

FEES (MISCELLANEOUS AMENDMENTS) (No 13) INSTRUMENT 2019

Powers exercised

- 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 137A (The FCA’s general rules);
 - (b) section 137T (General supplementary powers);
 - (c) section 139A (Power of the FCA to give guidance);
 - (d) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority);
 - (e) section 137SA (Rules to recover expenses incurred by the single financial guidance body); and
 - (2) paragraphs 2 and 6 of schedule 1 of the Financial Services Act 2012 (Mutual Societies) Order 2013/496.
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force on 1 April 2019.

Amendments to the Handbook

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

Citation

- E. This instrument may be cited as the Fees (Miscellaneous Amendments) (No 13) Instrument 2019.

By order of the Board
28 February 2019

Annex

Amendments to the Fees manual (FEES)

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

1 Fees Manual

1.1 Application and Purpose

1.1.1A G *FEES* App 1 Annex 1A applies to all persons required to pay a fee or any other amount to the *FCA* under the Unauthorised Mutuals Registration Fees Rules, as made by the Fees (Unauthorised Mutual Societies Registration) Instrument 2002 (FSA 2002/4) and amended from time to time. *FEES* App 1 Annex 5 applies to all persons required to pay a fee for inspecting any document or documents on the Mutuals Register.

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1.1.2 R This manual applies in the following way:

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(6) *FEES* App 1 Annex 1A applies to every:

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4 Periodic fees

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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:
...	...
CC1. Credit-related regulated activities with limited permission	<p>it carries on <i>credit-related regulated activities</i>; and</p> <p>it has a <i>limited permission</i>; and</p> <p>it is not a <i>not-for-profit debt advice body</i>; and</p> <p>it is not a <i>credit union</i> or <i>community finance organisation</i> with annual income as defined in FEES 4 Annex 11BR of less than £250,000.</p>
CC2. Credit-related regulated activities	<p>it carries on <i>credit-related regulated activities</i>; and</p> <p>it does not have a <i>limited permission</i>; and</p> <p>it is not a <i>not-for-profit debt advice body</i>; and</p> <p>it is not a <i>credit union</i> or <i>community finance organisation</i> with annual income as defined in FEES 4 Annex 11BR of less than £250,000.</p>

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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
...	...
A.4	...
	<p>Notes:</p> <p>(1) The recovery of the <i>FCA</i>'s annual funding requirement allocated to the A.4 fee-block will be weighted:</p> <p>(a) 75 <u>60</u>% from gross written premium for fees purposes; and</p> <p>(b) 25 <u>40</u>% from best estimate liabilities for fees purposes.</p> <p>...</p>
...	...

7A SFGB levies

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7A.3 The SFGB money advice levy and debt advice levy

Obligation to pay SFGB money advice or debt advice levy

- 7A.3.1 R A *firm* must pay the *SFGB money advice levy* or *SFGB debt advice levy* applicable to it:
- (1) in full and without deduction (unless permitted or required by a provision in *FEES*); and
 - (2) ~~in accordance with the provisions of *FEES* 4.3.6R as modified by *FEES* 7A.3.2R by 1 August or, if later, within 30 days of the date of the invoice in the fee year to which that sum relates.~~
- 7A.3.2 R (1) ~~For the purposes of *FEES* 7A.3.1R(2), *FEES* 4.3.6R(1C) to (1E) is modified so that if a *firm's* periodic fee for the previous financial year were at least £50,000, the *firm* must pay:~~
- (a) ~~an amount equal to 50% of the *SFGB money advice* or *SFGB debt advice levy* payable for the previous year, by 1 April in the financial year to which the sum due under *FEES* 7A.3.1R relates; and~~
 - (b) ~~the balance of the *SFGB money advice levy* or *SFGB debt advice levy* due for the current financial year by 1 September in the financial year to which that sum relates.~~
- (2) ~~For the purposes of *FEES* 7A.3.1R(2), *FEES* 4.3.6R(2) is modified so that if the *firm's* periodic fee for the previous financial year was less than £50,000, the *firm* must pay its *SFGB money advice levy* or *SFGB debt advice levy* in full by 1 July in the financial year to which that sum relates. [deleted]~~

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7A.4 The SFGB pensions guidance advice levy

Obligation to pay SFGB pensions guidance levy

- 7A.4.1 R A *firm* must pay the *SFGB pensions guidance levy* applicable to it:
- (1) in full and without deduction by 1 August or, if later, within 30 days of the date of the invoice in the fee year to which that sum relates; and

- (2) in accordance with the *rules* in this section.

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13 Illegal money lending levy

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13.2 The IML levy

Obligation to pay the IML levy

13.2.1 R A *firm* must pay each *IML levy* applicable to it:

- (1) in full and without deduction (~~unless permitted or required by a provision in FEES~~) by 1 August (or, if later, within 30 days of the date of the invoice) in the financial year to which the sum relates; and
- (2) in accordance with the ~~provisions of FEES 4.3.6R (Time of payment) as modified by FEES 13.2.2R~~ rules in this chapter.

