

# **Reviewing the funding of the Financial Services Compensation Scheme (FSCS): feedback from CP16/42, final rules, and new proposals for consultation**

**Consultation Paper**

CP17/36\*\*\*

October 2017

## How to respond

We are asking for comments on this Consultation Paper (CP) by 30 January 2018.

You can send them to us using the form on our website at: [www.fca.org.uk/cp17-36-response-form](http://www.fca.org.uk/cp17-36-response-form).

### Or in writing to:

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### Telephone:

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### How to navigate this document onscreen



returns you to the contents list



takes you to helpful abbreviations

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# 1 Summary

## Why we are consulting

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- 1.1** We are consulting on proposals to change how the Financial Services Compensation Scheme (FSCS) is funded and the coverage it provides to consumers. The FSCS provides important protection for consumers paying compensation when authorised firms have gone out of business and consumers have suffered harm.<sup>1</sup> Our ongoing review seeks to ensure the scheme continues to provide the right protections, works effectively and is funded fairly.
- 1.2** The issues in this paper and the harm that they are intended to address are:
- options for reducing harm to consumers by giving firms incentives not to carry out activities for which they have no professional indemnity insurance (PII) cover, and also to reduce the burden on the FSCS through alternatives to capital and PII (for discussion)
  - options for redistributing the bill and smoothing costs to address the perceived unpredictability and volatility of FSCS levies (for consultation)
  - increasing compensation limits to reflect changes to the options available to consumers when they retire (for consultation)

## Who this applies to

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- 1.3** This Consultation Paper (CP) will be of interest to all firms, whether they are current or potential contributors to FSCS funding.
- 1.4** Under current Financial Conduct Authority (FCA) rules, FSCS contributions are:
- required from firms involved in providing investments, or intermediating investments, general insurance, life insurance and home finance
  - may be required from firms providing insurance, home finance or that accept deposits.
- 1.5** In this CP, we are also publishing final rules that will require contributions from certain consumer credit firms.
- 1.6** This CP may be of interest to consumers, or consumer groups, as it relates to both the funding of the FSCS and the protection it provides. The FSCS plays a critical role

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<sup>1</sup> The FSCS does not compensate every consumer who suffers a loss. The FSCS steps in where a firm is, or is likely to be unable to pay claims against it and owes a 'civil liability' to a claimant.



in ensuring consumers can have confidence in the financial services market, but the protection it offers comes at a cost to the industry and, ultimately, to consumers.

## Proposals for discussion

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### The Professional Indemnity Insurance (PII) market, the coverage it provides, and related issues

- 1.7** We would like your views on whether requiring certain Personal Investment Firms (PIFs) to pay capital into a trust account or purchase a surety bond might ensure that more consumer claims are paid for by firms or their insurers, subsequently reducing the cost of the FSCS to other firms. We are also interested in your views on a possible requirement preventing PIFs from purchasing PII policies which contain exclusions for the insolvency of the firm or any related party.
- 1.8** Please see chapter 3 (page 12) for more information.

## Proposals for consultation

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### Reforming funding classes and provider contributions

- 1.9** We are consulting on changes to our rules and guidance to reduce the volatility of FSCS levies and to better align the risk profiles of firms in specific classes:
- funding classes: option 2 from CP16/42<sup>2</sup>, which is to merge the Life and Pensions and Investment Intermediation funding classes and leave the rest of the structure as it is currently (with the addition of provider contributions to all of the intermediation classes)
  - requiring product providers to contribute 25% of the compensation costs falling to the intermediation classes
  - moving pure protection intermediation from the Life and Pensions intermediation funding class to the General Insurance Distribution funding class
- 1.10** Please see chapter 4 (page 19) for more information.

### FSCS compensation limits

- 1.11** We are consulting on:
- increasing the FSCS compensation limit for investment provision, investment intermediation, home finance intermediation, and debt management claims to £85,000 to reflect changes to the options available to consumers when they retire
  - changing the limit for claims in relation to the intermediation of long-term care insurance which is a pure protection contract in line with the limit for other kinds of pure protection claim, at 100% of the claim, instead of £50,000
- 1.12** Please see chapter 5 (page 31) for more information.

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<sup>2</sup> <https://www.fca.org.uk/publication/consultation/cp16-42.pdf>

## Final rules

**1.13** We are also finalising rules that we consulted on in CP16/42 to change the scope and operation of the FSCS:

- **Introducing and extending consumer protection** – extending FSCS coverage for some aspects of fund management and introducing it for certain debt management activities and structured deposit intermediation
- **Requiring Lloyd’s of London to contribute to the retail pool** – which will be called upon if costs in a particular funding class are so high they breach the class’s affordability thresholds
- **Additional reporting requirements** – which will potentially enable us to introduce risk-based levies (RBLs) in the future
- **Amending payment arrangements** – so some firms can be asked to pay a proportion of the levy on account and removing the rule that allows firms to pay the FSCS levy by direct debit

**1.14** Please see Section 3 for more information. The Cost Benefit Analysis (CBA) published in CP16/42 still applies to the rule changes that we are proceeding with because the instrument does not differ significantly from the consultative draft and no significant new evidence has come to light to lead us to revise our assessment of the impacts.

## Outcome we are seeking

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**1.15** We want to continue to ensure that the FSCS provides an effective and sustainable compensation scheme for consumers who have suffered harm. We also want to ensure that the levies that fund this compensation paid by any particular class of firms reflect, as far as possible, the claims that are, or are likely to be made on that class. Our review to date has focussed on the following principles and outcomes:

- ensuring that the FSCS is a backstop rather than the first line of defence when firms fail
- reducing levy volatility in line with the conclusions of the Financial Advice Market Review (FAMR)<sup>3</sup>
- reflecting conduct risk where appropriate, in particular unsuitable advice on high-risk investments
- implementing a robust funding model that does not require constant reassessment
- creating sustainable classes that provide sufficient funding for compensation;
- ensuring that the model is economical and practical to implement
- meeting consumers’ reasonable expectations for protection when things go wrong

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<sup>3</sup> <https://www.fca.org.uk/publication/corporate/famr-final-report.pdf>



## Next steps

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**The final rules set out in Section 3 will mostly come into effect on 1 April 2018.**

**We want views on the proposals outlined in Sections 1 and 2 of this consultation.**

**1.16** Please send us your comments by 30 January 2018. You can use the [online response form](#) on our website or write to us at the address on page 2.

