

FEES (MISCELLANEOUS AMENDMENTS) (NO 7) INSTRUMENT 2014

Powers exercised by the Financial Conduct Authority

- A. The Financial Conduct Authority makes this instrument in the exercise of:
- (1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
 - (a) section 137T (General supplementary powers);
 - (b) section 139A (Power of the FCA to give guidance);
 - (c) section 234 (Industry funding)
 - (d) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (e) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body);
 - (2) regulation 92 of the Payment Services Regulations 2009 (SI 2009/209); and
 - (3) regulation 59 of the Electronic Money Regulations 2011 (SI 2011/99); and
 - (4) regulation 46 of and paragraph 5 of Schedule 1 to the Regulated Covered Bond Regulations 2008 (SI 2008/346).
- B. The rule making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2014.

Amendments to the Handbook

- D. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2)

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Supervision manual (SUP)	Annex C

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 7) Instrument 2014.

By order of the Board of the Financial Conduct Authority
27 March 2014

Annex A

Amendments to the Glossary of definitions

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

*client
money* ...

- (2A) (in FEES, CASS 6, CASS 7, CASS 7A and CASS 10 and, in so far as it relates to matters covered by CASS 6, CASS 7, COBS or GENPRU), subject to the *client money rules*, money of any currency:
- (a) that a *firm* receives or holds for, or on behalf of, a client in the course of, or in connection with, its *MiFID business*; and/or
 - (b) which, in the course of carrying on *designated investment business* that is not *MiFID business*, a *firm* holds in respect of any *investment agreement* entered into, or to be entered into, with or for a *client*, or which a *firm* treats as *client money* in accordance with the *client money rules*.

...

*client
money
rules* ...

- (2) (in CASS 3, CASS 6, CASS 7, CASS 7A, ~~UPRU~~, ~~and~~ COBS, and FEES) CASS 7.1 to 7.8

Annex B

Amendments to the Fees manual (FEES)

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

3 Application, Notification and Vetting Fees

...

3 Annex Authorisation fees payable 1R

...	
Part 2 – Complexity Groupings not relating to <i>credit-related regulated activities</i>	
Straightforward Cases	
Activity grouping	Description
...	
A.12	Advisory arrangers, dealers or brokers (holding or controlling <i>client money</i> and/or assets)
A.13	Advisory only firms and advisory <u>Advisors</u> , arrangers, dealers or brokers (not holding or controlling <i>client money</i> and/or assets)
...	
<u>A.21</u>	<u>Holding client money or assets, or both.</u>

...

Delete the following Annex in its entirety. The deleted text is not shown.

3 Annex ~~Fees where changes are made to firms transaction reporting requirements and the FCA is asked to check that these systems remain compatible with the FCA systems~~ [deleted] 7R

...

4 Periodic fees

...

Background

- 4.1.3 G Most of the detail of the periodic fees that are payable by *firms* is set out in *FEES 4 Annexes 1A to 11*. *FEES 4 Annex 12G* and (for the *FCA* only) *FEES 4 Annex 13G* ~~provides~~ provide guidance on the calculation of certain tariffs. Most of the provisions of the Annexes will vary from one *fee year* to another. Accordingly fresh *FEES 4 Annexes* will come into force, following consultation, for each *fee year*.

...

4.2 Obligation to pay periodic fees

...

Modifications for persons becoming subject to periodic fees during the course of a fee year

- 4.2.6 R (1) Unless (2) applies, if for the *fee year* during which the event, as described in column 4 of the table in *FEES 4.2.11R* and/or *FEES 4.2.11AR*, giving rise to, or giving rise to an increase in, the fee payable in *FEES 4.2.1R*, occurs on or after 1 July of the relevant ~~fee year~~, the periodic fee required under *FEES 4.2.1R* is modified for:
- (a) *firms* (other than *AIFM qualifiers*, *ICVCs* and *UCITs qualifiers*), in accordance with *FEES 4.2.7R* and *4.2.8R*;
- (b) for all other fee payers in column (1) of the table in *FEES 4.2.11R* or *FEES 4.2.11AR*, in accordance with the table below formula set out below.

Period in which event (in column 4 of the table in <i>FEES 4.2.11R</i> or <i>FEES 4.2.11AR</i>) occurs	Proportion of periodic fee payable
Fees payable to the FCA	
1 April to 30 June inclusive	100%
1 July to 30 September inclusive	75%
1 October to 31 December inclusive	50%
1 January to 31 March inclusive	25%
Fees payable to the PRA for <i>fee year</i> 2013/2014	
1 April to 30 June inclusive	100%
1 July to 30 September inclusive	75%
1 October to 31 December inclusive	50%

1 January to 28 February inclusive	25%
------------------------------------	-----

<u>Formula for the calculation of fees payable under FEES 4.2.6R(1)</u>	
(1)	<u>calculate the number of calendar months between and including:</u>
	<u>(i) the calendar month in which the event described in column 4 of the table in FEES 4.2.11R and/or FEES 4.2.11AR occurred; and</u>
	<u>(ii) the last month of the relevant fee year;</u>
(2)	<u>divide the number of calendar months calculated in (1) by 12;</u>
(3)	<u>multiply the total fee payable for the relevant fee year by the number calculated in (2).</u>

...

