

FEES (DEVOLVED AUTHORITIES DEBT ADVICE LEVIES) INSTRUMENT 2019

Powers exercised

- A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in 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);
 - (4) paragraph 23 (Fees) in Part 3 (Penalties and Fees) of Schedule 1ZA (The Financial Conduct Authority); and
 - (5) section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities).
- B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.
- C. As required by section 137SB(5) of the Act, the Treasury has consented to rules made under that section.

Commencement

- D. This instrument comes into force on 1 March 2019.

Amendments to the Handbook

- E. The modules of the FCA Handbook listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Glossary of definitions	Annex A
Fees manual (FEES)	Annex B
Credit Unions sourcebook (CREDS)	Annex C

Notes

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

Citation

- G. This instrument may be cited as the Fees (Devolved Authorities Debt Advice Levies) Instrument 2019.

By order of the Board
28 February 2019

Annex A

Amendment to the Glossary of definitions

Insert the following new definitions in the appropriate alphabetical position. The text is not underlined.

<i>Devolved Authorities</i>	for the purposes of the <i>DA levy</i> in relation to providing debt advice to members of the public in Scotland, Wales and Northern Ireland, the devolved authorities are defined in section 137SB(11) of the <i>Act</i> as: <ol style="list-style-type: none"> (a) the Scottish Ministers; (b) the Welsh Ministers; and (c) the Department for Communities in Northern Ireland.
<i>DA levy</i>	the levy payable to the <i>FCA</i> in respect of the provision of debt advice by the <i>Devolved Authorities</i> under <i>FEES 7B</i> .

Amend the following definitions as shown. Underlining indicates new text and striking through indicates deleted text.

<i>electronic money issuer</i>	<ol style="list-style-type: none"> (1) (except in <i>DISP</i>, <i>FEES 5.5A</i>, and <i>FEES 7A</i> and <i>FEES 7B</i>) any of the following <i>persons</i> when they issue <i>electronic money</i>: <p style="margin-left: 20px;">...</p> <p style="margin-left: 20px;">...</p> (3) (in <i>FEES 7A</i> <u>and <i>FEES 7B</i></u>) as in (1) but excluding: <ol style="list-style-type: none"> (a) the Bank of England, the European Central Bank and the national central banks of <i>EEA States</i> other than the <i>United Kingdom</i>, when not acting in their capacity as a monetary authority or other public authority; and (b) government departments and local authorities when acting in their capacity as public authorities.
<i>firm</i>	<p>...</p> <ol style="list-style-type: none"> (5) (in <i>FEES 3</i>, <i>FEES 4</i>, <i>FEES 5</i>, <i>FEES 7</i>, and <i>FEES 7A</i> and <i>FEES 7B</i>) includes a <i>fee-paying payment service provider</i> and a <i>fee-paying electronic money issuer</i> in accordance with <i>FEES 3.1.1AR</i>, <i>FEES 4.1.1AR</i>, <i>FEES 5.1.1AR</i>, <i>FEES 7.1.1R</i>, and <i>FEES 7A.1.1R(1)</i> and <i>FEES 7B.1.1R</i>.

- ...
- payment service provider* (1) (except in *DISP*, ~~and~~ *FEES 7A* and *FEES 7B*) (in accordance with regulation 2(1) of the *Payment Services Regulations*) any of the following *persons* when they carry out a *payment service*:
- ...
- ...
- (5) (in *FEES 7A* and *FEES 7B*) as in (1) but excluding (1)(g) and (h).

Annex B

Amendments to the Fees manual (FEES)

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

1 Fees Manual

1.1 Application and Purpose

1.1.1 G ...

(9) FEES 7B relates to the DA levy.

...

Application

1.1.2 R This manual applies in the following way:

...

(5) FEES 1, 2, 7, and 7A (in relation to the *SFGB money advice levy* and *SFGB debt advice levy* only) and 7B apply to:

...

...

FEES 1, 2, 7, and 7A and 7B do not apply to an *incoming EEA firm* or an *incoming Treaty firm* that has not established a *branch* in the *United Kingdom*.