**We will consider your feedback and publish final rules in a Policy Statement next year.**

## 2 The wider context – who pays the bill and what impacts it?

### The wider context

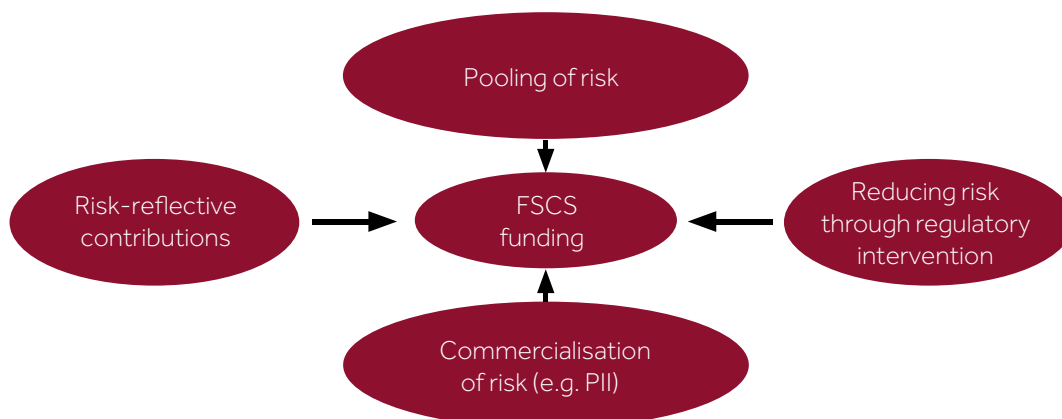
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- 2.1** The FSCS is the United Kingdom’s (UK) statutory compensation scheme of last resort. The FCA’s role – for the financial services activities for which we have responsibility<sup>4</sup> – is to decide how much protection the FSCS provides and how it is funded.
- 2.2** Our overall aims are to ensure that the FSCS functions effectively, that the compensation scheme is sustainable and that both consumers and the industry have confidence in it.
- 2.3** The benefits of the FSCS – for both industry and consumers – are rarely challenged but the question of how the cost of funding should be allocated between different firms and sectors is controversial. It is a natural function of the scheme that firms that are still trading meet any costs generated by those that have failed. Accepting this, as part of our review we are trying to align the funding of the scheme more closely with the risks associated with the different types of business firms carry out.
- 2.4** It is also important to recognise that the compensation paid to consumers by the FSCS is a direct measure of harm. The FSCS pays compensation to customers of firms that have gone out of business, some of which have given unsuitable advice, or failed in a disorderly way. Improving how the financial services industry serves consumers should, over time, lead to a reduction in the amount of compensation paid out by the FSCS.
- 2.5** When we consider different options for FSCS funding, we have to take into account several factors illustrated in figure 2.1:

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<sup>4</sup> The Prudential Regulation Authority (PRA) is responsible for certain areas of the FSCS’s rules, including those covering claims for deposits and claims under contracts of insurance.

**Figure 2.1 – Factors affecting FSCS funding**



**2.6** In December 2016 we published CP16/42 which sought views on whether it is possible to reduce the size of the compensation bill in the long term – for example through more effective PII – and how the bill should be allocated amongst firms.

**2.7** CP16/42 described in detail how the current FSCS funding model works. It contained a mixture of discussion questions and consultation proposals. The discussion questions sought views on the following issues:

- the PII market and the coverage it provides
- introducing product provider contributions towards the costs of claims involving intermediary firm failures
- changing funding classes for intermediation activities
- introducing RBLs
- updating FSCS compensation limits in light of the pensions freedoms

**2.8** We also consulted on specific proposals to change the scope and operation of the FSCS, which included:

- introducing and extending consumer protection – extending FSCS coverage for some aspects of fund management and introducing it for certain debt management activities and structured deposit intermediation
- requiring Lloyd's of London to contribute to the retail pool – which will be called upon if costs in a particular funding class are so high they breach the class's affordability threshold
- additional reporting requirements – which will potentially enable us to introduce RBLs in the future
- amending payment arrangements – so some firms can be asked to pay a proportion of the levy on account, and removing the rule that allows firms to pay the FSCS levy by direct debit

**2.9** CP16/42 closed on 31 March 2017 and we received 274 responses. Respondents generally supported the specific proposals that we consulted on. In the discussion



sections of the CP, there wasn't much agreement among industry stakeholders. Unsurprisingly, firms preferred proposals that would cost them – as individual sectors – the least. Respondents supported our intention to carry out further work on PII and RBLs but were sceptical about whether improvements could be implemented in practice.

## How this links to our objectives

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- 2.10** The FSCS plays a key role in protecting consumers in the UK financial services market. When we look at the extent of coverage the FSCS provides and how it is funded, we must consider all of the FCA's objectives.

### Consumer protection

***When proposing changes to funding arrangements, we must ensure that consumers who are entitled to receive compensation under our rules receive appropriate protection and that the system maintains consumer confidence in the financial services market.***

- 2.11** The proposals in this consultation paper primarily seek to advance the FCA's operational objective of securing an appropriate degree of protection for consumers.