4.2.7 R A *firm* (other than an *AIFM qualifier*, *ICVC*, or *UCITS qualifier*) which becomes authorised or registered, or whose *permission* and/or *payment service* activities are extended, during the course of the *fee year* must pay a fee which is calculated by:

- (1) identifying each of the tariffs set out in Part 1 of *FEES 4 Annex 2AR*, Part 1 of *FEES 4 Annex 2BR* and/or Part 1 of *FEES 4 Annex 11R* as appropriate for the relevant *fee year* that apply to the *firm* only after the *permission* is received or extended or *payment service* activities are authorised or registered or extended or *electronic money* issuance activities are authorised or registered under the *Electronic Money Regulations*; ~~but ignoring:~~
 - (a) ~~the A.13 activity group if, before the variation, the A.12 activity group applied to the firm's business; or~~
 - (b) ~~the A.12 activity group if, before the variation, the A.13 activity group applied the firm's business;~~

...

- (6) modifying the result for the *FCA* and, if applicable, the *PRA* as ~~indicated by the table in accordance with the formula set out in FEES 4.2.6R~~ (except that *FEES 4 Annex 10R* (Periodic fees for MTF operators) deals with a ~~firm~~ *firm* that receives *permission* for operating a multilateral trading facility or has its *permission* extended to include this activity during the course of the relevant *fee year* and *FEES 4.2.6R* does not apply).

...

4.3 Periodic fee payable by firms (other than AIFM qualifiers, ICVCs and UCITS qualifiers)

...

- 4.3.2 G (1) The amount payable by each *firm* will depend upon the category (or categories) of *regulated activities* or *payment services* it is engaged in (fee-blocks) and whether it is issuing *electronic money*, and on the amount of business it conducts in each category (tariff base). The fee-blocks and tariffs are identified in *FEES 4 Annex 1AR* in respect of the *FCA* and *FEES 4 Annex 1BR* in respect of the *PRA* (and guidance on calculating certain of the tariffs is at *FEES 4 Annex 12G* and (for the *FCA* only) *FEES 4 Annex 13G*), while *FEES 4 Annex 2AR* in respect of the *FCA* and *FEES 4 Annex 2BR* in respect of the *PRA* set out the tariff rates for the relevant *fee year*. In case of *firms* that provide *payment services* and/or issue *electronic money*, the relevant fee blocks, tariffs and rates are set out in *FEES 4 Annex 11R*.

...

4 Annex FCA Activity groups, tariff bases and valuation dates 1AR

Part 1	
This table shows how the <i>FCA</i> links the <i>regulated activities</i> for which a <i>firm</i> has <i>permission</i> to activity groups (fee-blocks). A <i>firm</i> can use the table to identify which fee-blocks it falls into based on its <i>permission</i> .	
Activity group	Fee payer falls into the activity group if
...	...
<u>A.7</u> Portfolio managers	...
...	
A.12 Advisors, arrangers, dealers or brokers (holding or controlling client money or assets, or both)	<p>Its <i>permission</i>:</p> <p>(a) includes one or more of the following, in relation to one or more <i>designated investments</i>:</p> <p><i>dealing in investments as agent;</i></p> <p><i>arranging (bringing about) deals in investments;</i></p> <p><i>making arrangements with a view to transactions in investments;</i></p> <p><i>dealing as principal in investments</i> where the activity is carried on as a matched principal broker, <i>oil market participant</i>, energy market participant or <i>local</i>;</p> <p><i>advising on investments</i> (except <i>pension transfers</i> and <i>pension</i></p>

