ltd*, as relevant, may 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 *FSA*, or *FOS Ltd* (in relation to any *FOS* case fee only), that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FSA*, or *FOS Ltd*, as relevant, of a fee or *FOS* levy which has been paid would be inequitable, the *FSA*, or *FOS Ltd*, may refund all or part of that fee or levy.
- 2.3.3 G *FEES* 2.3.1R and *FEES* 2.3.2R do not apply to the payment of shares of the *FSCS* levy.

FEES 5 (Financial Ombudsman Service Funding)

5.1 Application and Purpose

Application

- 5.1.1 R This chapter applies to:
- (1) every *firm* which is subject to the *Compulsory Jurisdiction* of the *Financial Ombudsman Service*; and
 - (2) every other *person* who is subject to the *Compulsory Jurisdiction* in relation to *relevant complaints*.
- 5.1.2 G The relevant provisions of *FEES* 5 are applied to *VJ participants* by the *standard terms* (see *DISP* 4).

References in this chapter to "*firms*" are to be construed, where relevant, as including:

- 5.1.3 G (1) in accordance with the *Ombudsman Transitional Order*, *unauthorised persons* subject to the *Compulsory Jurisdiction* in relation to *relevant complaints* (see Transitional Provisions 6 and 7 of *DISP*); and
- (2) as a result of section 226 of the *Act*, *unauthorised persons* who were formerly *firms* in respect of complaints about acts or omissions which occurred at the time when they were *firms*, provided that the *Compulsory Jurisdiction* rules were in force in relation to the activity in question.

Exemption

- 5.1.4 R A *firm* which is exempt under *DISP* 1.1.7R is also exempt from *FEES* 5.1 to *FEES* 5.7.
- 5.1.5 R A *firm* which ceases to be exempt under *FEES* 5.1.4R is to be treated, for the purposes of its contribution to the *general levy*, as a *firm* to which *FEES* 5.8 applies.
- 5.1.6 R A *firm* which becomes exempt under *FEES* 5.1.4R during the course of a *financial year* is to be treated for the purposes of its contribution to the *general levy*, as a *firm* to which *FEES* 5.9 applies.

Purpose

- 5.1.7 G The purpose of this chapter is to set out the requirements on *firms* to pay annual fees (through a *general levy* and *supplementary levy* invoiced and collected by the *FSA* on behalf of *FOS Ltd*) and case fees (invoiced and collected directly by *FOS Ltd*) in order to fund the operation of the *Financial Ombudsman Service*. This chapter also contains a requirement on *firms* to pay a *supplementary levy* towards the costs of establishing the *Financial Ombudsman Service*. It also provides for *unauthorised persons* to pay case fees to *FOS Ltd* in respect of any *relevant complaints* which it handles.

5.2 Introduction

- 5.2.1 G Paragraph 9 of Schedule 17 to the *Act* (The Ombudsman Scheme) requires *FOS Ltd* to adopt an *annual budget* which has been approved by the *FSA*. The *annual budget* must distinguish between the costs of operating the *Compulsory Jurisdiction* and the *Voluntary Jurisdiction*.