### Market integrity

***As part of this review we have considered whether markets are working well and the potential impact of FSCS levies in different areas of the market.***

- 2.12** Any proposals to change current funding arrangements must be compatible with our strategic objective of ensuring that markets work well. The availability of compensation will increase consumer confidence when engaging with financial services.

### Competition

***When looking at changes to the current funding model we must consider competition implications and whether our proposals might create barriers to entry or exit.***

- 2.13** In preparing this consultation we have considered the FCA's duty to promote effective competition in the interests of consumers. Consumers need to know they can trust the firms they buy from and that they are protected if something goes wrong. This gives them the confidence to exercise choice. It also makes firms compete harder to win their custom. We have considered the impact of our proposals on competition, in particular whether the options we discuss for reducing the bill and our proposals regarding the limits and funding classes might create barriers to entry or exit.

## What we are doing

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- 2.14** In this CP, we discuss how we might reduce the harm to consumers represented by the number and value of claims that fall to the FSCS in the first place. Where claims do fall to the FSCS we consider the level of protection that should be available to consumers and how the funding of compensation should be shared between different sectors.

- 2.15** This document is structured as follows:

- Section 1 discusses how we might discourage firms from carrying out certain types of business which may cause harm to consumers and which could lead to costs



which fall on the FSCS. We provide feedback to the questions we asked in CP16/42 on PII for PIFs, and set out other options for discussion aimed at reducing the bill. These are things we might do in the future where we want to work with stakeholders to refine our thinking. We also consider our role as a regulator, supporting good standards of financial advice to avoid harm occurring in the first place.

- Section 2 consults on proposed changes to how the scheme is funded. We propose to change the way the funding of compensation is shared between different types of firms and the role of product providers. We think our proposed changes will smooth volatility, improve the way the FSCS is funded and ensure it continues to be robust and sustainable in the future. We also suggest changing the amount of protection available for consumers in the investment market, following changes in the market resulting from pension freedoms.
- Section 3 sets out a series of final rules that were consulted on in CP16/42. This is what we are doing now to improve the protections the scheme provides for consumers, and to make technical improvements to how it works. The rules will also build the foundations for future interventions by giving us better data on what is happening in the investment intermediation market.

**2.16** The advice market is complex and we need to consider the impact of our proposals carefully. In some areas changing the dynamics that lead to the need for redress to be paid will take time – there are no 'silver bullets'. But we believe that our package of proposals will ensure that the FSCS continues to provide effective compensation to consumers who have suffered harm, funded in a sustainable way.

## Equality and diversity considerations

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**2.17** We have considered the equality and diversity issues that may arise from our proposals. Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics under the Equality Act 2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period, and will revisit them when publishing the final rules.

**2.18** In the meantime we welcome your input to this consultation on this issue.



## Section 1: Ideas and options for discussion



## 3 Reducing the size of the bill

- 3.1** In this chapter, we discuss how we might reduce activity which causes harm to consumers and which leads to costs which fall on the FSCS. We provide feedback to the questions we asked in CP16/42 on professional indemnity insurance (PII) for personal investment firms (PIFs), and set out other options that might reduce the bill for discussion.

### Regulatory intervention

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- 3.2** Responses to CP16/42 focussed on the importance of preventing mis-selling to reduce consumer harm and future compensation costs. A number of respondents suggested that increased FCA supervision could help to reduce mis-selling and improve the way the advice market functions.
- 3.3** We recognise that the redress bill might be reduced through increased supervision and enforcement. It is important to note that any regulatory action we take might uncover more poor practice and thus accelerate firm failure, increasing claims to the FSCS in the short term. This should not be seen as a problem as such, and in the longer term an overall reduction in harm to consumers should result in a reduced burden on the FSCS. We will deploy a package of enhanced measures for the monitoring and supervision of the advice sector as a priority for our 2018/19 business plan.

### Reducing the Scope of Cover

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- 3.4** In CP16/42 we explained that between 2013 and 2016, a third of the value of all FSCS claims were linked to the sale of non-mainstream pooled investments (NMPIs) by the regulated advice sector. The pool of potential investors may grow in future because of new options available to consumers when they retire. Some respondents to CP16/42 suggested that we could reduce the compensation bill by limiting FSCS protection to cover only unsuitable advice on investment products that are considered to be 'mainstream'. The advantages of this approach in the view of these respondents would be that cover would only apply to regulated advisors advising consumers to invest in regulated investments.
- 3.5** We think that investors should be able to trust and rely on all of the advice of regulated professionals, and be compensated if they are let down. It would be difficult for us to define the line between 'mainstream' and 'risky' investments in a way that did not change over time, or which did not cause consumer confusion. For example, the same asset could be protected or unprotected depending on the type of wrapper it was sold in. This 'caveat emptor' or 'let the buyer beware' approach could only be justified if all advisers communicated the boundaries of protection very clearly and honestly to consumers at all times. Given not only the scope for confusion, but also dispute with consumers, we have decided not to proceed with this option and have instead looked at alternatives that might reduce the level of claims, including regulatory intervention and more directly targeting the bill at firms selling riskier products – see Chapter 8.

## Capital requirements and PII

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- 3.6** If a firm exits the market, its PII cover and capital position will affect the extent of any claims it can meet itself, and how many will subsequently fall to the FSCS. Our current rules seek to ensure that all PIFs hold a proportionate level of capital to help to absorb routine losses. In our view these capital requirements are not, and should not be seen as, seeking to cover all of a PIF's potential liabilities, especially if they happen because of non-compliance with regulatory requirements. Instead, they seek to ensure that the PIF can absorb routine losses so it does not go out of business immediately. This may help to buy some time to arrange a more orderly wind-down or cessation of regulated business.
- 3.7** We are not proposing any changes to capital requirements for PIFs. New rules which doubled the minimum capital requirements from £10,000 to £20,000 – or 5% of annual income, where this figure is higher – took effect from 30 June 2017. When we implemented these new rules, we estimated that doubling the minimum capital requirement for firms would reduce the FSCS levy by less than 1%.<sup>5</sup> To achieve a meaningful reduction in FSCS costs by increasing PIF capital requirements would require a very large increase in the minimum requirement, which would impose barriers to entry in the advice market which could not be easily justified.