13.2.2 R (1) For the purposes of ~~FEES 13.2.1R(2), FEES 4.3.6R(1C) to (1E), as applied by FEES 13.2.8R~~, is modified so that if a *firm's* periodic fees for the previous *financial year* were at least £50,000, the *firm* must pay:

- (a) ~~an amount equal to 50% of the IML levy payable for the previous year, by 1 April in the financial year to which the sum due under FEES 13.2.1R relates; and~~
- (b) ~~the balance of the IML levy due for the current financial year by 1 September in the financial year to which that sum relates.~~
[deleted]

App 1 Unauthorised Mutuals Registration Fees Rules

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App 1.1 Introduction

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App 1.1.2 G (1) The purpose of these rules is to set out the requirements for registered societies and sponsoring bodies to pay ~~periodic and application fees which, together, will provide the funding for the FCA's functions in respect of the registrant only fee block (Category F).~~

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Background

- App 1.1.3 G ~~Most of the detail of the periodic fees which will be payable by *registered societies* is set out in Annex 1R to these rules, the provisions of which will vary from one financial year to another. Accordingly, a revised Annex 1R will come into force, following consultation, for each financial year. Most of the detail of the application fees which will be payable by *registered societies* and *sponsoring bodies* is set out in FEES App 1 Annex 1A, the provisions of which may not change each year. [deleted]~~

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- App 1.1.5 G ~~The periodic fee set for *registered societies* is a tiered fee, which is payable annually. The amount payable is dependent upon the *R* declared by the *registered society* in the most recent *R* required to be filed with the *FCA*. [deleted]~~

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App 1.2 Periodic Fees

General

- App 1.2.1 R ~~A *registered society* must pay to the *FCA*, in full and without deduction, the periodic fee applicable to it under Annex 1R for a financial year during which, or part of which, the society is registered, except as provided for in 1.2.5R and 1.2.6R. [deleted]~~

- App 1.2.2 R [deleted]

~~Methods of payment~~

- App 1.2.3 R ~~A *registered society* must pay its periodic fee by one of the methods specified in Annex 1R. [deleted]~~

~~Due dates~~

- App 1.2.4 R ~~A *registered society* must pay a periodic fee on or before the relevant due date for payment specified in Annex 1R for the relevant year. [deleted]~~

Exceptions

App 1.2.5 R ~~A *registered society* is not required to pay the periodic fee for the financial year in which it is first registered. [deleted]~~

App 1.2.5A R ~~A *registered society* which has not been required to file an R before the commencement of a given fee year must pay the lowest periodic fee for a *registered society* specified in Annex 1R for that year. [deleted]~~

App 1.2.5B R ~~If a *registered society* fails to file an R by the date it is required to be filed:~~

(1) ~~the *R* used to determine the amount of the periodic fee payable by the *registered society* will be that shown in the *R* last filed with the *FCA* by its predecessor, and~~

(2) ~~the *registered society* must pay an administrative fee equal to the lower of the periodic fee payable by the *registered society* under Annex 1R for that year, and £250. [deleted]~~

App 1.2.6 R ~~if a *registered society* ceases to be a *registered society* on or after 1 April in a particular financial year, but before an invoice for the periodic fee payable under 1.2.1R for the financial year in which the society ceases to be a *registered society* has been issued by the *FCA*, the periodic fee payable by that *registered society* under 1.2.1R is the amount of the periodic fee under Annex 1R for the immediately preceding financial year. [deleted]~~

App 1.2.7 R [deleted]

Extension of time

App 1.2.8 R ~~A *registered society* need not pay a periodic fee on the date which it is due under the relevant provision in these rules, if:~~

(1) ~~that date falls during a period during which circumstances of the sort set out in *FEES* App 1 Annex 3 (Emergencies) exist, and that *registered society* has reasonable grounds to believe that those circumstances impair its ability to pay the fee, in which case it must pay on or before the fifth *business day* after the end of that period; or~~

(2) ~~that date would otherwise fall on or before the 30th *day* after the date on which the *FCA* has sent written notification to that *registered society* of the fee payable on that date, in which case it must pay on or before the 30th *day* after the date on which the *FCA* sends the notification. [deleted]~~

Late payment

- App 1.2.9 R If a *registered society* does not pay the total amount of a periodic fee or a fee payable under 1.4.2R on the date on which it is due under the relevant provisions of these rules, that *registered society* must pay an additional amount as follows:
- (1) if the fee is not paid in full before the due date, an administrative fee of £250; plus
 - (2) if the fee is not paid in full before the end of 15 days after the due date, interest on any unpaid part of the fee at the rate of 5% per annum above the Official Bank Rate from time to time in force, accruing on a daily basis from the date on which the amount concerned became due. [deleted]
- App 1.2.10 G The *FCA* expects to issue invoices for periodic fees at least 30 days before the date on which they fall due. Accordingly, it will generally be the case that a *registered society* will have at least 30 days from the issue of the invoice before an administrative fee becomes payable, and at least 45 days before any interest becomes payable. [deleted]
- App 1.2.11 G If a *sponsoring body* does not pay the required periodic fee for a set of by the due date, the rules will cease to be *model rules* and applications for the registration of societies that use the rules will be charged by the *FCA* as if the rules were a free draft. [deleted]

Amending model rules

- App 1.2.12 G If a *sponsoring body* wished to change a set of *model rules*, it should supply a copy to the *FCA* indicating the proposed changes. No application fee is payable for such charges.