- 5.2.2 G Section 234 of the *Act* (Industry Funding) enables the *FSA* to require the payment to it or to *FOS Ltd*, by *firms* or any class of *firm*, of specified amounts (or amounts calculated in a specified way) to cover the costs of:
- (1) the *Financial Ombudsman Service*; and
 - (2) its operation in relation to the *Compulsory Jurisdiction*.
- 5.2.3 G Paragraph 15 of Schedule 17 to the *Act* enables *FOS Ltd* to require *firms* subject to the *Compulsory Jurisdiction* and any other respondents to a complaint to pay specified fees to it in respect of complaints closed by the *Financial Ombudsman Service*.
- 5.2.4 G The *Ombudsman Transitional Order* provides for *unauthorised persons* to be charged fees in respect of any *relevant complaints* against them which the *Financial Ombudsman Service* handles.
- 5.2.5 G Paragraph 18 of Schedule 17 to the *Act* enables *FOS Ltd* to require *VJ participants* to pay to it such amounts at such times as it specifies in the *standard terms*.
- 5.2.6 G The relevant provisions of the rules in *FEES 5* and *FEES 2* will be applied to *VJ participants* through the *standard terms* made by *FOS Ltd* under paragraph 18 of Schedule 17 to the *Act* (see *DISP 4*).
- 5.2.7 G This chapter sets out the framework for the funding arrangements of the *Financial Ombudsman Service*, including the method by which fees will be calculated. Details of the actual fees payable will vary from year to year, depending on the *annual budget* of the *Financial Ombudsman Service*. These details will be set out in an annex to this chapter (*FEES 5 Annex 1R*). A new annex will be prepared and consulted on for each *financial year*.
- 5.3 The general levy
- 5.3.1 G Each *financial year*, the *FSA* and *FOS Ltd* will consult on the amount of the annual budget of the *Financial Ombudsman Service* which is to be raised by the *general levy*.
- 5.3.2 G For the purposes of the *general levy*, a *firm* will fall into one or more of the *industry blocks* set out in *FEES 5 Annex 1R* depending on the business activities which it conducts.
- 5.3.3 G The *FSA* will determine, following consultation, the amount to be raised from each *industry block*. This will be based on the budgeted costs and numbers of *Financial Ombudsman Service* staff required to deal with the volume of complaints which the *Financial Ombudsman Service* expects to receive about the *firms* in each *industry block*. Modified arrangements have been made for certain types of small *firms* (see *FEES 5.5.3R* to *FEES 5.5.5G*).
- 5.3.4 G Part 2 of *FEES 5 Annex 1R* sets out the fee tariffs for each *industry block*.
- 5.3.5 G The *FSA* will specify a *minimum levy* for *firms* in each *industry block*.
- 5.3.6 R A *firm* must pay to the *FSA* a *general levy* towards the costs of operating the *Compulsory Jurisdiction* of the *Financial Ombudsman Service*.

- 5.3.7 G Under the *standard terms*, *VJ participants* will be required to pay to *FOS Ltd* an amount calculated on a similar basis towards the costs of operating the *Voluntary Jurisdiction* of the *Financial Ombudsman Service*. *FOS Ltd* will be responsible for invoicing and collecting this amount.
- 5.3.8 R A *firm's general levy* is calculated as follows:
- (1) identify each of the tariff bases set out in Part 2 of *FEES 5 Annex 1R* which apply to the *relevant business* of the *firm* for the relevant year;
 - (2) for each of those tariff bases, calculate the sum payable in relation to the *relevant business* of the *firm* for that year;
 - (3) add together the amounts calculated under (2).
- 5.3.9 R For the purpose of *FEES 5.3.6R* and *FEES 5.3.8R*, a *member* of the *Society of Lloyd's* or a *managing agent* at *Lloyd's* will not in that capacity be treated as a *firm*. But the *Society of Lloyd's* will pay a *general levy* in respect of *Lloyd's insurance business* conducted with *eligible complainants*.
- 5.3.10 R For the purpose of *FEES 5.3*, references to *relevant business* for a *firm* which falls in *industry block 16* or *17* and which so elects under Part 2 of *FEES 5 Annex 1R*, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4*.
- 5.4 Information requirement
- 5.4.1 R
- (1) A *firm* must provide the *FSA* by the end of February each year (or, if the *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, by the date requested by the *FSA*) with a statement of the total amount of *relevant business* (measured in accordance with the appropriate tariff base(s)) which it conducted, as at or in the year to 31 December of the previous year as appropriate, in relation to the tariff base for each of the relevant *industry blocks* set out in part 2 of *FEES 5 Annex 1R*.
 - (2) Paragraph (1) does not apply if the *firm* pays a *general levy* on a flat fee basis only.
 - (3) If a *firm* cannot provide a statement of the total amount of *relevant business* as required by *FEES 5.4.1R*, it must provide the best estimate of the amount of *relevant business* that it conducted.
 - (4) For the purpose of *FEES 5.4.1R*, references to *relevant business* for a *firm* which falls in *industry block 16* or *17* and which so elects under part 2 of *FEES 5 Annex 1R*, are references to the *firm's* total amount of annual income reported in accordance with Part 2 of *FEES 4 Annex 1R*.
 - (5) If a *firm* does not submit a complete statement by the date on which it is due in accordance with this *rule* and any prescribed submission procedures:
 - (a) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee under *FEES 4 Annex*