...

2 General Provisions

...

2.2 Late Payments and Recovery of Unpaid Fees

Late Payments

2.2.1 R If a *person* does not pay the total amount of a periodic fee, *FOS* levy, or share of the *FSCS* levy, *CFEB* levy, ~~*SFGB* levy~~ or *DA* levy, before the end of the date on which it is due, under the relevant provision in *FEES* 4, 5, 6, 7, ~~*7A*~~ or *7B*, that *person* must pay an additional amount as follows:

...

- 2.2.2 R The *FCA*, (for *FCA* and *PRA* periodic fees, *FOS* and *FSCS* levies, *CFEB* levies, ~~and~~ *SFGB* levies and a *DA* levy), expects to issue invoices at least 30 *days* before the date on which the relevant amounts fall due. Accordingly it will generally be the case that a *person* will have at least 30 *days* from the issue of the invoice before an administrative fee becomes payable.

Recovery of Fees

- 2.2.3 G (1) Paragraph 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*, *CBTL* firms, *data reporting services providers*, *designated credit reference agencies*, *designated finance platforms* and, where relevant, *FOS* levies, *CFEB* levies, ~~and~~ *SFGB* levies, and a *DA* levy).

...

- 2.2.4 R In addition, the *FCA* may be entitled to take regulatory action in relation to the non-payment of fees, *FOS* levies, *CFEB* levies, ~~and~~ *SFGB* levies and a *DA* levy. The *FCA* may also take regulatory action in relation to the non-payment of a share of the *FSCS* levy, after reference of the matter to the *FCA* by the *FSCS*. What action (if any) that is taken by the *FCA* will be decided upon in the light of the particular circumstances of the case.

2.3 Relieving Provisions

Remission of Fees and levies

- 2.3.1 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case, the payment of any fee, *FSCS* levy, *FOS* levy, *CFEB* levy ~~or~~ *SFGB* levy or *DA* levy would be inequitable, the *FCA* or the *FSCS* as relevant, may (unless *FEES* 2.3.2BR applies) reduce or remit all or part of the fee or levy in question which would otherwise be payable.
- 2.3.2 R If it appears to the *FCA* or the *FSCS* (in relation to any *FSCS* levy only) that in the exceptional circumstances of a particular case to which *FEES* 2.3.1R does not apply, the retention by the *FCA*, the *FSCS*, or the *CFEB*, as relevant, of a fee, *FSCS* levy, *FOS* levy, *CFEB* levy, ~~or~~ *SFGB* levy or *DA* levy which has been paid would be inequitable, the *FCA*, the *FSCS* or the *CFEB*, may (unless *FEES* 2.3.2BR applies) refund all or part of that fee or levy.
- ...
- 2.3.2C R For *FEES* 7A, and *FEES* 7B, the *FCA* is entitled not to consider a claim under *FEES* 2.3.1R or *FEES* 2.3.2R to refund any overpaid amounts due to a mistake of fact or law by the fee-paying *firm* if the claim is made more than two years after the beginning of the period to which the *SFGB* levy or *DA* levy subject to the claim relates.

2.4 VAT

- 2.4.1 R All fees payable or any stated hourly rate under *FEES 3* (Application, notification and vetting fees), *FEES 4* (Periodic fees), *FEES 4A* (Periodic fees for *TP persons*), *FEES 7* (The CFEB levy), *FEES 7A* (The SFGB levy), and *FEES 7B* (The DA levy) are stated net of VAT. Where VAT is applicable this must also be included.

Insert the following new chapter, FEES 7B, in the appropriate position. The text is not underlined.

7B The DA levy

7B.1 Application and purpose

Application

- 7B.1.1 R This chapter applies to every *person* listed in *FEES 1.1.2R(5)*.

Purpose

- 7B.1.2 G The purpose of this chapter is to set out the requirements on the *persons* listed in *FEES 7B.1.1R* to fund the Treasury's costs relating to the provision of debt advice by the *Devolved Authorities*, and the related *FCA* collection costs.

