

**FEES (CLAIMS MANAGEMENT COMPANIES) INSTRUMENT 2018**

**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 or under the Financial Services and Markets Act 2000 (“the Act”):
    - (a) section 137A (The FCA’s general rules);
    - (b) section 137T (General supplementary powers);
    - (c) section 139A (Power of the FCA to give guidance);
    - (d) section 234 (Industry funding);
    - (e) paragraph 23 (Fees) of Schedule 1ZA (The Financial Conduct Authority);  
and
  - (2) articles 1(2) and 74 of the Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018; and
  - (3) section 27 of the Financial Guidance and Claims Act 2018.
- B. The rule-making powers listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

**Powers exercised by the Financial Ombudsman Service**

- D. The Financial Ombudsman Service Limited:
- (1) makes and amends the scheme rules relating to the payment of fees under the Compulsory Jurisdiction;
  - (2) fixes and varies the standard terms for Voluntary Jurisdiction participants relating to the payment of fees under the Voluntary Jurisdiction, and
  - (3) fixes and varies the standard terms for the Voluntary Jurisdiction, as set out in the Annex to this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000:
    - (a) section 225 (The scheme and the scheme operator);
    - (b) section 227 (Voluntary jurisdiction);
    - (c) paragraph 14 (The scheme operator’s rules) of Schedule 17;
    - (d) paragraph 15 (Fees) of Schedule 17; and
    - (e) paragraph 18 (Terms of reference to the scheme) of Schedule 17.
- E. The making and amendment of these scheme rules and fixing and variation of these standard terms by the Financial Ombudsman Service Limited is subject to the consent and approval of the Financial Conduct Authority.

- F. The Financial Ombudsman Service Limited notes that, for the avoidance of doubt, the Transitional Provisions at TP 20 in Annex A below apply equally to the Voluntary Jurisdiction and the Compulsory Jurisdiction of the Financial Ombudsman Service Limited.

### **Approval by the Financial Conduct Authority**

- G. 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.

### **Commencement**

- H. This instrument comes into force on 1 January 2019.

### **Amendments to the Handbook**

- I. The Glossary of definitions is amended in accordance with Annex A to this instrument.
- J. The Fees manual (FEES) is amended in accordance with Annex B to this instrument.

### **Citation**

- K. This instrument may be cited as the Fees (Claims Management Companies) Instrument 2018.

By order of the Board of the Financial Ombudsman Service Limited  
7 December 2018

By order of the Board of the Financial Conduct Authority  
13 December 2018

## Annex A

### Amendments to the Glossary

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

Amend the following definition as shown.

- participant firm* (1) a *firm* other than:
- ...
- (i) ... ; ~~and~~
- (j) ... ; and
- (k) a claims management company in relation to a regulated claims management activity;
- ...

## 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

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#### 3.2 Obligation to pay fees

...

#### 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
...		
<u>(zzd) applications for claims management companies</u>	<p><u>(1) £1,200 for claims management companies with annual turnover of up to and including £1,000,000; and</u></p> <p><u>(2) £10,000 for claims management companies with annual turnover of over £1,000,000.</u></p> <p><u>Firms which already have Part 4A permissions and are applying to vary their permissions will receive a 50% reduction in the relevant fee.</u></p>	<u>On the date the application is made.</u>

...

**3 Annex 1R**      **Authorisation Fees payable**  
Part 1 - Authorisation fees payable

...

<b>Part 1(a) Authorisation Fees payable to the FCA by FCA-authorized persons</b>	
<b>Application type</b>	<b>Amount payable (£)</b>
...	
(3) Complexity groupings relating to <i>credit-related regulated activity</i> – see Part 3	
...	
(4) Complexity groupings relating to <i>claims management companies</i>	
<u>(k) Claims management companies with turnover of up to and including £1,000,000</u>	<u>1,200</u>
<u>(l) Claims management companies with turnover of over £1,000,000</u>	<u>10,000</u>

...

**4**      **Periodic fees**

...

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

Part 1

This table shows how the *FCA* links the *regulated activities* for which a *firm* has *permission* to activity groups (fee-blocks). A *firm* can use the table to identify which fee-blocks it falls into based on its *permission*.

Activity group	Fee payer falls in the activity group if:
...	...
CC2. Credit-related regulated activities	...
<u>CMC.</u>	it is a <i>claims management company</i> .

...

Part 3

This table indicates the tariff base for each fee-block set out in Part 1.

The tariff base in this Part is the means by which the *FCA* measures the amount of business conducted by a *firm* for the purposes of calculating the annual periodic fees payable to the *FCA* by that *firm*.

Activity group	Tariff base
...	...
CC2. Credit-related regulated activities	...
<u>CMC.</u>	<u>Annual turnover as defined in FEES 4 Annex 11AR.</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 shown in this table.

Activity group	Valuation date
...	...
CC2. Credit-related regulated activities	...
<u>CMC.</u>	<u>Annual turnover for the financial year ended in the calendar year ending 31 December.</u>
...	