2R, Part 1 or FEES 6.5.16R for the same *financial year*); and

- (b) the *general levy* and any supplemental 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 a *firm* has become subject to the *Financial Ombudsman Service* part way through the *financial year*, on the basis of the information provided to FSA for the purposes of FEES 4.4.2R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

- 5.4.2 G Failure to submit a statement in accordance with the *rules* in this chapter may also lead to the imposition of a financial penalty and other disciplinary sanctions (see ENF 13.5).
- 5.4.3 G SUP 16.3 (General provisions on reporting) contains further *rules* on the method of submission of reports under FEES 5.4.1R.
- 5.4.4 G A *firm* should not provide a statement of *relevant business* if it deals only with *eligible complainants* who are not private individuals. *Relevant business* is defined in the *Glossary* as business done with private individuals only. So FEES 5.4.1R does not apply in relation to business done with other types of *eligible complainant* described in DISP 2.4.3R (1)(b), (c) and (d); the funding of FOS Ltd in relation to that business is by special case fee only (see FEES 5.5.6R).
- 5.5 Case fees
- Standard case fee
- 5.5.1 R A *firm* must pay to FOS Ltd the standard case fee specified in part 3 of FEES 5 Annex 1R in respect of each *chargeable case* relating to that *firm* which is closed by the *Financial Ombudsman Service*, unless a special case fee is payable or has been paid in respect of that case under FEES 5.5.6R to FEES 5.5.12R.
- 5.5.2 G The standard case fee, which will be subject to consultation each year, will be calculated by dividing the *annual budget* for the *Compulsory Jurisdiction*, less the amount to be raised by the *general levy*, by the estimated number of *chargeable cases* which the *Financial Ombudsman Service* expects to close in the relevant *financial year*.
- 5.5.3 R A *credit union* which is subject to the *minimum levy* in an *industry block* is not required to pay a standard case fee in respect of *chargeable cases* relating to that *industry block*.
- 5.5.4 R Any *firm* falling into either *industry block 13* or *industry block 15* in part 2 of FEES 5 Annex 1R is not required to pay the standard case fee in respect of *chargeable cases* relating to those *industry blocks*.
- 5.5.5 G The *firms* in *industry blocks 13* and *15* are cash plan health providers and small *friendly societies*. These arrangements have been made in respect of these *firms* to take account of the fact that the amount at issue is likely to be small relative to the case fee. Instead, the full unit cost of handling

complaints against these *firms* will be recovered through the *general levy* in accordance with the relevant tariff-base and no case fee will be payable. Similar arrangements have been made under *FEES 5.5.3R* in respect of small *credit unions*.

Special case fees: complaints from small businesses

- 5.5.6 R A *firm* must pay to *FOS Ltd* a special case fee, as specified in part 3 of *FEES 5 Annex 1R* in respect of each *chargeable case* relating to that *firm* closed by the *Financial Ombudsman Service* which was referred to the *Financial Ombudsman Service* by *eligible complainants* who fall within *DISP 2.4.3R(1)(b), (c) or (d)*.

Special case fees: firms which cease to be authorised

- 5.5.7 R A *firm* which ceases to be *authorised* must pay to *FOS Ltd* a special case fee, as specified in part 3 of *FEES 5 Annex 1R*, in respect of each *chargeable case* relating to that *firm* closed by the *Financial Ombudsman Service* which concerned an act or omission occurring when the *firm* was *authorised* and where the complaint was made after its *authorisation* ceased.