Refunds

- App 1.2.13 G The *FCA* will not refund periodic fees in any circumstances. [deleted]

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- App 1** **Periodic fees payable for the period 1 April 2018 to 31 March 2019** [deleted]
Annex 1R

Part 1 Periodic fee payable by Registered Societies (on 30 June 2018)

This fee is not payable by a *credit union*.

Transaction	Total assets (£'000s)	Amount payable (£)
Periodic fee	0 to 50	67
	> 50 to 100	129
	> 100 to 250	211
	> 250 to 1,000	273
	> 1,000	495

Part 2 Methods of payment of periodic fees

A periodic fee must be paid using either direct debit, Maestro, Visa Debit, credit transfer (BACS/CHAPS), cheque, switch or by credit card (Visa/Mastercard). Any payment by permitted credit card must include an additional 2% of the sum paid.

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App 1 Further information on fees Annex 2G

	Purpose
1	The purpose of this annex is to set out further information on fees applicable to <i>registered societies</i> which form the registrant-only block (Category F).
	Background
2	Paragraph 23 of Schedule 1ZA to the Act enables the FCA to charge fees to cover its expenses in carrying out its functions. [deleted]
3	The fees payable by <i>registered societies</i> will vary from one financial year to another and will reflect the FCA's funding requirement for the registrant-only fee block. [deleted]

4	For periodic fees, the key components of the fee mechanism are:	
	(1)	a funding requirement derived from:
	(a)	the FCA's financial management and reporting framework;
	(b)	the FCA's budget;
	(c)	adjustments, as appropriate, for audited variances between budgeted and actual expenditure in the previous accounting year and reserves movements (in accordance with FCA's reserves policy);
	(2)	fee blocks, which are broad groupings of fee payers offering similar products and services and presenting broadly similar risks to the FCA's regulatory objectives;
	(3)	a costing system to allocate an appropriate part of the funding requirement to each fee block; and
	(4)	tariff bases, which, when combined with fee tariffs, allow the calculation of fees. <u>[deleted]</u>
(5)	The FCA defines fee blocks so that they will depend, for the most part, upon the regulated activities included in the permission held by firms, with a separate fee block for mutual societies which do not conduct regulated activities (registrants). By basing fee blocks on categories of business, the FCA aims to minimise cross-sector subsidies. The funding requirement for the registrant only fee block will accordingly reflect only the cost of the registration function plus a share of corporate overheads. It will not include any indirect regulatory overheads. <u>[deleted]</u>	
	Recovery of fees	
(6)	Paragraph 23(8) of Schedule 1ZA of the Act permits the FCA to recover fees as a debt owed to the FCA and the FCA will consider court action for recovery through the civil courts.	

App 1
Annex 3

Emergencies [deleted]

- † R The FCA recognises that there may be occasions when, because of a particular emergency, a *registered society* may be unable to comply with a particular rule. The purposes of this annex is to provide appropriate relief

~~from the consequences of contravention of a rule in those circumstances.~~

- (1) ~~If any emergency arises which:~~
- (a) ~~could not have been avoided by the *registered society* taking all reasonable steps;~~
 - (b) ~~makes it impracticable for a *registered society* to comply with a particular rule; and~~
 - (c) ~~is outside the control of the *registered society*, its members and employees;~~

~~the *registered society* will not be in contravention of that rule to the extent that, in consequence of the emergency, compliance with that rule is impracticable.~~

- (2) ~~Paragraph (1) applies only for so long as:~~
- (a) ~~the consequences of the emergency routine; and~~
 - (b) ~~the *registered society* can demonstrate that it is taking all practicable steps to deal with those consequences, to comply with the rule.~~
- (3) ~~A *registered society* must notify the *FCA* as soon as practicable of the emergency and of the steps it is taking or proposes to take to deal with the consequences of the emergency.~~
- (4) ~~A *registered society* should continue to keep the *FCA* informed of the steps it is taking under 1.2.8(a)R. In the context of 1.2.8(a)R, an action is not practicable if it involves a *registered society* going to unreasonable lengths.~~

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After FEES Appendix 1 Annex 4 (Glossary of definitions) insert the following new Annex, FEES Appendix 1 Annex 5. The text is not underlined.

App 1 Personal inspection
Annex 5

- 1 R Any *person* may attend the *FCA* offices to inspect any document or documents from the Mutuels Register, upon appointment and payment of the relevant fee.

- 2 R The relevant fee for personal inspection is the hourly rate for an Associate, as set down in *FEES 3 Annex 9(11)R*. The full hourly rate is payable for each hour or part-hour of the visit.