SMALL AND MEDIUM Sized BUSINESS CREDIT INFORMATION (FEES) INSTRUMENT 2016

Powers exercised by the Financial Ombudsman Service

A. The Financial Ombudsman Service Limited makes and amends the scheme rules relating to the payment of fees under the Compulsory Jurisdiction, and fixes and varies the standard terms for VJ participants relating to the payment of fees under the Voluntary Jurisdiction in Part 2 of the Annex to this instrument in the exercise of:

(1) the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(a) paragraph 14 (The scheme’s operator’s rules) of Schedule 17;
(b) paragraph 15 (Fees) of Schedule 17; and
(c) paragraph 18 (Terms of reference to the scheme) of Schedule 17.

B. The making (and amendment) of scheme rules and the fixing and variation of standard terms by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

Powers exercised by the Financial Conduct Authority

C. The Financial Conduct Authority makes Part 1 and Part 3 of the Annex to this instrument in the exercise of:

(1) the following powers and related provisions in the Act:

(a) section 137T (General supplementary powers);
(b) section 139A (Power of the FCA to give guidance);
(c) section 213 (The scheme);
(d) section 214 (Provisions of the scheme);
(e) section 234 (Industry Funding);
(f) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
(g) paragraph 12 of Part 2 (Funding) of Schedule 1A (Further provision about the Consumer Financial Education Body); and

(2) the following provisions of the Small and Medium Sized Business (Credit Information) Regulations 2015:

(a) regulation 20 (Guidance and consultation); and
(b) regulation 21 (Fees and penalties) which applies (with modifications) paragraph 23 (fees) of Schedule 1ZA of the Act; and

(3) the following provisions of the Payment Services Regulations 2009 (SI 2009/209):

(a) regulation 92 (Costs of supervision); and
(b) regulation 93 (Guidance); and
(4) the following provisions of the Electronic Money Regulations 2011 (SI 2011/99):

(a) regulation 59 (Costs of supervision); and
(b) regulation 60 (Guidance); and


D. The rule making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

E. The Financial Conduct Authority consents to the making and amendment of the scheme rules, and approves the fixing and variation of the standard terms, by the Financial Ombudsman Service Limited which are set out in Part 2 of the Annex to this instrument.

Commencement

F. This instrument comes into force on 1 April 2016 after The Small and Medium Sized Business (Credit Information) Instrument 2016, the Fees (Consumer Buy to Let) Instrument 2015 (FOS 2015/5 and FCA 2015/36) and the UKLA Fees (and Related Fees) Instrument 2016 (FCA 2016/13).

Amendments to the Handbook

G. The Fees manual (FEES) is amended in accordance with the Annex to this instrument.

Citation

H. This instrument may be cited as the Small and Medium Sized Business Credit Information (Fees) Instrument 2016.

By order of the Board of the Financial Ombudsman Service Limited
9 March 2016

By order of the Board of the Financial Conduct Authority
17 March 2016
Annex

Amendments to the Fees manual (FEES)

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

Part 1

1.1 Application and Purpose

1.1.1 G (1) 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.

(2) FEES 2 (General Provisions) contains general provisions which may apply to any type of fee payer.

(3) 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 4A permission, registration as a CBTL firm, listing and the Basel Capital Accord) and fees relating to designated credit reference agencies and certain notifications and document vetting requests.

(4) FEES 4 (Periodic fees) covers all periodic fees and transaction reporting fees.

(5) FEES 5 (Financial Ombudsman Service Funding) relates to FOS levies and case fees (in FEES 5.5B).

(6) FEES 6 (Financial Services Compensation Scheme Funding) relates to the FSCS levy.

(7) FEES 7 relates to the CFEB levy.

...

2.1 Introduction

...

Purpose

...

2.1.5 G (1) Paragraph 23 of Schedule 1ZA of the Act, regulation 92 of the Payment Services Regulations, and regulation 59 of the
Electronic Money Regulations and article 25(a) of the MCD Order. The following enable the FCA to charge fees to cover its costs and expenses in carrying out its functions:

(a) paragraph 23 of Schedule 1ZA of the Act;

(b) regulation 92 of the Payment Services Regulations;

(c) regulation 59 of the Electronic Money Regulations;

(d) article 25(a) of the MCD Order; and

(e) regulation 21 of the Small and Medium Sized Businesses (Credit Information) Regulations.

(2) The corresponding provisions for the FSCS levy, FOS levies and CFEB levies are set out in FEES 6.1, FEES 5.2 and FEES 7.1.4G respectively.

(3) Case fees payable to the FOS Ltd are set out in FEES 5.5B.

(4) Fee-paying payment service providers, fee-paying electronic money issuers, and CBTL firms, and designated credit reference agencies are not required to pay the FSCS levy but are liable for FOS levies.

2.1.5C G (1) The FCA also has a fee-raising power as a result of regulation 21 of the Small and Medium Sized Businesses (Credit Information) Regulations.

(2) The FCA’s functions under these regulations are treated as functions conferred on the FCA under the Act for the purposes of its fee-raising power in paragraph 23 of Schedule 1ZA to the Act.

2.2 Late Payments and Recovery of Unpaid Fees

Recovery of Fees

2.2.3 G (1) Paragraphs 23(8) of Schedule 1ZA of the Act permits the FCA to recover fees (including fees relating to payment services, the issuance of electronic money, fees relating to CBTL firms, designated credit reference agencies and, where relevant, FOS levies and CFEB levies), and section 213(6) permits the FSCS to recover shares of the FSCS levy payable, as a debt owed to the
The FCA and FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts.