Special case fees: relevant complaints against persons who were subject to a former scheme

- 5.5.8 R An *unauthorised person* who is subject to the *Compulsory Jurisdiction* in relation to a *relevant complaint* must pay to *FOS Ltd* a special case fee as specified in part 3 of *FEES 5 Annex 1R* in respect of each *chargeable case* relating to that *unauthorised person* closed by the *Financial Ombudsman Service*.
- 5.5.9 G Under the *Ombudsman Transitional Order*, *FOS Ltd* can handle complaints about *members of a former scheme* which that scheme could have handled before *commencement*, even if the *unauthorised person* concerned does not become *authorised* by the *FSA* after that date. Where *FOS Ltd* handles such complaints, the *unauthorised person* concerned will be required to pay a special case fee.

Special case fees for 2001/02

- 5.5.10 R A *firm* which was a *member of PIA* before *commencement* must pay to *FOS Ltd* a special case fee, as specified in *FEES 5 Annex 1R*, in respect of each *chargeable case* relating to that *firm* received by the *Financial Ombudsman Service* after *commencement* and before 31 March 2002.
- 5.5.11 R *FEES 5.5.10R* does not apply in relation to a *chargeable case* which relates to a complaint which proceeded or would have proceeded under a *former scheme* other than the *PIAOB scheme*.
- 5.5.12 R A *firm* which was not a *member of a former scheme* before the *commencement day* must pay to *FOS Ltd* a special case fee, as specified in *FEES 5 Annex 1R*, in respect of each *chargeable case* which relates to business conducted by the *firm* after the *commencement day* and which is closed by the *Financial Ombudsman Service* before 31 March 2002.
- 5.5.13 G The relevant provisions of *FEES 5.5* will be applied to *VJ participants* through the *standard terms*.

- 5.5.14 G A *firm* which was, before *commencement*, a *member* of *PIA* and a *former scheme* other than the *PIAOB scheme* will not, on account of the exclusion in *FEES 5.5.11R*, be required to pay the special case fee specified by *FEES 5.5.10R* in respect of all *chargeable cases* relating to it but only those which arise in respect of investment business matters which would have been eligible under the *PIAOB scheme*.

Case fee exemption

- 5.5.15 R Notwithstanding the above, a *firm* will only be liable for, and *FOS* will only invoice for, the standard case fee or, as the case may be, the special case fee, in respect of the third and subsequent *chargeable cases* in any *financial year*.

5.6 The supplementary levy

- 5.6.1 G For the purposes of calculating the *supplementary levy*, the *FSA* will apportion the *establishment costs* between the *industry blocks* in the same proportions as the operating costs for the purposes of the *general levy*. The *supplementary levy* will therefore be raised from *firms* on the same basis and at the same time as the *general levy* (see part 2 of *FEES 5 Annex 1R*).

- 5.6.2 G The *establishment costs* will be recovered via the *supplementary levy* over the first three full *financial years* of the *Financial Ombudsman Service's* operation.

- 5.6.3 G The amount of *establishment costs* to be raised each year through the *supplementary levy* will be specified in part 2 of *FEES 5 Annex 1R*.

- 5.6.4 G The *supplementary levy* will be identified separately from the *general levy* for the purposes of invoicing *firms* and *VJ participants*.

- 5.6.5 R A *firm* must pay to the *FSA* a *supplementary levy* towards the costs of establishing the *Financial Ombudsman Service*.

- 5.6.6 R A *firm's supplementary levy* is a sum payable in accordance with the fee tariffs set out in part 2 of *FEES 5 Ann 1R* and will be calculated by following the steps set out in *FEES 5.3.8R*.

- 5.6.7 G Under the *standard terms*, *VJ participants* will also be required to pay an amount calculated on a similar basis towards the costs of establishing the *Voluntary Jurisdiction* of the *Financial Ombudsman Service*.