**4 Annex 2AR FCA Fee rates and EEA/Treaty firm modifications for the period from 1 April 2018 2019 to 31 March 2019 2020**

Part 1

This table shows the tariff rates applicable to each of the fee blocks set out in Part 1 of *FEES* 4 Annex 1AR.

...

Activity group	Fee payable	
...	...	...
CC2.	...	...
<u>CMC.</u>	<u>Band width (£ thousands of annual turnover)</u>	<u>Fee (£) for 2019/20</u>
	<u>0-50</u>	<u>500</u>
	<u>50-100</u>	<u>1,000</u>
	<u>&gt;100</u>	<u>13 per £ thousand or part per £ thousand</u>

...

...

4 Annex 11AR **Definition of annual income for the purposes of calculating fees in fee blocks A.13, A.14, A.18, A.19 and B. Service Companies, Recognised Investment Exchanges, and Regulated Benchmark Administrators and Claims Management Companies**

Annual income definition
<p><b>General definition for all relevant fee-blocks (other than where the firm is an operator of a Recognised Investment Exchange, or a Benchmark Administrator or a Claims Management Company)</b></p> <p>...</p> <p><b>Where the relevant fee-block is fee-block A.19</b></p> <p>...</p> <p><b><u>Where the firm is a Claims Management Company (fee-block claims management company)</u></b></p> <p><u>Income is defined as turnover.</u></p> <p><u>“Turnover” means the sum of the amounts paid to, or received by, an authorised <i>claims management company</i> in respect of <i>regulated claims management activities</i> in <i>Great Britain</i>, including:</u></p> <p><u>(j) charges, commission, the share of any compensation, fees and subscriptions;</u></p> <p><u>(k) the monetary value of any services received by the <i>claims management company</i> where it makes no payment for those services or where the payment received is worth less than the monetary value of the services; and</u></p> <p><u>(l) the monetary value of any advertising in respect of the <i>claims management company</i> that it has not paid for out of funds referred to in sub-paragraphs (j) and (k).</u></p>

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

<p>Table 1</p> <p>The following table sets out guidance on how a <i>firm</i> should calculate tariffs for fee blocks A.13, A.14, A.18, A.19 and B. Service Companies, Recognised</p>
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Investment Exchanges, <del>and</del> Regulated Benchmark Administrators <u>and Claims Management Companies</u> .	
...	
Reporting period	
...	
(4)	<del>The</del> <u>Except for claims management companies, the</u> “reporting year” is the <i>firm’s</i> financial year ending 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 1A.
...	

...

## 5 Financial Ombudsman Service Funding

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### 5.5B Case fees

...

#### 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~~ or claims management company (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 1R Annual General Levy Payable in Relation to the Compulsory Jurisdiction for 2018 2019/1920

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**Compulsory jurisdiction - general levy**

<b>Industry block</b>	<b>Tariff base</b>	<b>General levy payable by firm</b>
...	...	...
<u>24 – claims management companies</u>	<u>Annual income</u>	<u>£50 plus £3.00 per £1,000 of annual income</u>

...

After FEES 5 Annex 3R (Case Fees Payable for 2018/19) insert the following new Annex, FEES 5 Annex 4R. The text is not underlined.

**5 Annex 4R Definition of annual income for the purposes of the FOS general levy where the firm is a claims management company**

<b>Annual income definition</b>
<p>Income is defined as turnover.</p> <p>“Turnover” means the sum of the amounts paid to, or received by, an authorised <i>claims management company</i> in respect of <i>regulated claims management activities</i> in <i>Great Britain</i>, including:</p> <p>(a) charges, commission, the share of any compensation, fees and subscriptions;</p> <p>(b) the monetary value of any services received by the <i>claims management company</i> where it makes no payment for those services or where the payment received is worth less than the monetary value of the services; and</p> <p>(c) the monetary value of any advertising in respect of the <i>claims management company</i> that it has not paid for out of funds referred to in sub-paragraphs (a) and (b).</p>

...

After FEES TP 19 (Transitional provisions relating to statements provided by participant firms before 1 April 2019 with respect to the FSCS 2019/20 financial year) insert the following new transitional provisions. The text is not underlined.

**TP 20 Transitional provisions relating to the Temporary Permissions regime for Claims Management Companies, taking effect on 1 January 2019**

These transitional provisions will only apply to firms that are already trading as *claims management companies* as at 1 January 2019 and who apply to the *FCA* for temporary permission, prior to authorisation.