	<p>opt-outs);</p> <p>advising on pension transfers and pension opt-outs;</p> <p>advising on syndicate participation at Lloyds;</p> <p>(b) BUT NONE of the following:</p> <p>effecting contracts of insurance; or</p> <p>carrying out contracts of insurance;</p> <p>AND</p> <p>(c) CAN HAVE one or more of the following:</p> <p>safeguarding and administering of assets;</p> <p>arranging safeguarding and administration of assets;</p> <p>the ability to hold or control client money, or both;</p> <p>—that is, there is no requirement which prohibits the firm from doing this;</p> <p>and</p> <p>—provided that the client money in question does not arise from an agreement under which commission is rebated to a client;</p> <p>AND</p> <p>(d) PROVIDED the fee payer is NOT any of the following:</p> <p>a corporate finance advisory firm;</p> <p>a firm for whom all of the applicable activities above are otherwise limited to carrying out corporate finance business</p> <p>a firm whose activities are limited to carrying out venture capital business;</p> <p>a firm whose activities are limited to acting as an operator of a regulated collective investment scheme;</p> <p>a firm whose activities are limited to carrying out trustee activities;</p> <p>a service company.</p>
<p>A.13 Advisors, arrangers, dealers or brokers (not holding or controlling client money or assets, or both)</p>	<p>(1) it is an <i>authorised professional firm</i> and ALL the <i>regulated activities</i> in its <i>permission</i> are limited to non-mainstream regulated activities (a firm falling within this category is a <i>class (1) firm</i>);</p> <p>(2) its <i>permission</i>:</p> <p>(a) includes one or more of the following, in relation to one or more <i>designated investments</i>:</p> <p><i>dealing in investments as agent;</i></p> <p><i>arranging (bringing about) deals in investments;</i></p> <p><i>making arrangements with a view to transactions in</i></p>

	<p><i>investments;</i></p> <p><i>dealing as principal in investments</i> where the activity is carried on as a matched principal broker, <i>oil market participant</i>, energy market participant or <i>local</i>;</p> <p><i>advising in investments</i> (except <i>pension transfers</i> and <i>pension opt-outs</i>);</p> <p><i>giving basic advice</i> on a <i>stakeholder product</i>;</p> <p><i>advising on pension transfers</i> and <i>pension opt-outs</i>;</p> <p><i>advising on syndicate participation</i> at <i>Lloyds</i>;</p> <p>(b) BUT NONE of the following:</p> <p><i>effecting contracts of insurance</i>; <u>or</u></p> <p><i>carrying out contracts of insurance</i>;</p> <p><i>safeguarding and administration of assets</i>;</p> <p><i>arranging safeguarding and administration of asserts</i>;</p> <p>AND</p> <p>(e) MUST EITHER, in connection with its <i>designated investment business</i>:</p> <p>have a requirement that prohibits the firm from holding or controlling client money, or both;</p> <p>OR</p> <p>if it does not have such a requirement, only holds or controls client money (or both), arising from an agreement under which commission is rebated to a client;</p> <p>AND</p> <p>(d) (c) PROVIDED the fee payer is NOT any of the following:</p> <p><i>a corporate finance advisory firm</i>;</p> <p><i>a firm</i> for whom all of the applicable activities above are otherwise limited to carrying out <i>corporate finance business</i>;</p> <p><i>a firm</i> whose activities are limited to carrying out <i>venture capital business</i>;</p> <p><i>a firm</i> whose activities are limited to acting as an <i>operator</i> of a <i>regulated collective investment scheme</i>;</p> <p><i>a firm</i> whose activities are limited to carrying out <i>trustee</i> activities;</p> <p><i>a service company</i>.</p> <p>A <i>firm</i> falling within (2) and not (1) is a <i>class 2 firm</i>.</p>
...	

A.19	...
<u>A.21 Firms holding client money or assets, or both</u>	<p><u>(1) It is a <i>firm</i> carrying on a <i>regulated activity</i> defined in fee-block A.13;</u></p> <p><u>AND EITHER OR BOTH:</u></p> <p><u>(2A) It is a <i>firm</i> to which the <i>client money rules</i> apply</u></p> <p><u>AND/OR</u></p> <p><u>(2B) Its <i>permissions</i> includes <i>safeguarding and administration of assets (without arranging)</i></u></p> <p><u>UNLESS</u></p> <p><u>CASS does not apply to that <i>firm</i> in accordance with CASS 1.2</u></p>

...

<p>Part 3</p> <p>This table indicates the tariff base for each fee-block set out in Part 1.</p> <p>The tariff base in this Part is the means by which the <i>FCA</i> measures the amount of business conducted by a <i>firm</i> for the purposes of calculating the annual periodic fees payable to the <i>FCA</i> by that <i>firm</i>.</p>	
...	
A.7	<p>...</p> <p>Notes on FuM</p> <p>...</p> <p>(b) Assets managed by the <i>firm</i> on a discretionary basis exclude the <i>firm's</i> own assets. Assets managed on a non-discretionary basis, being assets that the <i>firm</i> has a contractual duty to keep under continuous review but in respect of which prior specific consent of the <i>client</i> must be obtained for proposed transactions, are also excluded as this activity is covered in those charged to fees in activity groups A.12 and activity group A.13.</p>
A.12	<p>ANNUAL INCOME:</p> <p>Annual income as defined in FEES 4 Annex 11AR</p>
...	
A.18	<p>[Delete the existing text in this fee block in its entirety. Insert the following new text in its place.]</p> <p><u>Annual income as defined in FEES 4 Annex 11AR</u></p>

