

SMALL AND MEDIUM SIZED BUSINESS (FINANCE PLATFORMS) (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 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 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 234 (Industry Funding); and
 - (d) paragraph 23 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (2) the following provisions of the Small and Medium Sized Business (Credit Information) Regulations 2015[SI 2015/1945]:
 - (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 Small and Medium Sized Business (Finance Platforms) Regulations 2015 [SI 2015/1946]:
 - (a) regulation 17 (Guidance and Consultation); and
 - (b) regulation 18 (Fees and penalties) which applies (with modifications) paragraph 23 (fees) of Schedule 1ZA of the Act.
- 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 October 2016 after the Small and Medium Sized Business (Finance Platforms) Instrument 2016.

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 (Finance Platforms) (Fees) Instrument 2016.

By order of the Board of the Financial Ombudsman Service Limited
21 September 2016

By order of the Board of the Financial Conduct Authority
22 September 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 Fees Manual

1.1 Application and Purpose

1.1.1 G ...

(3) *FEES 3* (Application, Notification and Vetting Fees) covers one-off fees payable on a particular event for example:

(a) 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

(b) fees relating to *designated credit reference agencies*, *designated finance platforms* and certain notifications and document vetting requests.

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2 General Provisions

2.1 Introduction

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Purpose

...

2.1.5 G (1) The following enable the *FCA* to charge fees to cover its costs and expenses in carrying out its functions:

...

(f) regulation 18 of the *Small and Medium Sized Business (Finance Platforms) Regulations*.

...

- (4) *Fee-paying payment service providers, fee-paying electronic money issuers, CBTL firms, designated finance platforms 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:
- (a) regulation 21 of the *Small and Medium Sized ~~Businesses~~ Business (Credit Information) Regulations*; and
- (b) regulation 18 of the *Small and Medium Sized Business (Finance Platforms) Regulations*.

...

...

2.2 Late Payments and Recovery of Unpaid Fees

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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*, *designated finance platforms* and, where relevant, *FOS levies* and *CFEB levies*).

...

...

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*, a *fee-paying electronic money issuer*, a *designated finance platform* and a *designated credit reference agency*.

...

Purpose

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3.1.4 G Most of the detail of what fees are payable by the *persons* referred to in *FEES* 3.1.3G is set out in *FEES* 3 Annex 1 - *FEES* 3 Annex 12R.

...

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

(2) These fees are charged under regulation 21 of the *Small and Medium Sized Businesses Business (Credit Information) Regulations* and regulation 18 of the *Small and Medium Sized Business (Finance Platforms) Regulations*.

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3.2 Obligation to pay fees

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

Part 1: Application, notification and vetting fees		
(1) Fee payer	(2) Fee payable	Due date
...
(zu) Any <i>person</i> to which the Designated Credit Reference Agencies and Finance Platform Fee applies under <i>FEES</i> 3 Annex 10B.	Designated Credit Reference Agencies and Finance Platform Fee in accordance with <i>FEES</i> 3 Annex 10B.	Within 30 <i>days</i> of the date of the invoice.
...		

**3 Annex
10BR**

Designated Credit Reference Agencies and Finance Platforms Fee

(1) The Designated Credit Reference Agencies and Finance Platform Fee (the “DCRFP”) is only payable by a *designated credit reference agency* or a *designated finance platform*.

(2)		The DCRFP becomes payable by a <i>person</i> falling into (1) if the <i>FCA</i> conducts regulatory work connected to:
	(a)	breaches or potential breaches by that <i>person</i> of requirements under the <i>Small and Medium Sized Businesses (Credit Information) Regulations</i> or the <i>Small and Medium Sized Business (Finance Platform) Regulations</i> .
	(b)	whether the <i>person</i> has or may have committed an offence of misleading the <i>FCA</i> under regulation 34 of the <i>Small and Medium Sized Businesses (Credit Information) Regulations</i> or regulation 31 of the <i>Small and Medium Sized Business (Finance Platforms) Regulations</i> .
(3)	(c)	A <i>person</i> falling into (1) is not required to pay the DCRFP if the amount calculated in accordance with (4) for the <i>FCA</i> 's regulatory work described at (2)(a) and/or (b) is less than £10,000.
(4)		The DCRFP is calculated as follows:
	(a)	...
	(e)	The resulting figure is the DCRFP.
...		
(6)	(a)	The obligation to pay the DCRFP is ongoing. There is therefore no limit on the number of times that the <i>FCA</i> may invoice a <i>person</i> falling into (1) for the DCRFP for the same regulatory work described at (2)(a) and/or (b).
	...	
(7)		If the DCRFP is payable, the full amount calculated under (4) is payable; not just the excess over £10,000.
...		

Part 2

Amend FEES 5 as shown.

5 Financial Ombudsman Service Funding

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, a CBTL firm, a designated finance platform and a *designated credit reference agency*.*

...

5.5B Case fees

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5.5B.7 R (1) 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*; and
- (e) a designated finance platform.

...

...

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, a designated finance platform 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*.*

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

Voluntary jurisdiction – annual levy for VJ participants			
Industry block and business activity	Tariff basis	Tariff rate	Minimum levy
...			

14V	<p>Persons not covered by 1V to 9V providing <i>credit information</i>, under the <i>Small and Medium Sized Business (Credit Information) Regulations</i> <u>or</u> <u>providing specified information under the <i>Small and Medium Business (Finance Platforms) Regulations</i></u> or would be if it was carried on from an establishment in the <i>United Kingdom</i></p>	[TBC]	[TBC]	[TBC]
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Part 3

Amend FEES 5 as shown.

5 Annex 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2016/17

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Industry block	Tariff base	General levy payable by firm
...		
<i>22 - designated credit reference agencies (but excluding firms in any other industry block)</i>
<i>23 – designated finance platforms (but excluding firms in any other industry block)</i>	<u>Flat fee</u>	<u>[TBC]</u>