

FEES (TARIFF DATA FOR INSURERS IN 2017/2018) 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 Voluntary Jurisdiction participants relating to the payment of fees under the Voluntary Jurisdiction in Part 2 of the Annex to this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) paragraph 14 (The scheme’s operator’s rules) of Schedule 17;
 - (2) paragraph 15 (Fees) of Schedule 17; and
 - (3) 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 Parts 1 and 2 of the Annex to this instrument in the exercise of the following powers and related provisions in the following sections of the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 137A (The FCA’s general rules);
 - (2) section 137T (General supplementary powers);
 - (3) section 139A (Power of the FCA to give guidance); and
 - (4) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority).
- D. The rule-making powers listed above are specified for the purpose of section 138G(2) (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 9 December 2016.

Amendments to the Handbook

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

Notes

- H. In the Annex to this instrument, the “notes” (indicated by “**Note:**”) are included for the convenience of readers but do not form part of the legislative text.

Citation

- I. This instrument may be cited as the Fees (Tariff Data for Insurers in 2017/2018) Instrument 2016.

By order of the Board of the Financial Ombudsman Service Limited
23 November 2016

By order of the Board of the Financial Conduct Authority
8 December 2016

Annex

Amendments to the Fees manual (FEES)

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

Part 1

4.2 Obligation to pay periodic fees

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

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4.2.7B R ...

(5) ...

(f) ...

[Note: Transitional provisions apply to FEES 4.2.7R and FEES 4.2.7BR for firms in activity groups A.3 and A.4 – see FEES TP 13]

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

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Calculation of periodic fee (excluding fee-paying service providers and fee-paying electronic money issuers)

4.3.3 R The periodic fee referred to in FEES 4.3.1R is (except in relation to the Society, fee-paying payment service providers and fee-paying electronic money issuers) calculated as follows:

...

(6) ...

[Note: Transitional provisions apply to FEES 4.3.3R for firms in activity groups A.3 and A.4 – see FEES TP 13]

...

4.4 Information on which fees are calculated

- 4.4.1 R A *firm* (other than the *Society* and an *MTF* operator in relation to its *MTF* business) must notify to the *FCA* (in its own capacity and, if applicable, in its capacity as a collection agent for the *PRA*) the value (as at the valuation date specified in Part 5 of *FEES* 4 Annex 1AR) of each element of business on which the periodic fee payable by the *firm* is to be calculated.
- 4.4.2 R A *firm* (other than the *Society*) must send to the *FCA* (in its own capacity and, if applicable, in its capacity as collection agent for the *PRA*) in writing the information required under *FEES* 4.4.1R as soon as reasonably practicable, and in any event within two *months*, after the date specified as the valuation date in Part 5 of *FEES* 4 Annex 1AR in relation to fees payable to the *FCA* (or *FEES* 4.2.7BR where applicable).

[Note: Transitional provisions apply to *FEES* 4.4.1R and *FEES* 4.4.2R for *firms* in activity groups A.3 and A.4 – see *FEES* TP 13]

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

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Part 5

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Activity group	Valuation date
...	
...	...
A.3	Annual gross <i>premium</i> income (GPI), for the financial year ended in the calendar year ending 31 December. AND Gross technical liabilities (GTL) valued at the end of the financial year ended in the calendar year ending 31 December. <u>[Note: Transitional provisions apply – see <i>FEES</i> TP 13]</u>
A.4	Adjusted annual gross <i>premium</i> income (AGPI) for the financial year ended in the calendar year ending 31 December. AND Mathematical reserves (MR) valued at the end of the financial year ended in the calendar year ending 31 December.

[Note: Transitional provisions apply – see FEES TP 13]
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5.3 The general levy

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5.3.8 R A firm's general levy under the compulsory jurisdiction is calculated as follows:

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(3) ...

[Note: Transitional provisions apply to FEES 5.3.8R in relation to firms in industry blocks 2 and 4 – see FEES TP 13]

...

5.4 Information requirement

5.4.1 R (1) A firm must provide the FCA 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 FCA) 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 FEES 5 Annex 1.

[Note: Transitional provisions apply to FEES 5.4.1R(1) in relation to firms in industry blocks 2 and 4 – see FEES TP 13]

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5.8 Joining the Financial Ombudsman Service

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Application of FEES 5.8.2R

5.8.3 G The table below sets out the period within which a firm's tariff base is calculated (the data period) for second year levies calculated under FEES 5.8.2R. The example is based on a firm that acquires permission on 1 November 2014 and has a financial year ending 31 March. Where valuation dates fall before the firm receives permission it should use projected valuations in calculating its levies.

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[Note: Transitional provisions apply to FEES 5.8.1R, FEES 5.8.2R and FEES 5.8.3G – see FEES TP 13]

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Part 2

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5 Annex 2R Annual Levy Payable in Relation to the Voluntary Jurisdiction for 2016/17

Voluntary jurisdiction – annual levy for VJ participants				
Industry block and business activity		Tariff basis	Tariff rate	Minimum levy
...				
2V	<i>VJ participants undertaking general insurance activities</i> <u>[Note: Transitional provisions apply – see FEES TP 13]</u>
3V	<i>VJ participants undertaking life insurance activities</i> <u>[Note: Transitional provisions apply – see FEES TP 13]</u>
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After FEES TP 12 (Transitional provisions relating to direct payment service providers and operators of IFR card payment systems) insert the following new TP 13. The text is not underlined.