## PII (summary of responses that we received to Q4-6 of CP16/42)

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- 3.8** In CP16/42 we set out our understanding of the PII market for PIFs, and asked for input from stakeholders as to how we might strengthen PII cover. We asked:
- Q4:** *Do you have any views about the current effectiveness, or otherwise, of PII cover including in reducing the number and cost of claims on the FSCS, and about the role of PII in providing compensation to consumers who have claims against failed firms? Do you have any suggestions about other possible tools, remedies or approaches which could be used to reduce the scale of funding currently required by the FSCS?*
- Q5:** *Do you have any views or suggestions about the possible features of more comprehensive, mandatory PII insurance?*
- Q6:** *Do you have any views on the impact of a requirement on PIFs to hold more comprehensive PII? For example, what would be its impact on the PII market, the financial advice market and on consumers in general?*
- 3.9** We received 160, 158, and 119 responses to these questions respectively.
- 3.10** Respondents offered mixed views on the effectiveness of PII, with some respondents sharing positive experiences and others providing generalised views of the problems with it.

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5 <https://www.fca.org.uk/publication/policy/ps15-28.pdf>



- 3.11** There was some support for more comprehensive PII, and several respondents noted that the relatively small size of the market for the provision of PII meant any interventions would have to avoid unintentionally reducing competition or increasing costs. Several respondents thought that increased costs would be passed on to consumers.
- 3.12** There were concerns that the PII market for PIFs is already under pressure, and that increasing PII providers' liabilities may lead to fewer PIFs being able to obtain PII and a reduced advice market for consumers.
- 3.13** Alternative options were suggested, such as requiring firms to hold capital in an escrow account to allow it to be used solely for compensation or as a form of run-off cover. Some respondents thought that the prescribed limits of indemnity should reflect the firm's exposure to risk, though acknowledged this was hard to quantify and did not address policy exclusions.
- 3.14** Respondents generally agreed that increased supervision could limit the need to bolster PII and compensation arrangements.

#### Our response:

Based on our work since the consultation, we do not plan to consult on significant changes to firms' PII requirements.

We met with a range of PII providers, brokers, law firms, advisers and trade bodies and gathered quantitative claims data from current and previous PII providers and a representative sample of PIFs.

We found that in general, the PII market is working well. However, the structure of the market allows insurers to limit their exposure to large-scale, known failings. Where these failings push PIFs out of business, claims are still likely to fall on the FSCS. We looked at the structure of the market to see if it could be altered to reduce the burden on the FSCS – for example by changing the PII market to a “business written”<sup>6</sup> approach, but based on our analysis to date we do not think this is feasible.

To test if PII acts as a ‘front-stop’, we looked at the role of the FSCS and the effectiveness of PII in covering and paying out claims. We found that PII is paying out a substantial number of claims and insurers do not seem to be withholding cover unfairly. Our modelling of the data from PIFs indicates that over the past ten years, 84%<sup>7</sup> of consumer claims made against PIFs are met by a combination of PII and the firm paying the excess on the policy. We sampled a cross-section of the PIF market, and 94% of respondents told us that there were no products they would like PII to cover that aren't already covered. On average, PIFs were either satisfied or very satisfied with their PII.

6 'Business written' or 'losses occurring' is when an insurer will only pay out for claims that arise out of loss or damage that happens during their policy period, no matter when the claims arise.

7 By value.

To see if the cost of compensating consumers falls on PIFs that provide unsuitable advice -i.e. if the 'polluter' pays – we looked at how PII insurers assess the risk of a PIF when pricing PII cover. If an insurer cannot accurately price risk it will spread the cost of cover across policyholders, reducing the extent to which the polluter pays. We found that insurers are not generally able to accurately price risk across the market, particularly in respect of smaller PIFs where the costs of detailed compliance reviews do not meet the premiums charged. Insurers, brokers and other third parties told us that any policy intervention will likely mean increased premiums for all firms – not just the 'polluters' – or lead to insurers exiting the market. Therefore, simply moving the burden from the FSCS to PII may not be effective or reduce the overall costs – PII premium plus levy-borne by FSCS levy payers.

If we limit exclusions or excesses in PII policies, or require run-off cover, the cost of PII is likely to increase for all PIFs. Our work shows that, depending on the nature and combination of interventions chosen, premiums might rise by as much as 300% across the market. There would also be an impact on the availability of advice as a result of firms being unable to obtain cover.

There is still a risk that significant mis-selling by individual firms causes spikes in liabilities to consumers that are only partially met by PII. These spikes could cause some firms to fail with outstanding liabilities that would result in claims falling on the FSCS. We do not believe that changes to PII requirements for PIFs can address this structural issue without causing significant disruption to the advice market. Outside of these claims peaks, the PII market for PIFs appears to be generally working well.

However, we do believe that we should consider preventing PIFs from purchasing policies that exclude the insolvency of the policyholder or related parties, as these exclusions can prevent the FSCS from making a claim on the policy.

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## Options to reduce the bill – for discussion

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- 3.15** Following detailed analysis, we do not think that altering PII requirements for PIFs will provide the benefits we hoped to achieve. We are still keen to look at options which better enable the 'polluter pays' principle by making sure firms that distribute products that we consider 'higher risk' cover a greater proportion of the cost of the FSCS. We are considering whether collecting data will enable us to risk-weight FSCS levies, as discussed in Chapter 8.
- 3.16** We are interested in your views as to whether any other options might enable more claims to be paid either by insurers or by the firms themselves. We are currently considering:
- requiring firms with PII exclusions to hold an amount of capital in trust, for the benefit of the FSCS
  - requiring firms to take out a surety bond to cover claims in the event of their failure



**3.17** When claims against PIFs arise at the FSCS there are relatively few options available to recover the compensation costs through PII, run-off cover, or any other way. We considered requiring firms to purchase run-off cover, however we understand that this is expensive and usually only available on an annual basis.