5.7 Payment

- 5.7.1 R A *firm* must pay annually to the *FSA* the *general levy* and any *supplementary levy* to which it is subject, on or before the later of 1 April and 30 calendar *days* after the date when the invoice is issued by the *FSA*.

- 5.7.2 R A *firm* must pay to *FOS Ltd* any standard case fee or special case fee which it is liable to pay under *FEES* 5.5.1R, *FEES* 5.5.6R, *FEES* 5.5.7R, *FEES* 5.5.8R, *FEES* 5.5.10R, or *FEES* 5.5.12R, as appropriate, in respect of *chargeable cases* for which it is invoiced by *FOS Ltd* within 30 calendar days of the date when the invoice is issued by *FOS Ltd*.
- 5.7.3 R A *firm* or an *unauthorised person* who is subject to the *Compulsory Jurisdiction* in relation to a *relevant complaint* must pay any standard case fee or special case fee within 30 calendar days of the date when the invoice is issued by *FOS Ltd*.
- 5.7.4 R A *firm* liable to pay fees under *FEES* 5.7.1R must do so using one of the methods set out in *FEES* 4.2.4R save that no additional amount or discount is applicable.
- 5.8 Joining the Financial Ombudsman Service
- 5.8.1 R A *firm* which becomes subject to the *Financial Ombudsman Service* part way through a *financial year* must pay a rateable proportion of the *general levy* and the *supplementary levy* as indicated in Table *FEES* 4.2.6R, as if that table applied to the quarter in which a *firm* becomes subject to the *Financial Ombudsman Service*.
- 5.9 Leaving the Financial Ombudsman Service
- 5.9.1 R Where a *firm* ceases to be *authorised* part way through a *financial year*:
- (1) it will remain liable to pay standard case fees in respect of *chargeable cases* against it closed by the *Financial Ombudsman Service* for the remainder of that *financial year*; and
 - (2) it must pay the special case fee specified under *FEES* 5.5.7R in respect of any other *chargeable cases* against it closed by the *Financial Ombudsman Service*.
- 5.9.2 G *Firms* which cease to be *authorised* and therefore subject to the *Compulsory Jurisdiction* part way through the year will not receive a refund of their *general levy* (or *supplementary levy*) except in exceptional circumstances. *Firms* will continue to be liable for any case fees relating to *chargeable cases* closed by the *Financial Ombudsman Service* after they cease to be *authorised*. *Firms* will be charged the standard case fee where the complaint was closed by the *Financial Ombudsman Service* before the end of the year in which their *authorisation* ceased. The special case fee will apply to any complaint closed after the end of that year since the *firm* will no longer be contributing to the *general levy*.

FEES 5 Ann 1R: Annual Fees Payable in Relation to 2005/06

[Insert DISP 5 Ann 1R amended as set out in Part 2 of this Annex]

Part 2

Amendments to the Dispute Resolution: Complaints sourcebook

Transitional provisions

1. Table

(1)	(2) Material provision to which transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision coming into force
...					
6	... DISP 5 <u>FEES 5</u> ...	R	In... DISP 5 <u>FEES 5</u> , references to a "firm"...	From commencement	Commencement
7	... DISP 5 <u>FEES 5</u> ...	G	Under the <i>Ombudsman</i> ... but references to "firm" in <i>DISP 2</i> , <i>DISP 3</i> , DISP 5 <u>FEES 5</u> and ...	From commencement	Commencement
...					
8	... DISP 5 <u>FEES 5</u> ...	R	In relation to <i>relevant complaints</i> , references in <i>DISP 1</i> , <i>DISP 2</i> , <i>DISP 3</i> , <i>DISP 4</i> , DISP 5 <u>FEES 5</u> and <i>DISP App 1</i> ...	From commencement	Commencement
15	DISP 5.5.1R <u>FEES 5.4.1R</u>		
16	DISP 5.5.1R <u>FEES 5.4.1R</u>		...		