A.19	[Delete the existing text in this fee block in its entirety. Insert the following new text in its place.] <u>Annual income as defined in FEES 4 Annex 11AR</u>
<u>A.21</u>	<u>CLIENT MONEY/ASSETS HELD:</u> A value in pound sterling equal to: <u>Highest total amount of <i>client money</i> held by the <i>firm</i> during the 12 months ending 31 December before the relevant <i>fee year</i></u> <u>PLUS</u> <u>Highest total value of <i>safe custody assets</i> held by the <i>firm</i> during the 12 months ending 31 December before the relevant <i>fee year</i></u>

...

Part 5

This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data in respect of fees payable to the *FCA* by applying the tariff bases set out in Part 3 with reference to the valuation dates show in this table.

Activity group	Valuation Date
...	
<u>A.12</u>	Annual income for the financial year ended in the calendar year ending 31 December.
...	
A.19	...
<u>A.21</u>	<u>In respect of <i>client money</i>, the highest amount of <i>client money</i> held over the 12 months ending 31 December before the relevant <i>fee year</i>.</u> <u>In respect of <i>safe custody assets</i>, the highest amount of <i>safe custody assets</i> held over the 12 months ending 31 December before the relevant <i>fee year</i>.</u>
...	

...

4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2013 to 31 March 2014

Part 1

This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of <i>FEES</i> 4 Annex 1AR		
...		
Activity group	Fee payable	
...	...	
A.12	Band Width (£ thousands of annual income (AI))	Fee (£/£ thousand or part £ thousand of AI)
	> 100	2.39
...		
A.19	...	
A.21	<u>Client money</u>	
	<u>Band Width (£ client money) (CM) held</u>	<u>Fee (£/£ millions or part £ million of CM)</u>
	<u>more than £1 billion</u>	[tbc]
	<u>an amount equal to or greater than £1 million but less than or equal to £1 billion</u>	[tbc]
	<u>less than £1 million</u>	[tbc]
	<u>PLUS</u>	
	<u>Safe custody assets</u>	
	<u>Band Width (£ safe custody assets) (CA) held</u>	<u>Fee (£/£ millions or part £ million of CA)</u>
	<u>more than £100 billion</u>	[tbc]
	<u>an amount equal to or greater than £10 million and less than or equal to £100 billion</u>	[tbc]
	<u>less than £10 million</u>	[tbc]
...		

Part 2

This table shows the tariff rates applicable to each of the fee blocks set out in Part

2 of FEES 4 Annex 1AR		
A.0	(1)	£1,000 unless:
	(a)	...
	...	
	(2)	The conditions referred to in (1)(a) are that the <i>credit union</i> has a tariff base (Modified Eligible Liabilities) of:
	(a)	...
	(b)	greater than 0.5 million but less than 20 <u>2.0</u> million, in which case a minimum fee of the £540 is payable.
	...	

Part 3	
This table shows the modifications to fee tariffs that apply in respect of the <i>FCA</i> to <i>incoming EEA firms</i> and <i>incoming Treaty firms</i> which have established branches in the <i>UK</i> .	
Activity group	Percentage deducted from the tariff base payable under Part 1 applicable to the <i>firm</i>
...	
A.12	10%
...	

4 Annex 4R Periodic fees in relation to collective investment schemes, AIFs marketed in the UK and small registered UK AIFMs payable for the period 1 April 2013 to 31 March 2014

Part 1

Periodic fees payable

....		
Fees are charged according to the number of funds or <i>sub-funds</i> operated by a <i>firm</i> as at 31 March 2012 preceding the relevant <i>fee year</i> . Where a new <i>collective investment scheme</i> becomes authorised during a year <i>fee year</i> , fees are charged according to the number of funds or <i>sub-funds</i> operated by a <i>firm</i> as at the date of		

authorisation. Where more than one fund or *sub-fund* is operated, the number of funds (not including the *umbrella* or parent fund) produces a 'fund factor' in accordance with the table above, which is then applied to a basic fee to produce one total fee per *operator*. Fund factors are applied per *operator* rather than per *scheme* so that the fees relate to the number of funds rather than the number of *schemes*. This means that, for example, an *authorised fund manager* of three *schemes* pays the same as an *operator* or *authorised fund manager* of one *scheme* with three *sub-funds* (as only the *sub-funds* are counted).

...