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provision: coming into force
<b>Periodic fee transitional provisions</b>					
20.1	<i>FEES</i> TP 20	G	<p>(1) This transitional provision applies to <i>claims management companies</i>.</p> <p>(2) <i>Claims management company</i> is defined in the <i>Glossary</i> as a <i>person</i> carrying on a <i>regulated claims management activity</i> in <i>Great Britain</i>.</p> <p>(3) <i>Regulated claims management activity</i> is in turn defined as comprising various individual <i>regulated activities</i> which are defined in the <i>Glossary</i> by reference to the <i>regulated activities</i> in articles 89G to 89M of the <i>Regulated Activities Order</i>. All of the <i>Glossary</i> definitions above come into force on 1 January 2019.</p> <p>(4) The <i>regulated activities</i> in articles 89G to 89M of the <i>Regulated Activities Order</i> were added to the <i>Regulated Activities Order</i> by the <i>Claims Management Order</i>. That Order comes into force for most purposes on 1 April 2019. However, it came into force on</p>	1 January 2019	1 January 2019

			<p>29 November 2018 for various purposes including:</p> <p>(a) for the purpose of enabling the <i>FCA</i> to make <i>rules</i>, give guidance, impose requirements, make directions, and approve <i>rules</i>;</p> <p>(b) for the purpose of enabling the <i>scheme operator</i> to do various things including making <i>rules</i> and standard terms.</p> <p>(5) That means that, for the purposes of the definition of <i>claims management company</i> and the related <i>Glossary</i> definitions (including the definitions of <i>regulated claims management activity</i> and the related <i>regulated activities</i>) in this instrument, the references to the <i>Regulated Activities Order</i> are references to that Order as amended by the <i>Claims Management Order</i>.</p>		
20.2	FEES 4 Annex 1A	R	<p><i>Claims management companies</i> registering for temporary permission must pay the periodic fee for the 2019/20 year within 14 days of the date of the invoice, which will be issued following registration. The periodic fee for 2019/20 will be calculated from the <i>firm's</i> annual turnover.</p> <p>“Turnover” means the sum of the amounts paid to, or received by, a <i>claims management company</i> in respect of <i>regulated claims management activities</i>, including:</p>	1 January 2019	1 January 2019

			<p>(a) charges, commission, the share of any compensation, fees and subscriptions;</p> <p>(b) the monetary value of any services received by the <i>claim management company</i> where it makes no payment for those services or where the payment received is worth less than the monetary value of the services; and</p> <p>(c) the monetary value of any advertising in respect of the <i>claims management company</i> that it has not paid for out of funds referred to in subparagraphs (a) and (b).</p> <p>“Annual turnover” means:</p> <p>(d) the <i>claims management company’s</i> turnover for the 12 <i>months</i> to 30 November 2017; or</p> <p>(e) if the business did not trade for the full 12 <i>months</i> to 30 November 2017, the estimated turnover for the 12 <i>months</i> to 30 November 2018; or</p> <p>(f) where the application for authorisation by the Claims Management Regulator was made on or after 30 November 2017, the estimated turnover for the 12 <i>months</i> to 30 November 2018.</p> <p><i>Firms</i> must also notify the <i>FCA</i> of any turnover arising from business in Scotland, or business conducted under section 75 of the <i>CCA</i>.</p>		
<b>Transitional provision for FOS general levy</b>					
20.3	<i>FEES</i> 5.7.1	R	<i>Claims management companies</i> applying for authorisation for the 2019/20 financial year must pay	1 January 2019	1 January 2019

		<p>the <i>FOS general levy</i> on or before the later of 1 April 2019 and 30 calendar days after the date when the invoice is issued by the <i>FCA</i>. The <i>general levy</i> for <i>claims management companies</i> will be calculated at £50 plus £3.00 per £1,000 of annual income.</p> <p>“Income” is defined in <i>FEES 5 Annex 4R</i> and means the sum of the amounts paid to, or received by, a <i>claims management company</i> in respect of <i>regulated claims management activities</i>, including:</p> <p>(a) charges, commission, the share of any compensation, fees and subscriptions;</p> <p>(b) the monetary value of any services received by the <i>claims management company</i> where it makes no payment for those services or where the payment received is worth less than the monetary value of the services; and</p> <p>(c) the monetary value of any advertising in respect of the <i>claims management company</i> that it has not paid for out of funds referred to in subparagraphs (a) and (b).</p> <p>“Annual income” means:</p> <p>(d) the <i>claims management company’s</i> turnover for the 12 <i>months</i> to 30 November 2017; or</p> <p>(e) if the business did not trade for the full 12 <i>months</i> to 30 November 2017, the estimated turnover for the 12 <i>months</i> to 30 November 2018; or</p> <p>(f) where the application for authorisation by the Claims</p>		
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			<p>Management Regulator was made on or after 30 November 2017, the estimated turnover for the 12 <i>months</i> to 30 November 2018.</p> <p><i>Firms</i> must also notify the <i>FCA</i> of any turnover arising from business in Scotland, or business conducted under section 75 of the <i>CCA</i>.</p>		
<b>Joining the Financial Ombudsman Service</b>					
20.4	<i>FEES</i> 5.8.1	R	<p>For <i>claims management companies</i> applying for authorisation in the 2018/19 financial year, this rule does not apply to those <i>firms</i> which have paid in full upon registration but are not authorised until part way through the <i>financial year</i>.</p>	1 January 2019	1 January 2019