DISP TP 1.3

...	The industry blocks in Table 2 are the same as the equivalent activity group set out in part 7 of SUP 20 Annex 1 <u>FEES 4 Annex 1R</u> .
	...equivalent activity group set out in part 7 of SUP 20 Annex 1 <u>FEES 4 Annex 1R</u> , it must

DISP 1

...				
1.7.10	G			<i>Members</i> will ... and the obligation to pay fees under DISP 5 <u>FEES 5</u> must be complied with by the <i>Society</i> on behalf of <i>members</i> ...

DISP 2

...

2.3.4 G Under ~~DISP 5.6.1R~~ FEES 5.5.1R a firm or VJ participant is liable to pay a case fee in respect of *chargeable cases*...

...

2.5.2 G Firms may, however, be exempt from the requirements of *DISP 1* (Complaint handling procedures for firms) and ~~DISP 5~~ FEES 5 (*Financial Ombudsman Service funding rules*)...

DISP 4

4.2.12 R The following rules in ~~DISP~~ FEES 5 apply (subject to *DISP 4.2.13R*) to VJ participants as part of their agreement to be subject to the *Voluntary Jurisdiction* as if they were authorised firms, but subject to the variations stated in each case.

(1) ~~DISP 5.4.6~~ FEES 5.3.6R (*general levy*) subject to substituting the words '*Voluntary Jurisdiction*' for '*Compulsory Jurisdiction*' and substituting the words 'FOS Ltd' for 'the FSA';

(2) ~~DISP 5.4.8~~ FEES 5.3.8R (*calculation of general levy*);

(3) ~~DISP 5.5.1~~ FEES 5.4.1R (*information*) subject to substituting the words '*FOS Ltd*' for '*FSA*';

(4) ~~DISP 5.6.1~~ FEES 5.5.1R (*standard case fee*);

(5) ~~DISP 5.6.6~~ FEES 5.5.6R (*special case fee*);

(6) ~~DISP 5.7.5~~ FEES 5.6.5R subject to substituting 'to *FOS Ltd*' for 'to the *FSA*' and ~~DISP 5.7.6~~ FEES 5.6.6R (*supplementary levy* for establishment costs) subject to substituting 'Part 4' for 'Part 2';

(7) ~~DISP 5.8.1~~ FEES 5.7.1R subject to substituting 'to *FOS Ltd*' for 'to the *FSA*' and 'by *FOS Ltd*' for 'by the *FSA*', ~~DISP 5.8.2~~ FEES 5.7.2R to ~~DISP 5.8.4~~ FEES 5.7.3R, ~~DISP 5.8.5~~ FEES 2.2.2G subject to substituting '*FOS Ltd* will' for '*FSA* will', ~~DISP 5.8.6~~ FEES 2.2.1R, ~~DISP 5.8.8~~ FEES 2.3.1R and ~~DISP 5.8.9~~ FEES 2.3.2R (*payment*).

(8) ~~DISP 5.9.1~~ FEES 5.8.1R and ~~DISP 5.9.2R~~ (*joining the Financial Ombudsman Service*) and FEES 4.2.6(1)(b)R;

(9) ~~DISP~~ FEES 5 Annex 1 (*fees payable*).

4.2.13 R A VJ participant which joins the *Voluntary Jurisdiction* before the end of the *financial year* in which the *commencement day* falls must pay to *FOS Ltd* the special case fee specified in ~~DISP~~ FEES 5 Annex 1 for ~~DISP 5.6.10~~ FEES 5.5.10R in respect of each *chargeable case* falling within the *Voluntary*

Jurisdiction ...

DISP 5 (Funding Rules)

Delete DISP 5.1 to DISP 5.10 inclusive and insert the following:

[Deleted: the provisions relating to the funding rules for the Financial Ombudsman Service are set out in FEES 5 (Financial Ombudsman Service Funding).

Move DISP 5 Ann 1R to FEES 5 Ann 1 R amended as follows:

~~DISP 5 Ann 1R~~ FEES 5 Ann 1R: Annual Fees Payable in Relation to 2005/06

Table

...