4 Annex 11AR **Definition of annual income for the purposes of calculating fees in fee blocks A.12, A.13, and A.14, A.18 and A.19**

Annual income definition

General definition for all relevant fee-blocks

“Annual income” for a particular fee block (the “relevant fee block”) is ~~an amount equal to the net amount retained by the firm of all income due to the firm~~ the gross inflow of economic benefits (i.e. cash, receivables and other assets) recognised in the firm’s accounts during the reporting year in respect of, or in relation to, the provision in the UK of the regulated activities specified in FEES 4 Annex 1AR Part 1 as belonging to the relevant fee block ~~fee blocks A.12, A.13, and A.14.~~

~~For the purposes of calculating annual income, “net amount retained” means:~~

The figure should be reported for the relevant fee block without netting off the operating costs or business expenses, but including:

(a) all brokerages, *commissions*, *fees*, and other related income (for example, administration *charges*, overrides, profit shares etc) due to the *firm* in respect of, or in relation to, the provision in the UK of the *regulated activities* specified in FEES 4 Annex 1AR Part 1 as belonging to ~~fee blocks A.12, A.13, and A.14~~ the relevant fee block and which the *firm* has not rebated to *clients* or passed on to other *authorised firms* (for example, where there is a commission chain).

~~Plus~~ PLUS:

(b) any ongoing *commission* from previous business received by the *firm* during the reporting year.

~~Plus~~ PLUS:

(c) ~~the “commission equivalent” of any relevant business. In this instance, the “commission equivalent”~~ “fair value” of any goods or services the firm provided to clients. This is the commission equivalent or an estimate of the amount the firm would otherwise have received for any regulated activity under (a) above, but for which it has made a business decision not to charge to waive or discount its charges.

Where the relevant fee-block is fee-block A.18

For the purposes of calculating annual income for fee-block A.18, also include the following:

(d) for any *home finance mediation activity* carried out by the *firm* for which it receives payment from the lender or provider on a basis other than that in (a), the value of all new mortgage advances and amounts provided under other *home finance transactions* resulting from that activity multiplied by 0.004;

PLUS:

(e) if the *firm* is a *home finance provider*, the value of all new mortgage advances and amounts provided under other *home finance transactions* which are *regulated mortgage contracts, home purchase plans, home reversion plans or regulated sale and rent back mediation activity*, multiplied by 0.004m, excluding mortgage advances and *home finance transactions* which result from *home finance mediation activity* carried on by another *firm*, where payment has been made by the *home finance provider* to that other *firm* under (a);

PLUS:

(f) for *firms* whose *permission* includes *administering regulated mortgage contracts*, but not *entering into a regulated mortgage contract* and *firms* whose *permission* includes *administering a home finance transaction* but not *entering into a home finance transaction*, and in either case whose *permission* does not include *advising on a home finance transaction*, the relevant amounts are multiplied by 0.15.

Where the relevant fee-block is fee-block A.19

For the purposes of calculating annual income for fee-block A.19, also include the following:

(g) in relation to any activities in (a), for any *insurance mediation activity* carried out by the *firm* for which it receives payment from the *insurer* on a basis other than that in (a), the amount of *premiums* receivable on its *contracts of insurance* multiplied by 0.07;

PLUS:

(h) if the *firm* is an *insurer* in relation to the activities in (a), the amount of *premiums* receivable on its *contracts of insurance* multiplied by 0.7, excluding those *contracts of insurance* which:

- result from *insurance mediation activity* by another *firm*, where payment has been made by the *insurer* to the *firm* under (a); or
- are not *general insurance contracts* or *pure protection contracts*.

AND

(i) for the purposes of calculating annual income for fee-block A.19:

- the provision in the UK of the *regulated activities* specified in FEES 4 Annex 1AR Part 1 as belonging to the relevant fee block includes the provision of activities that would have been *insurance mediation activity* in relation to *general insurance contracts* or *pure protection contracts* if they had been carried on after

13 January 2005 or, in relation to *connected travel insurance contracts*, from 1 January 2009;

- a reference to a "*firm*" includes a reference to any *person*, including a *connected travel insurance intermediary*, who carried on activities which would be *insurance mediation activity* (in respect of *general insurance contracts* or *pure protection contracts*) if they had been carried on after 13 January 2005 or, in relation to *connected travel insurance contracts*, from 1 January 2009.

Guidance on the interpretation of this definition is presented in FEES 4 Annex 13G.

4 Annex 12G **Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR Part 3 and FEES 4 Annex 1BR Part 3**

~~The following tables set out guidance on how a *firm* should calculate relevant tariffs.~~

The following table sets out *guidance* on how a *firm* should calculate tariffs for fee-block A.4.

Table 1: Fee block A.4

Adjusted Gross Premium Income and Mathematical reserves – calculation of new regular premium business

....

Delete Table 2 of FEES 4 Annex 12G in its entirety. The deleted text is not shown.

...