Background

- 7B.1.3 G The Treasury's debt advice costs are defined in subsection 1 of section 137SB (Rules to recover debt advice expenses incurred by the devolved authorities) of the *Act* as the expenses incurred, or expected to be incurred, by the *Devolved Authorities* in connection with the provision of information and advice on debt to members of the public in Scotland, Wales and Northern Ireland.
- 7B.1.4 G
- (1) Under section 137SB(1) of the *Act*, the Treasury may notify the *FCA* of the amount of the debt advice costs.
 - (2) Sections 137SB(2) and (3) of the *Act* require the *FCA* to make *rules* requiring *authorised persons, electronic money issuers or payment service providers* to pay specified sums, or sums calculated in a specified way, to the *FCA* with a view to recovering:
 - (a) the amount notified by the Treasury; and
 - (b) expenses incurred by the *FCA* in connection with its functions under section 137SB of the *Act*.

- 7B.1.5 G This chapter contains the *rules* referred to in *FEES 7B.1.4G(2)*.
- 7B.1.6 G Under section 137SB(8) of the *Act*, the *FCA* must pay to the Treasury the amounts that it receives under these *rules*, apart from amounts covering its collection costs (which it may keep).
- 7B.1.7 G The total amount raised by the *DA levy* may vary from year to year depending on the amount notified to the *FCA* by the Treasury.
- 7B.1.8 G These *rules* were made with the consent of the Treasury pursuant to section 137SB(5) of the *Act*.

Exemption

- 7B.1.9 R A *firm* is not liable to pay a *DA levy* in relation to *payment services* or *electronic money issuance* if it is the Bank of England, a government department, a local authority, a municipal bank or the National Savings Bank.

7B.2 The DA levy

Obligation to pay DA levy

- 7B.2.1 R A *firm* must pay the *DA levy* applicable to it:
- (1) in full and without deduction (unless permitted or required by a provision in *FEES*); and
 - (2) by 1 August or, if later, within 30 days of the date of the invoice in the *fee year* to which that sum relates.

Calculation of DA levy

- 7B.2.2 R The *DA levy* is calculated as follows:
- (1) identify each of the activity groups set out in Part 1 of *FEES 7B Annex 1R* that apply to the business of the *firm* for the relevant period (for this purpose, the activity groups under *FEES 7B Annex 1R* are defined in that Annex or in accordance with Part 1 of *FEES 4 Annex 1AR*);
 - (2) for each of those activity groups, calculate the amount payable in the way set out in *FEES 7B.2.3R*;
 - (3) add each of the amounts calculated under (2);
 - (4) modify the result as indicated by the table in *FEES 4.2.7ER*, *FEES 4.2.7FR*, *FEES 4.2.7GR*, *FEES 4.2.7HR*, *FEES 4.2.7IR*, *FEES 4.2.7JG* and *FEES 4.2.7KR* (if applicable);
 - (5) apply any applicable payment charge specified in *FEES 4.2.4R* to

the amount in (4), provided that:

- (a) for payment by direct debit, successful collection of the amount due is made at the first attempt by the *FCA*; or
 - (b) for payment by credit transfer, the amount due is received by the *FCA* on or before the due date; and
- (6) make the calculations using information obtained in accordance with Part 3 of *FEES 7B Annex 1R* in the case of Part 2 of that Annex.

7B.2.3 R The amount payable by a *firm* with respect to a particular activity group is calculated as follows:

- (1) calculate the size of the *firm's* tariff base for that activity group using:
 - (a) the tariff base calculations in Part 2 of *FEES 7B Annex 1R*; and
 - (b) the valuation date requirements in Part 3 of *FEES 7B Annex 1R*;
- (2) the amount payable in (1) is the amount payable by the *firm* with respect to that activity group.