TP 13 Transitional provisions relating to the calculation of tariff bases for insurers

13.1 Application

13.1.1 R (1) *FEES* TP 13 applies to:

- (a) a *firm* in activity groups A.3 and/or A.4 in *FEES* 4 Annex 1AR (FCA activity groups, tariff bases and valuation dates);
or

- (b) a *firm* in industry blocks 2 and 4 in *FEES* 5 Annex 1R (Annual General Levy Payable in Relation to the Compulsory Jurisdiction); or
 - (c) a *VJ participant* in industry blocks 2V and/or 3V in *FEES* 5 Annex 2R (Annual Levy Payable in Relation to the Voluntary Jurisdiction).
- (2) *FEES* TP 13 modifies:
- (a) *FEES* 4.2.7R and *FEES* 4.2.7BR;
 - (b) *FEES* 4.3.3R;
 - (c) *FEES* 4.4.1R and *FEES* 4.4.2R;
 - (d) *FEES* 4 Annex 1AR, Part 5;
 - (e) *FEES* 5.3.8R;
 - (f) *FEES* 5.4.1R;
 - (g) *FEES* 5.8.1R, *FEES* 5.8.2R and *FEES* 5.8.3G; and
 - (h) *FEES* 5 Annex 2R.

13.1.2 G *FEES* TP 13 deals with transitional arrangements relating to the calculation of tariff data for *insurers* for the *fee year* 2017/18 as a result of the implementation of the *Solvency II Directive* from 1 January 2016.

13.2 Calculation of tariff bases for fee year 2017/18

- 13.2.1 R Subject to *FEES* TP 13.2.2R the following will apply to the calculation of tariff bases for *firms* and *VJ participants* caught by *FEES* TP 13.1.1R(1) for the *fee year* 2017/18:
- (1) Subject to *FEES* TP 13.2.1R(2) and *FEES* TP 13.2.1R(3) fees (including the *general levy* and the levy for the *Voluntary Jurisdiction* specified in *FEES* 5 Annex 2R) will be calculated using the tariff base data reported for the *financial year* ended in the calendar year ending 2015.
 - (2) If a *firm* or *VJ participant* has acquired or disposed of *insurance business* by way of an *insurance business transfer scheme* under Part VII of the *Act* or Part VIII of the *Friendly Societies Act 1992*, during the period specified in *FEES* TP 13.2.3R, it must on or before 28 February 2017:
 - (a) notify the *FCA* (or the *Financial Ombudsman Service* in the case of a *VJ participant*) that such a transfer has taken place;

and

- (b) provide such information as the *FCA* (or the *Financial Ombudsman Service* in the case of a *VJ participant*) may require to establish the extent to which the tariff base data, referred to in *FEES* TP 13.2.1R(1), has increased or decreased as a result of the transfer and the amended data provided will form the basis of the fees calculation (including the *general levy* and the levy for the *Voluntary Jurisdiction* specified in *FEES* 5 Annex 2R) for the *fee year* commencing on 1 April 2017.
- (3) A *firm in run-off* (or a *VJ participant* in equivalent circumstances) which commenced during the period specified in *FEES* TP 13.2.3R may on or before 28 February 2017 resubmit adjusted 2015 tariff base data.

[**Note:** Under *FEES* TP 13.2.1R(2) and (3) *firms* within activity groups A.3 and/or A.4 make resubmissions to the *FCA* in its capacity as collection agent for the *PRA*]

- 13.2.2 R This *rule* deals with the use of projected valuations in the calculation of fees for *firms* subject to *FEES* TP 13 where *FEES* 4.2.7R, *FEES* 4.2.7BR, *FEES* 5.8.1R, *FEES* 5.8.2R or *FEES* 5.8.3G apply in the fee-year 2017/18.
 - (1) For periodic fees calculations under *FEES* 4.2.7R or *FEES* 4.2.7BR, projected valuations for a *firm's* first year, as provided in the course of the *firm's* application will be applied whether in its first *fee year*, second *fee year* or a subsequent *fee year*.
 - (2) The *general levy* calculation based on projected valuations for a *firm's* first year of business will be applied whether it is in its first or second *financial year*.
 - (3) The levy calculation for the *Voluntary Jurisdiction* specified in *FEES* 5 Annex 2R based on projected valuations for a *VJ participant's* first year of business will be applied whether it is in its first or second *financial year*.
- 13.2.3 R The period referred to in *FEES* TP 13.2.1R(2) and *FEES* TP 13.2.1R(3) is the period:
 - (1) from the *firms' financial year* ended in the calendar year ending 2015; to
 - (2) the end of the calendar year ending 2016.
- 13.2.4 R To assist with the formulation of fees and *general levy* policy for the *fee year* and *financial year* commencing on 1 April 2018 and subsequent *fee years* and *financial years*, *firms* are required to comply with the requests of the *FCA* for tariff data in respect of the *firm's financial years*:

- (1) ended in the calendar year ending 31 December 2016; and
- (2) ended in the calendar year ending 31 December 2017.