After FEES 4 Annex 12G insert the following new Annex. The text is not underlined.

4 Annex 13G **Guidance on the calculation of tariffs set out in FEES 4 Annex 1AR Part 3**

Table 1

The following table sets out <i>guidance</i> on how a <i>firm</i> should calculate tariffs for fee blocks A.13, A.14, A.18 and A.19.

Calculating and apportioning annual income – FEES 4 Annex 11AR

Calculating annual income

Defining relevant income streams

(1)	The <i>firm</i> should refer to the fee-block definitions in FEES 4 Annex 1AR, Part 1 to decide which particular income streams should be taken into
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	account when calculating its annual income for the purposes of fee-blocks A.13, A.14, A.18 and A.19.
(2)	<p>For the avoidance of doubt, the only income streams reportable for a relevant fee-block are those income streams which relate to a <i>regulated activity</i> listed in that fee-block. Income streams that do not relate to a <i>regulated activity</i> listed in the relevant fee-block should not be reported.</p> <p>As such, <i>firms</i> should exclude from the calculation of its annual income any income earned in relation to <i>regulated activities</i> belonging to fee-blocks A.13, A.14, A.18 and A.19 where the income is directly derived from the performance of <i>regulated activities</i> belonging to other fee blocks, for example, interest from loans made in the course of providing or administering home finance (A.2), premium interest from carrying out or effecting life insurance contracts (A.3), income from managing the underwriting capacity of a Lloyd’s syndicate as a managing agent at Lloyds (A.5), income from managing investments, collective investment schemes or pensions schemes (A.7 or A.9), income from operating multi-lateral trading facilities (<i>FEES</i> 4 Annex 10R) or income from holding client money or assets (A.21).</p>
(3)	<p><i>Firms</i> should only include revenue streams that relate to <i>regulated activities</i> which are carried on 'in the <i>United Kingdom</i>'. In many cases, it will be quite straightforward to identify where an activity is carried on. But when there is a cross-border element, for example because a client is outside the <i>United Kingdom</i> or because some other element of the activity happens outside the <i>United Kingdom</i>, the question may arise as to where the activity is carried on. <i>PERG</i> 2.4 generally and <i>PERG</i> 4.11 regarding activities relating to <i>regulated mortgage contracts</i>, <i>PERG</i> 5.12 regarding activities relating to <i>insurance mediation activities</i> and <i>PERG</i> 14.6 regarding <i>home reversion plans</i> and <i>home purchase plans</i> describe the legislation that is relevant to this question and gives the <i>FCA</i>'s views on various scenarios.</p>
Reporting period	
(4)	The “reporting year” is the <i>firm</i> ’s financial year end during the calendar year prior to the <i>FCA fee year</i> . This <i>fee year</i> starts on 1 April. This is specified in part 5 of <i>FEES</i> 4 Annex 1AR.
(5)	The income that should be included is the income that was recognised in the accounts of the relevant reporting year. This means that some income due may not be reported until the following year because it has not yet been recognised in the accounts, while other income may be carried forward from previous years.
Fair value	
(6)	Except in relation to fee-block A.18 and A.19 where one or more of paragraphs (d) to (f) or (g) to (i) of <i>FEES</i> 4 Annex 11AR apply, the <i>firm</i> should report a “fair value” price for any services for which it has made a business decision not to charge to <i>clients</i> .

	<p>We consider fair value to refer to the amount at which goods or services could be exchanged in an arm's length transaction between informed and willing parties, other than in a forced or liquidation sale.</p> <p>For example, where a <i>firm</i> has forgone or discounted the <i>commission</i> or <i>fee</i> would actually have charged but for the business decision to grant a discount in a particular case or on a temporary basis, it should report the amount it would have otherwise have charged for providing equivalent activities.</p> <p>In the case of <i>home finance mediation</i> in fee-block A.18 and <i>general insurance intermediation</i> in fee-block A.19 where one or more of paragraphs (e) to (f) or (g) to (i) of FEES 4 Annex 11AR apply, instead of asking for <i>firms</i> to estimate fair value, certain ratios are prescribed in FEES 4 Annex 11BR where the <i>client</i> is not charged directly for the service provided.</p>
Inclusions	
(7)	Annual income should include:
(a)	all amounts due to the <i>firm</i> arising out of the <i>regulated activities</i> referred to in the relevant fee block for which the <i>firm</i> holds <i>permission</i> , including regular <i>charges</i> and instalments due to the <i>firm</i> during the reporting year;
(b)	any payment from a <i>parent</i> to facilitate the discounting or forgoing of any amounts that would otherwise be charged in full to a <i>client</i> , to the extent that the payment exceeds the "fair value" price reported in accordance with paragraph (6) above;
(c)	earnings from those who will become its <i>appointed representatives</i> immediately after authorisation;
(d)	administrative charges and any interest from income related to the <i>regulated activities</i> specified in the relevant fee block.
(8)	Additional inclusions in respect of fee-block A.18:
(a)	a <i>firm</i> must include in paragraph (a) any survey and booking fees due to it in respect of <i>home finance mediation activity</i> .
Prohibited deductions	
(9)	Deductions should not be made for:
(a)	bad debts;
(b)	customer benefits such as cash rewards, complimentary travel insurance, air miles vouchers etc.;
(c)	items such as general business expenses (e.g. employees' salaries and overheads);