7B.2.4 R For the purposes of *FEES 7B.2.3R*:

- (1) a *firm* may apply the relevant tariff bases and rates to its non-*UK* business, as well as to its *UK* business, if:
 - (a) it has reasonable grounds for believing that the costs of identifying the *firm's* *UK* business separately from its non-*UK* business in the way described in Part 2 of *FEES 7B Annex 1R* are disproportionate to the difference in fees payable; and
 - (b) it notifies the *FCA* in writing at the same time as it provides the information concerned under *FEES 4.4* (Information on which fees are calculated), or, if earlier, at the time it pays the fees concerned;
- (2) for a *firm* which has not complied with *FEES 4.4.2R* (information on which fees are calculated) or *FEES 4.4.8D* (Information relating to payment services and the issuance of electronic money) for this period, the *DA levy* is calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10.

FEES 4 rules incorporated into FEES 7B by cross-reference

- 7B.2.5 G The *FCA Handbook* provisions relating to the *DA levy* are meant to follow closely the provisions relating to the payment of periodic fees under *FEES* 4.3.1R. In the interests of brevity, not all of these provisions are set out again in *FEES* 7B. In some cases, certain *FEES* 4 rules are applied to the payment of the *DA levy* by individual rules in *FEES* 7B. The rest are set out in the table in *FEES* 7B.2.7R.
- 7B.2.6 R The rules set out in the table in *FEES* 7B.2.7R, and any other rules in *FEES* 4 included in *FEES* 7B by cross-reference, apply to the *DA levy* in the same way as they apply to periodic fees payable under *FEES* 4.3.1R.
- 7B.2.7 R Table of rules in *FEES* 4 that also apply to *FEES* 7B to the extent that in *FEES* 4 they apply to fees payable to the *FCA*

<i>FEES</i> 4 rules incorporated into <i>FEES</i> 7B	Description
<i>FEES</i> 4.2.4R	Method of payment
<i>FEES</i> 4.2.7ER	Modifications for persons becoming subject to periodic fees during the course of a fee year
<i>FEES</i> 4.2.7FR	Calculating the fee in the <i>firm's</i> first year of <i>authorisation</i>
<i>FEES</i> 4.2.7GR	Calculating fees in the second fee year where the <i>firm</i> received <i>permission</i> between 1 January and 31 March in its first fee year
<i>FEES</i> 4.2.7HR to <i>FEES</i> 4.2.7KR	Calculating all other fees in the second and subsequent years of <i>authorisation</i> where a full year of tariff data is not available
<i>FEES</i> 4.2.10R	Extension of time
<i>FEES</i> 4.2.11R (first entry only)	Due date and changes in <i>permission</i> for periodic fees
<i>FEES</i> 4.3.7R	Groups of <i>firms</i>
<i>FEES</i> 4.3.13R	<i>Firms</i> applying to cancel or vary <i>permission</i> before start of period
<i>FEES</i> 4.3.17R	<i>Firms</i> acquiring businesses from other <i>firms</i>
<i>FEES</i> 4.4.1R to <i>FEES</i> 4.4.6R	Information on which fees are calculated

- 7B.2.8 D *FEES* 4.4.7D to *FEES* 4.4.9D (Information relating to payment services and

the issuance of electronic money) also apply to *FEES 7B*.

- 7B.2.9 G References in a *FEES 4 rule* incorporated into *FEES 7B* by cross-reference to a periodic fee should be read as being to the *DA levy*. References in a *FEES 4 rule* incorporated into *FEES 7B* to *market operators, service companies, MTF operators, investment exchanges, or designated professional bodies* should be disregarded.
- 7B.2.10 G In some cases, a *FEES 4 rule* incorporated into *FEES 7B* in the manner set out in *FEES 7B.2.5G* will refer to another *rule* in *FEES 4* that has not been individually incorporated into *FEES 7B*. Such a reference should be read as being to the corresponding provision in *FEES 7B*. The main examples are set out in *FEES 7B.2.11G*.
- 7B.2.11 G Table of *FEES 4* rules that correspond to *FEES 7B* rules

<i>FEES 4</i> rules	Corresponding <i>FEES 7B</i> rules
<i>FEES 4.2.1R</i>	<i>FEES 7B.2.1R</i>
<i>FEES 4.3.1R</i>	<i>FEES 7B.2.2R</i>
<i>FEES 4.3.3R</i>	<i>FEES 7B.2.2R</i>
<i>FEES 4.3.3AR</i>	<i>FEES 7B.2.2R</i>

7B DA levy for the period from 1 April 2019 to 31 March 2020

Annex 1R

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* for the purposes of the *DA levy* applicable to each activity group (fee-block).