**3.18** We think that it could be beneficial to require firms to set money aside for any claims that arise after they exit the market. We would like to hear your views on the value and viability of introducing a requirement for PIFs to hold an amount of capital in trust solely for the benefit of the FSCS. If no valid claims arise at FSCS, this would be released, for example, 6 years after the firm is no longer carrying on regulated activities.

### **Holding funds in trust for the benefit of the FSCS**

**3.19** Where PIFs conduct business that is excluded from their PII policy, we require additional capital to be held. While this extra capital may help to pay day to day redress claims, many excluded business lines tend to be related to investment products where claims may not arise immediately after advice is given.

**3.20** We could require firms that have certain exclusions in their PII policies for active business lines to hold funds in a trust. The funds would only be released to the FSCS if the FSCS declared the firm in default and a valid claim arose, or to the firm if 6 years had passed after a firm is no longer carrying on regulated activities and no valid claims had arisen – whichever happened first. If the FSCS declared a firm in default within 6 years of ceasing to conduct regulated activities and a valid claim arose, the funds would be released to the FSCS and would help meet its expenses, thereby reducing the burden on other levy payers.

**3.21** This proposal might also reduce cases of mis-selling, if firms decided that they would rather discontinue a business line than put capital in trust. This seems more likely to be the case where the excluded business is a relatively small part of a firm's overall business. Where the majority of a firm's business is excluded by the PII policy, they may be more willing to meet the additional cost of putting the capital in trust, to the extent that they could do so and remain profitable. Ultimately, this will depend on the amount required, and how this is calculated, and we welcome your views.

### **Requiring all PIFs to hold a surety bond in place of or in addition to capital requirements**

**3.22** We think that requiring all PIFs to take out a surety bond either in lieu of or in addition to existing capital requirements could ensure that more consumer claims are paid for by insurers, subsequently reducing the cost for the FSCS. The surety bond would be structured to pay out to the FSCS where the FSCS paid out on claims on the firm's default.

**3.23** Based on historic FSCS claims data from 2010 to 2016, if we had required firms to hold £100,000 each in the form of a surety bond, it would have reduced the total compensation paid for PIF failures by 8%. There would be a cost to firms in obtaining such a bond which could potentially create barriers to entry, and we would need to do more work to estimate the cost before consulting on any rules in this area. This option is likely to reduce volatility but it is likely to increase costs for all firms (as opposed to only firms with high risk exclusions, as explained in the trust proposal above).



**3.24** At this stage we are interested in views on the advantages or disadvantages of the idea.

- Q1:** Do you have any views on our proposal to prevent personal investment firms (PIFs) from buying PII policies which exclude claims when the policyholder or a related party is insolvent?
- Q2:** Do you have any views on the potential to require PIFs to hold additional capital in trust, for the purposes of contributing to any FSCS claims?
- Q3:** Do you have any views on requiring PIFs to obtain a surety bond?



## Section 2: Specific proposals for consultation

## 4 Options for redistributing the bill and smoothing costs

**4.1** In this chapter we set out a number of proposals to reduce volatility in FSCS levies through a revised class structure. We provide feedback on the questions we discussed in CP16/42 about funding classes, using credit to smooth FSCS levies, and a fixed levy for smaller firms. We also set out new proposals for consultation on reforming the funding classes, including changing the role of product providers.

### **Reforming funding classes and provider contributions (summary of responses to Q3, 13-16, 18 in CP16/42)**

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**4.2** In recent years, the industry has expressed concern about the volatility of the FSCS levies and the impact of this on intermediaries in particular. The Financial Advice Market Review (FAMR) focused on the variability of FSCS levies and suggested that we should consider reforming the FSCS funding classes to reduce volatility and better distribute the burden of FSCS funding.

**4.3** In CP16/42 we discussed various options to reduce volatility in FSCS levies which included introducing product provider contributions and reviewing class thresholds. We also discussed options to merge the funding classes to reduce volatility and smooth costs. We discussed three options for changing the FCA FSCS funding classes. These were:

- merging the four current intermediation classes with product provider contributions from all providers from the first pound (option 1)
- merging Investment Intermediation class and Life and Pensions Intermediation class, with product provider contributions from the relevant product provider classes from the first pound (option 2)
- keeping the current intermediary class structure with increased product provider contributions from the relevant provider classes from the first pound of any claim (option 3)

**4.4** A summary of the questions that we asked in CP16/42 and the responses that we received is set out below.

### **Provider contributions**

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**4.5** In CP16/42 we considered the role that authorised product providers play in the market. Currently, authorised product providers only contribute to the costs of failed intermediaries from levies that they pay for their own intermediation activities, and also to any costs incurred if the retail pool is triggered. The financial services market in the UK relies on an ecosystem of product providers and intermediaries working together.



Bearing in mind product providers' product governance responsibilities and the funding burden that has fallen on intermediary firms in recent years, we explained that we believed it was appropriate that providers, including Lloyd's of London, pay additional contributions and we asked for views on this.

**4.6** In CP16/42 we asked:

**Q3:** *Do you agree in principle that product providers should contribute towards FSCS funding relating to claims caused by intermediary defaults?*

**Q18:** *Do you have any comments on the mechanism by which we would propose to incorporate product provider contributions into the intermediary claims classes, for the various different class structure options described?*

**4.7** We received 193 responses to this question, of which 175 supported the principle of product provider contributions. Some respondents – mostly product providers and their representatives – strongly opposed this proposal and questioned its legality. We received 103 comments on how this might work.