	(d)	finances or penalties levied against the <i>firm</i> ;
	(e)	commission a <i>firm</i> pays another party to arrange a transaction with a <i>client</i> unless it receives a <i>fee</i> in respect of the same transaction;
	(f)	the difference (if positive) between the fee payable by a <i>firm</i> to another party for arranging a transaction and the amount payable to the <i>firm</i> by the end <i>client</i> in respect of that transaction (here, the <i>firm</i> must net any excess payable by the end <i>client</i> to zero);
	(g)	payments made to <i>clients</i> by way of redress.
Exclusions		
10	The following should be excluded from the calculation of annual income:	
	(a)	To avoid double-counting, amounts which have been passed on to other <i>firms</i> may be excluded from the calculation of annual income, for example, where there is a commission chain. Transfers of income to other <i>firms</i> may be especially common within <i>groups</i> where, to present a single interface to <i>clients</i> , all amounts due to the <i>group</i> may be collected by one <i>firm</i> for subsequent redistribution to other <i>firms</i> within the <i>group</i> . It is for <i>groups</i> themselves to decide the most convenient way to report such annual income - i.e. whether the <i>firm</i> which receives the full amount should declare that full amount, or whether each <i>firm</i> in the <i>group</i> should report its separate distribution.
	(b)	Any payment from a <i>parent</i> to facilitate the discounting or forgoing of any amount that would otherwise be charged in full to a <i>client</i> should be excluded to the extent that the payment does not exceed or equal the “fair value” price reported in accordance with paragraph (6) above.
	(c)	Rebates to <i>customers</i> and <i>fees</i> or <i>commissions</i> passed onto other <i>firms</i> should be excluded.
	(d)	<i>Authorised professional firms</i> should exclude the income from <i>non-mainstream regulated activities</i> . They may estimate the proportion of their business that is derived from those activities and split the income from individual invoices accordingly.
	(e)	For the avoidance of doubt, income relating to or in respect of an activity is not part of annual income for the purposes of the definition in <i>FEES</i> 4 Annex 11AR to the extent that the activity benefits from the exclusion in article 69 of the Financial Services and Markets Act 2000 (Regulated Activities Order) 2001 (Groups and joint enterprises). <i>Firms</i> should refer to the <i>guidance</i> on the application of this exclusion is contained in <i>PERG</i> 2.9.
Apportioning annual income		

Where a <i>firm</i> cannot separate its income on the basis of activities, it may apportion the income on the basis of the proportionate split of business that the <i>firm</i> otherwise undertakes. For instance:	
(1)	If a <i>firm</i> receives annual income from a platform-based business it may report this in line with a wider breakdown of its activities.
(2)	A <i>firm</i> providing corporate finance advice which does not maintain records of the split between <i>regulated activities</i> and non-regulated activities for individual cases may calculate that regulated business accounts for a certain proportion of its business overall and apply that as a multiplier across its income.
(3)	A <i>firm</i> may allocate ongoing <i>commission</i> from previous business on the basis of the type of <i>firm</i> it receives the <i>commission</i> from. This avoids tracking back legacy business which may no longer match the provider's current business model.
(4)	An <i>authorised professional firm</i> may estimate the proportion of its business that is derived from <i>regulated activity</i> and split its income for individual invoices accordingly.
(5)	If a <i>firm</i> has invested income from <i>regulated activities</i> , then any interest received should be reported as income, in proportion to the volume of regulated business it undertakes to avoid tracking back old payments.
(6)	<i>Firms'</i> systems ought to be able to distinguish <i>UK</i> from non- <i>UK</i> business to establish which conduct of business regime it was conducted under. If, however, they do not relate the figures back to income streams for the specific <i>regulated activities</i> in a particular fee-block then the <i>firm</i> may make a proportionate split as described above, calculating its regulated <i>UK</i> income on the basis of the overall split between <i>UK</i> and overseas income.
(7)	It is for individual <i>firms</i> to determine how they should calculate the appropriate split of income. The <i>FCA</i> is not prescriptive about the methodology. It requires only that:
(a)	the approach should be proportionate - the <i>FCA</i> is looking for <i>firms</i> to make their best efforts to estimate the split;
(b)	the <i>firm</i> must be able on request to provide a sound and clearly expressed rationale for its approach - for example, if all invoices were analysed over a particular period, the <i>firm</i> should be able to justify the period as representative of its business across the year;
(c)	the methodology should be objective - for example, based on random sampling of invoices or random stratified sampling;
(d)	the <i>firm</i> must on request be able to provide an audit trail which demonstrates that the choice of methodology was properly considered at an appropriate level or in the appropriate forums

	within the <i>firm</i> , and the decision periodically reviewed at the same level or in an equivalent forum.
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Amend the following as shown.