Activity group	DA levy payer falls in the activity group if:
A.2 Home finance providers and administrators	It falls under activity group A.2 as defined in Part 1 of <i>FEES 4 Annex 1AR</i> .
CC.3 Consumer credit lending	Its <i>permission</i> is in relation to the following regulated activities: - <i>entering into a regulated credit agreement as lender</i> (article 60B(1) of the <i>Regulated Activities Order</i>);

	<p>- <i>exercising, or having the right to exercise, the lender's rights and duties under a regulated credit agreement (article 60B(2) of the Regulated Activities Order);</i></p> <p>which is carried on by way of business and relates to the following <i>specified investments</i>:</p> <p>(a) a regulated credit agreement (excluding <i>high-cost short-term credit</i>, a <i>home credit loan agreement</i> and a <i>bill of sale loan agreement</i>);</p> <p>(b) <i>high-cost short-term credit</i>;</p> <p>(c) a <i>home credit loan agreement</i>;</p> <p>(d) a <i>bill of sale loan agreement</i>.</p>
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Part 2

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 *DA levy* payable to the *FCA* by that *firm*.

Activity group	Tariff base
A.2 Home finance providers and administrators	The sterling value of any residential loans to individuals being the sum of gross unsecuritised and securitised balances (applying the definitions of 'unsecuritised balances' and 'securitised balances' set out in Section A: Balance Sheet of <i>SUP 16 Annex 19BG</i> .)
CC.3 Consumer credit lending	<p>Value of lending in column A of <i>data item CCR003</i> reported by <i>firms</i> under <i>SUP 16 Annex 38AR</i>, being the sum of <i>data elements</i> entered in rows:</p> <ul style="list-style-type: none"> - 1 Debt purchasing; - 2 Hire purchase/conditional sale agreements; - 3 Home credit loan agreements; - 4 Bill of sale loan agreements; - 5 Pawnbroking; - 6 High-cost short-term credit; - 11 Overdrafts; - 12 Other running-account credit; and

	- 8 Other lending.
<p>Note: The tariff base for <i>authorised professional firms</i> that do not submit <i>data item CCR003</i> under <i>SUP 16 Annex 38AR</i> is the same as set out above and should be reported to the <i>FCA</i> as required by <i>FEES 4.4.1R</i> and <i>FEES 4.4.2R</i>. The valuation date is in accordance with the <i>CC.3</i> valuation date in Part 3.</p>	

Part 3

This table indicates the valuation date for each fee-block. A *firm* can calculate its tariff data in respect of the *DA levy* payable to the *FCA* by that *firm*.

Activity group	Valuation date
A.2 Home finance providers and administrators	The 31 December before the start of the period to which the fee applies or, if earlier, the date of the valuation as disclosed by the annual return made in the calendar year prior to the 31 December.
CC.3 Consumer credit lending	Value of lending under Part 2 valued at the <i>firm's accounting reference date</i> in the calendar year ending 31 December occurring before the start of the period to which the <i>DA levy</i> applies.

Part 4

This table shows the tariff rates applicable to each of the fee-blocks set out in Part 1.

Activity group	DA levy payable	
A.2 Home finance providers and administrators	Band width (£million of secured debt)	Fee (£/£m or part £m of secured debt)
	>0	[tbc]
CC.3 Consumer credit lending	Band width (£million of value of lending)	Fee (£/£m or part £m of value of lending)
	>0 (Note 1)	[tbc]
<p>Note: <i>Credit unions</i> and <i>community finance organisations</i> do not pay any <i>DA levy</i> on the first £2,000,000 of value of lending.</p>		

Annex C**Amendments to the Credit Unions sourcebook (CREDS)**

In this Annex, underlining indicates new text.

Sch 3 Fees and other required payments

...

Sch 3.2 G

Description of fee	Reference
...	...
<u>DA levy</u>	<u>FEES 7B</u>