**4.8** The majority of respondents supported this proposal in principle. They felt it was an effective way of ensuring product providers take appropriate responsibility for their distribution channels, and that it would help to ensure that products do not end up with the wrong consumers. It was also argued that the burden of FSCS compensation levies currently falls disproportionately on intermediaries.

**4.9** On how to incorporate product provider contributions, some respondents suggested amending the proportion providers contribute annually, while others suggested that providers pay differential contributions to reflect the risk of the product they are providing. Several respondents suggested providers should pay up to 75% of the costs.

**4.10** Some respondents offered qualified support and asked for further clarity on how product providers and their relationships with intermediaries are defined. There was a concern that it would not always be easy to identify the liabilities involved, and the variety of relationships that exist need to be reflected in the mechanics of this proposal.

**4.11** Some respondents argued that introducing product provider contributions would be in conflict with s.213(5) FSMA, specifically in relation to how the compensation costs are imposed on a particular class.

#### **Our response:**

Many product providers rely on intermediaries to support their business models and vice versa. In line with our work on product governance, we believe it is important to consider whether and how the relative responsibilities of providers and distributors are reflected in FSCS funding. In recent years, several FSCS cases have prompted scrutiny of the relevant roles and responsibilities of product providers and distributors in the supply chain, and this was brought out in responses to this question. Respondents raised historic events such as Keydata

and Arch cru as reasons for increasing product provider responsibility in funding compensation through the FSCS.

As respondents said in both positive and negative responses, incoming regulations such as the new Markets in Financial Instruments Directive II (MiFID II) and the Insurance Distribution Directive (IDD) will strengthen product governance rules. We see the introduction of provider contributions as an extension of these drives to improve accountability across the supply chain for appropriate distribution.

We recognise the strength of feeling among those that disagreed with our proposal, and specifically their challenge to the legality of this option. The FCA must establish a scheme that pays compensation to everyone who is eligible, under the scheme, to be paid. In doing so, we have a duty to take into account the desirability of ensuring that the amount of levies imposed on a particular class of authorised person reflects, so far as practicable, the amount of claims made, or likely to be made, in respect of that class (s213(5) of FSMA). In other words, when establishing the funding classes and their operation, the FCA should try to avoid cross-subsidy between types of authorised person. However this duty is not absolute and, in seeking to ensure that the compensation scheme remains sustainable and sufficiently funded, we believe the option we propose is appropriate.

In addition to the relative responsibilities of providers and distributors, we are seeking to improve the sustainability of the FSCS and to reduce the volatility of levies. We are aware of concerns that levies have increased substantially over the last few years, particularly for firms in the Investment Intermediation and Life and Pensions Intermediation funding classes, and we remain mindful of the aims of FAMR to ensure an affordable and accessible advice market. We believe that requiring providers to contribute to compensation costs from the first pound will help to ensure that we have a robust funding model with sustainable classes that provide sufficient funding for compensation, reducing the burden on intermediaries.

To reflect this we are consulting on introducing provider contributions and provide further detail on how this will operate and interact with the revised funding class structure below. As we explained in CP16/42, this proposal will also affect Lloyd's of London.

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**4.12** In CP16/42 we discussed possible changes to the current class structure. One of the recommendations from FAMR was that we look at whether we could better distribute the burden of FSCS funding among intermediaries.

**4.13** In CP16/42 we explained that to tackle levy volatility and create sustainable funding classes we could change the way in which we group firms. We explained that some stakeholders are keen for us to further sub-divide the classes to try to increase the similarities between firms that are grouped together but that this could increase rather than reduce volatility. Smaller classes are more likely to exceed their thresholds leading to calls on the retail pool to which all firms contribute.



**4.14** The existing class structure is based on the regulated activities that firms have permission to undertake. This makes it challenging to further sub-divide groups of firms that sell similar products or have similar business models. It is important to recognise that the extent to which we sub-divide classes to group 'similar' firms will always be held in tension with mutualising any costs. Two of the key aims of this review are reducing volatility and creating sustainable funding classes.

**4.15** In CP16/42 we asked:

**Q13:** *Do you believe that we should seek to reduce the number of funding classes, in order to reduce volatility of FSCS levies?*

**Q14:** *What are your views on the different funding classes we have set out here? Do you have any alternative proposals?*

**4.16** We received 161 and 220 responses to these questions respectively.

**4.17** Many respondents agreed with our proposal to reduce the number of funding classes, largely because their business structures mean that they already contribute to several classes, and so this would be economically rational.

**4.18** Respondents that disagreed argued that reducing the number of funding classes reduces the affinity between contributors and increases cross-subsidisation. Alternative suggestions included creating a greater number of classes to reflect more specific business types, and arranging the classes by risk.

**4.19** The three funding class proposals we set out attracted a variety of responses. A few respondents declined to offer a view because they disagreed with the idea of product provider contributions. Those that did offer a view tended to prefer options 2 and 3. Some respondents described these options as extending the principle of vertical affinity by introducing product provider contributions.

**4.20** The adviser community tended to favour option 1 on the basis that it smooths the levy most for them, with some suggesting that addressing volatility and sustainability should outweigh concerns about grouping of business types given the existing variety of business models within classes. Other respondents who provide only one service or a non-investment service strongly disagreed with this, and argued the classes should remain separate to maintain the principle of affinity.

**4.21** There was a strong view from respondents that only conduct pure protection business, or pure protection business alongside home finance, that they should not be in the same class as firms advising on broader range of products such as pensions given the differing levels of risk.

#### **Our response:**

We propose to consult on changes to the funding class structure which are outlined in more detail below. While alternative options were suggested, we do not believe these are viable alternatives. For example, some respondents suggested a product levy, but we considered this in CP16/42, and outlined the reasons why we were not considering it as an option.