5.8 Joining the Financial Services 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* as ~~indicated~~ specified in the ~~Table~~ formula set out in *FEES* 4.2.6R, ~~as if that table applied to the quarter in which a *firm* becomes subject to the *Financial Ombudsman Service*.~~

...

7 Annex 1R CFEF levies for the period from 1 April 2013 to 31 March 2014

This table shows the *CFEB levies* applicable to each activity group (fee-block)

Activity Group	<i>CFEB levy</i> payable	
...		
A.12	<u>Band Width</u> (£ thousands of annual income (AI))	<u>Fee</u> (£/£ thousand or part £ thousand of AI)
	>100	0.1
	For a <i>professional firm</i> in A.12 the fee is calculated as above less 10%	
...		
A.19	...	
<u>A.21</u>	<u>Band Width</u> (£ <i>client money</i> (CM) held)	<u>Fee</u> (£/£ millionss or part £ million of CM)
	<u>more than £1 billion</u>	[tbc]
	<u>an amount equal to or greater than £1 million but less than or equal to £1 billion</u>	[tbc]
	<u>less than £1 million</u>	[tbc]
	<u>PLUS</u>	

	<u>Safe custody assets</u>	
	<u>Band Width (£ safe custody assets) (CA) held</u>	<u>Fee (£/£ millions or part £ million of CA)</u>
	<u>more than £100 billion</u>	[tbc]
	<u>an amount equal to or greater than £10 million and less than or equal to £100 billion</u>	[tbc]
	<u>less than £10 million</u>	[tbc]
...		

Annex C

Amendments to the Supervision manual (SUP)

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

16 Annex 18AR Retail Mediation Activities Return ('RMAR')

...

SECTION J: data required for calculation of fees

Part 1

	FCA Annual Regulated Income (£s)	FOS Relevant Annual Income (£s)	FSCS Annual Eligible Income (£s)
Home Finance Mediation-finance mediation	...	...	...
...
Life and pension intermediation	Annual income as defined in Part 2 for the financial year ended in the calendar year ending 31 December 2012 in respect of fee blocks A.12 and A.13 <u>Annual income calculated for the purposes of FEES 4 Annex 1AR, Part 3, fee block A.13</u>	...	...
Investment intermediation	Annual income as defined in Part 2 for the financial year ended in the calendar year	...	...

	ending 31 December 2012 in respect of fee blocks A.12 and A.13 <u>Annual income calculated for the purposes of FEES 4 Annex 1AR, Part 3, fee block A.13</u>		
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Delete Part 2 in its entirety. Deleted text is not shown.

16 Annex 18BG Notes for completion of the Retail Mediation Activities Return ('RMAR')

...

Section J: data required for calculation of fees

...

Data for fees calculations	<i>Firms</i> will need to report data for the purposes of calculating <i>FCA</i> , <i>FOS</i> , and <i>FSCS</i> levies.
FCA	The relevant information required is the tariff data set out in <i>FEES 4 Annex 1R Part 3</i> under fee-blocks A.12 , A.13, A.18 and A.19. Note that <i>firms</i> are required to report tariff data information relating to all business falling within fee-blocks A.12/A.13/A.18/A.19 and not simply that relating to retail investments.
...	...

...

The *guidance* in the following table sets out the *rules* which relate to the data required in Section J of *SUP 16 Annex 18AR*.

	FCA Annual Regulated Income (£s)	FOS Relevant Annual Income (£s)	FSCS Annual Eligible Income (£s)
Home finance Mediation	<i>FEES 4 Annex 1AR Part 3 fee block</i>	...	...

	A18 <u>FEES 4 Annex</u> <u>11AR, 13G</u>		
Non-investment insurance mediation	FEES 4 Annex 1AR Part3 fee block A19 <u>FEES 4 Annex</u> <u>11AR, 13G</u>	...	...
Life and pensions mediation	FEES 4 Annex 11AR, 12G <u>FEES 4 Annex</u> <u>11AR, 13G</u>	...	...
Investment mediation	FEES 4 Annex 11AR, 12G <u>FEES 4 Annex</u> <u>11AR, 13G</u>	...	...