...	
5.	The <i>industry blocks</i> in the table are based on the equivalent activity groups set out in Part 1 of SUP 20 Ann 1R <u>FEES 4 Annex 1R</u> .
6.	Where the tariff base in the table is defined in similar terms as that for the equivalent activity group in Part 2 of SUP 20 Ann 1R <u>FEES 4 Annex 1R</u> , it must be calculated in the same way as that tariff base - taking into account only the <i>firm's relevant business</i> .

Table: Standard case fees and special case fees in relation to 2005/2006

Governing provisions	Case Fee	...
DISP 5.6.1 R <u>FEES 5.5.1R</u>	...	
DISP 5.6.6 R <u>FEES 5.5.6R</u>	...	
DISP 5.6.7 R <u>FEES 5.5.7R</u>	...	
DISP 5.6.8 R <u>FEES 5.5.8R</u>		
...		
Part 4: Fee Tariffs and case fees for VJ participants		
	...	
9.	The <i>industry blocks</i> in the table are based on the equivalent activity groups for authorised firms, as set out in part 1 of SUP 20 Ann 1R <u>FEES 4 Annex 1R</u> .	
10.	Where the tariff base in the table is defined in similar terms as the tariff base for the equivalent activity group set out in part 2 of SUP 20 Ann 1R <u>FEES 4 Annex 1R</u> , it must be calculated in the same way as that tariff base except that it takes into account only the <i>VJ participant's</i> relevant business.	

Appendix 1: Relevant Existing Complaints

1.1	Application and Purpose			
...				
1.1.3	R			<i>DISP 2 to DISP 5 FEES 5 apply to firms ...</i>
...				
1.1.6	G			<i>... subject to DISP 1 to DISP 4 and FEES 5. Apart from these exceptions, the rules in DISP 2 to <u>DISP 4</u> and DISP 5 FEES 5 and the statutory provisions in sections 225-234 of the Act apply as they do to other complaints.</i>
...				
1.12.1	G			<i>Under DISP 5 FEES 5, firms will be subject to case fees in respect of relevant complaints. If FOS Ltd deals with a relevant existing complaint against a person who is not authorised by the FSA , a special case fee will be charged (see DISP 5 FEES 5(Financial Ombudsman Service Funding Rules)) and this will be recoverable as a debt to FOS Ltd in the same way as case fees relating to complaints about firms .</i>

Schedule 2 Notification requirements

2. Table

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
DISP 5.5.1R <u>FEES 5.4.1R</u>	...	The total amount of <i>relevant business</i> (measured in accordance with the appropriate tariff base(s)) which the <i>firm</i> conducted as at or in the year to 31 December as appropriate, in relation to the tariff base for each of the relevant <i>industry blocks</i> set out in DISP 5 Ann 1R <u>FEES 5 Annex 1R</u>

Schedule 3 Fees and other required payment

2. Table

Type of fee	Trigger event	Date/Time for payment	Amount/rate	Handbook reference
<i>General levy</i>	DISP 5.4 FEES 5.3 DISP 5.8 FEES 5.7 Part 2 of DISP 5 Ann 1R FEES 5 Annex 1R
<i>Supplementary levy</i>	DISP 5.7 FEES 5.6 DISP 5.8 FEES 5.7 Part 2 of DISP 5 Ann 1R FEES 5 Annex 1R
Case fees	DISP 5.6 FEES 5.5 DISP 5.8 FEES 5.7 Part 3 of DISP 5 Ann 1R FEES 5 Annex 1R

Schedule 4 Powers exercised

2. Table

...

DISP 5 FEES 5	5.1.6R 5.6 -(all rules) <u>5.5</u> 5.8.2R <u>5.7.2R</u> 5.8.4R <u>5.7.3R</u> 5.10.1R <u>5.9.1R</u>
DISP 5 Ann 1R FEES 5	part 3
	part 4