Focussing solely on reducing the scale and volatility of FSCS levies, option 1 best achieves a reduction in volatility; however this was the least popular option for many respondents. As it is difficult to predict where future claims will emerge, this option is also the most 'future proof' in sharing any future liability equally across the industry. However, when analysing this option using the data from 2011-2016, it significantly increases the relative contributions of general insurance intermediaries and home finance intermediaries compared with other intermediaries.

Where respondents supported change, they tended to favour options 2 and 3, with those that stated a preference preferring option 3. Reasons for this preference were based on factors such as the 'fairness' of similar firms paying one another's claims, rather than the economic efficiency of the model.

In our view, option 2 represents a compromise between these positions. It reduces volatility to an extent, but retains a degree of affinity between the firms in the new classes. We have decided to consult on a revised version of option 2 which is explained in more detail below.

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## Changing the funding classes

**4.22** Given the feedback we received to CP16/42 and following further analysis, we are now consulting on option 2 with some revisions. This option involves merging the Investment Intermediation and Life and Pensions Intermediation funding classes to create the Investment Intermediation Claims class but leaving the rest of the classes as they are. We also plan to introduce product provider contributions from the relevant provider classes from the first pound of any claim - see the product provider contributions section below.

**4.23** We think that option 2 represents a compromise between our stated aim to reduce volatility and the strength of feeling from industry around the importance of affinity. This option reduces volatility but retains some affinity between firms in the new classes. Merging the Life and Pensions and Investment Intermediation funding classes and introducing provider contributions also reduces the overall volatility of the bill for firms in that class, and reduces the risk of the retail pool being triggered due to the increased funding capacity of the class.

**Q4: Do you have any comments on our proposal to merge the Life and Pensions Intermediation funding class with the Investment Intermediation funding class?**

**4.24** **Moving pure protection intermediation**  
We received a large number of responses from firms that sell pure protection insurance either as a standalone product or in connection with their mortgage broking, and are currently in the Life and Pensions intermediation funding class. These firms have in recent years paid increased FSCS levies due to a rise in compensation costs from firms that provided unsuitable advice in relation to self-invested personal pensions (SIPPs).



- 4.25** Given the nature of the work that pure protection firms carry out, we are consulting on moving these intermediary firms to the General Insurance Distribution<sup>8</sup> class to better align their risk profiles. This means that they will contribute to any claims relating to Payment Protection Insurance (PPI), which are likely to spike in the next two years given the deadline and our media campaign.
- 4.26** We can't effect the same relocation for pure protection product providers because of how they report data. In CP16/42 we consulted on moving pure protection insurers to the life insurer class so as to align with the PRA and reduce the burden on firms when reporting data. We recognise that this creates an inconsistency, as it places the providers and intermediaries in different classes, but we do not believe there is a simple way to resolve this.
- 4.27** If respondents support this proposal, we will increase the General Insurance Distribution Claims class threshold by £10m, and reduce the threshold for the new Investment Intermediation Claims class – which includes life distribution – by £10m. This is in order to maintain the current threshold to income ratio.

**Q5: Do you agree with our proposal to move pure protection intermediation from the Life and Pensions Intermediation funding class to the General Insurance Distribution funding class?**

## Product provider contributions

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- 4.28** In CP16/42 we discussed different options for introducing product provider contributions to intermediary claims classes. We suggested that contributions should be distributed across product providers in proportion to the existing threshold limits of the respective FCA classes in the retail pool. These thresholds reflect the maximum amount that the FCA provider contribution classes can contribute to the retail pool if an FCA intermediation class fails.<sup>9</sup>
- 4.29** The original FCA provider contribution class thresholds were determined during the last funding review.<sup>10</sup> The Financial Services Authority's (FSA) basis for setting these was that the thresholds should reflect the conduct responsibilities of providers, and so, with the exception of the Investment Provision class, they were based on the fees to be paid by firms in FCA fee blocks.<sup>11</sup> It was estimated that FCA regulated providers would contribute around 25% of FCA regulatory fees in 2013/14, and it was argued that they should pay a similar percentage towards the FCA retail pool.
- 4.30** Under the proposed funding class option that we are now consulting on, the merging of the current thresholds means that product providers would contribute different proportions if we kept the retail pool contributions as the basis for their contributions under the proposed revised funding structure, as figure 4.1 illustrates.

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8 The current General Insurance Intermediation class is being renamed the General Insurance Distribution class in CP17/33 Insurance Distribution Directive implementation – Consultation Paper 3 (September 2017), with effect from 23 February 2018.

9 The thresholds are currently set out in FEES 6 Annex 5R.

10 <https://www.fca.org.uk/publication/consultation/fsa-cp13-01.pdf>

11 'A.1: Deposit acceptors', 'A.2: Home finance providers and administrators', 'A.3: Insurers – general' or 'A.4: Insurers – life'.



**Figure 4.1: Current class thresholds**

Option 2	Product Providers	Intermediaries	Total threshold
Deposit acceptors	£105m	n/a	£105m
<b>General Insurance</b>	<b>£35m (10.5%)</b>	<b>£300m</b>	<b>£335m</b>
<b>Investment and Life and Pensions</b>	<b>£135m (35.1%)</b>	<b>£250m</b>	<b>£385m</b>
Investment provision	£60m (15.6%)		
Deposit acceptors (in relation to structured deposits)	£5m (1.3%)		
Life insurers	£70m (18.2%)		
<b>Home Finance</b>	<b>£45m (52.9%)</b>	<b>£40m</b>	<b>£85m</b>
Investment Provision	£200m	n/a	£200m
Debt Management	£45m	n/a	£45m

- 4.31** We have considered whether the existing FCA provider contribution class thresholds are still appropriate, or whether providers should be contributing the same proportion in each class in the revised class structure.
- 4.32** We have considered the following options:
- retaining the current FCA provider contribution class thresholds
  - setting the combined class thresholds to include 25% provider contributions
  - setting the combined class thresholds to include 50% provider contributions
- 4.33** There was support in the responses to the consultation for compensation costs to be divided equally between product providers and intermediaries. There were also strong views from product providers on ensuring an appropriate reflection of responsibility, given that the majority of claims on the FSCS over the last four years have been in respect of intermediary classes.
- 4.34** We have carried out an affordability assessment and used historic data to identify the potential impact on product providers.