(2) Section 213(6) of the Act permits the FSCS to recover shares of the FSCS levy payable, as a debt owed to the FCA and FSCS respectively.

(3) The FCA and FSCS, as relevant, will consider taking action for recovery (including interest) through the civil courts.

3 Application, Notification and Vetting Fees

3.1 Introduction

Application

3.1.1A R A reference to firm in this chapter includes a reference to a fee-paying payment service provider, a CBTL firm and a fee-paying electronic money issuer, and a designated credit reference agency.

3.1.4 G Most of the detail of what fees are payable by the persons referred to in FEES 3.1.3 G is set out in FEES 3 Annex 1 - FEES 3 Annex 40-A12R.

3.1.6D G (1) Fees for designated credit reference agencies are set out at FEES 3 Annex 10B.

(2) These fees are charged under regulation 21 of the Small and Medium Sized Businesses (Credit Information) Regulations.

3.2 Obligation to pay fees

3.2.7 R Table of application, notification and vetting fees payable to the FCA

<table>
<thead>
<tr>
<th>Part 1: Application, notification and vetting fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1) Fee payer</td>
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<td>...</td>
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</tbody>
</table>
After FEES 3 Annex 10A insert the following new annex. The text is not underlined.

### 3 Annex 10B

<table>
<thead>
<tr>
<th></th>
<th>Designated Credit Reference Agencies Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>R</td>
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<td>(2)</td>
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<td>(3)</td>
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</tbody>
</table>
the regulatory work described at (2)(a) and/or (b).

(c) Next, multiply the applicable pay grade rate in the table at FEES 3 Annex 9(11)R by the number of hours or part hours obtained under (a).

(d) Then add any fees and disbursements invoiced to the FCA by any person in respect of services performed by that person for the FCA in relation to assisting it in performing the regulatory work referred to in 2(a) and/or (b).

(e) The resulting figure is the DCR.

The number of hours or partial hours referred to in (4)(a) are the number of hours or partial hours as recorded on the FCA’s systems in relation to the regulatory work referred to in (2)(a) and/or (b).

(5) G The hourly rates chargeable for the FCA pay grades are set out in the table at FEES 3 Annex 9(11)R Special Project Fee for Restructuring.

(6) G (a) The obligation to pay the DCR is ongoing. There is therefore no limit on the number of times that the FCA may invoice a person falling into (1) for the DCR for the same regulatory work described at (2)(a) and/or (b).

(b) If the FCA issues more than one invoice, there is a single floor under (3) and not a separate one for each instalment.

(7) G If the DCR is payable, the full amount calculated under (4) is payable; not just the excess over £10,000.

(8) G The FCA shall provide any person falling into (1) with written notice that it is performing regulatory work described at 2(a) and/or (b) which is likely to exceed £10,000 calculated in accordance with (4) as soon as is reasonably practicable.

<table>
<thead>
<tr>
<th>Section</th>
<th>Text</th>
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<tbody>
<tr>
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</tr>
</tbody>
</table>

Part 2

Amend FEES 5 as shown.

5.1 Application and purpose

... 5.1.1A R A reference to firm in this chapter includes a reference to a fee-paying payment service provider, fee-paying electronic money issuer, and a CBTL firm, and a designated credit reference agency.

...
5.5.B Case fees

... 

5.5B.7 R (1) A firm, payment service provider or electronic money issuer. Any of the following persons which is exempt under DISP 1.1.12R is also exempt from FEES 5.5B:

(a) a firm;

(b) a payment service provider;

(c) an electronic money issuer; and

(d) a designated credit reference agency.

(2) save However, that a person will only be exempt from FEES 5.5B in any financial year if it met the conditions in DISP 1.1.12R on 31 March of the immediately preceding financial year.

...

Leaving the Financial Ombudsman Service

5.5B.24 R Where a respondent ceases to be a firm, payment service provider, electronic money issuer, CBTL firm, a designated credit reference agency or VJ participant (as the case may be) part way through a financial year it will remain liable to pay case fees under FEES 5.5B in respect of cases within the jurisdiction of the Financial Ombudsman Service.

...

<table>
<thead>
<tr>
<th>5 Annex 2R</th>
<th>Annual Levy Payable in Relation to the Voluntary Jurisdiction for 2015/16</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Industry block and business activity</td>
</tr>
<tr>
<td></td>
<td>...</td>
</tr>
</tbody>
</table>

...
13V Persons not covered by 1V to 9V undertaking activities which are CBTL activities or would be if they were carried on from an establishment in the United Kingdom

[TBC] [TBC] [TBC]

14V Persons not covered by 1V to 9V providing credit information, under the Small and Medium Sized Business (Credit Information) Regulations or would be if it was carried on from an establishment in the United Kingdom

[TBC] [TBC] [TBC]

### Part 3

### 5 Annex

#### 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2015/16

<table>
<thead>
<tr>
<th>Industry block</th>
<th>Tariff base</th>
<th>General levy payable by firm</th>
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<tbody>
<tr>
<td></td>
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<tr>
<td>[x] 21 - CBTL firms</td>
<td>Flat fee</td>
<td>[TBC]</td>
</tr>
<tr>
<td>22 - designated credit reference agencies (but excluding firms in any other industry block)</td>
<td>Flat fee</td>
<td>[TBC]</td>
</tr>
</tbody>
</table>