**Figure 4.2: Retrospective claims data for option 2 showing a 50/50 and a 25/75 split**

	Actual Contributions Paid		Contributions Under 50/50		Contributions Under 25/75	
	Average 2011-16	Levy as % of AEI	Average 2011-16	Levy as % of AEI	Average 2011-16	Levy as % of AEI
<b>Intermediation</b>						
<b>General Insurance</b>	£40m	0.44%	£20m	0.22%	£30m	0.33%
<b>Life &amp; Pensions</b>	£44m	1.36%	£62m	0.91%	£92m	1.35%
<b>Investments</b>	£81m	2.26%				
<b>Home Finance</b>	£3m	0.24%	£1m	0.12%	£2m	0.17%
<b>Debt Management</b>	N/A		N/A	N/A	N/A	N/A
<b>Provision<sup>12</sup></b>						
<b>General Insurance</b>	£72m		£91m		£82m	
<b>Life &amp; Pensions</b>	£0		£25m		£13m	
<b>Investments</b>	£0		£37m		£18m	
<b>Home Finance</b>	£0		£1m		£1m	
<b>Deposits</b>	£12m		£13m		£13m	

**4.35** Under the 50/50 split, the total amount of funding for the FSCS is increased.

**4.36** Under the 25/75 split, the total amount of funding stays the same as it is now (£1,070), but the distribution of costs changes.

**4.37** We propose product providers should contribute 25%<sup>13</sup> to the relevant intermediary class. We believe that setting consistent contributions across the revised classes is a fair way to allocate compensation costs while maintaining the sustainability of the funding model. We accept that there is not often an equal liability between product providers and intermediaries, either across the board or in specific classes. We do not believe that a 50/50 split is appropriate; however there is also no way to assess a suitable number on a class basis due to the variety of firm types and business models within each one.

**4.38** This means that the thresholds would be as follows:

**Figure 4.3: Proposed class thresholds**

Option 2	Product Providers	Intermediaries	Total threshold
Deposit acceptors	£105m	n/a	£105m
<b>General Insurance</b>	<b>£100m (25%)</b>	<b>£310m</b>	<b>£410m</b>
<b>Investment and Life and Pensions</b>	<b>£90m (27%)</b>	<b>£240m</b>	<b>£330m</b>
Investment provision	£50m (14.7%)		
Deposit acceptors (in relation to structured deposits)	£5m (1.5%)		
Life insurers	£35m (10.3%)		
<b>Home Finance</b>	<b>£15m (27%)</b>	<b>£40m</b>	<b>£55m</b>
Investment Provision	£200m	n/a	£200m
Debt Management	£20m	n/a	£20m

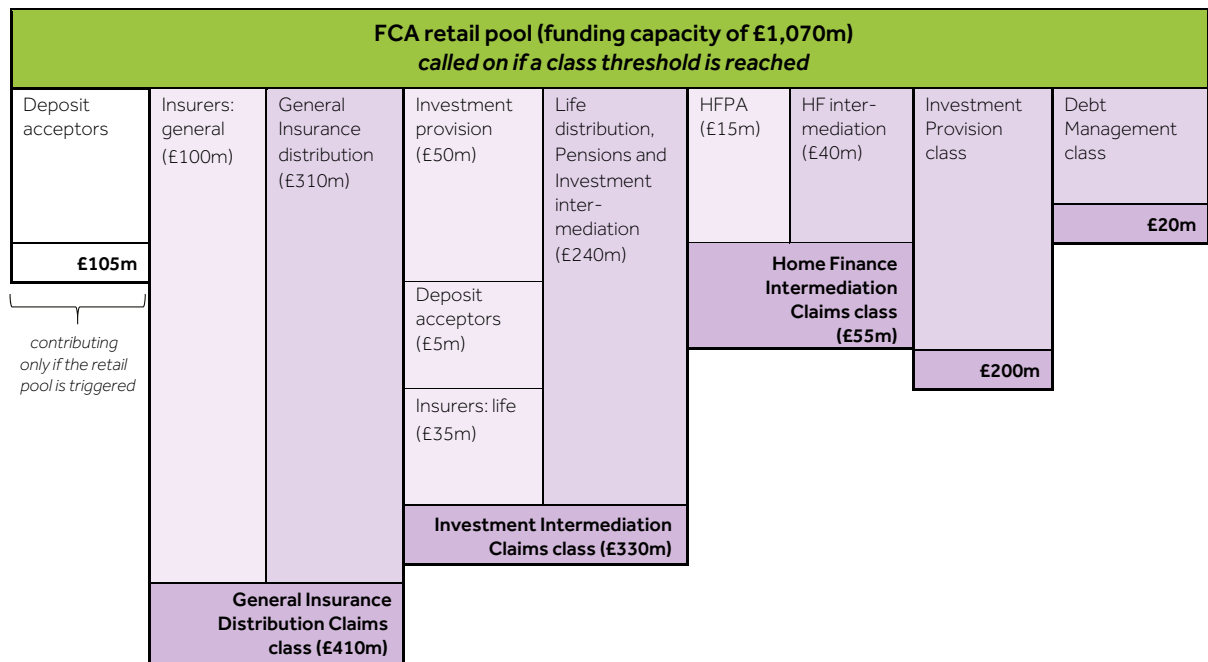
<sup>12</sup> These amounts include FSCS levies under the PRA's rules where applicable.

<sup>13</sup> We have rounded the contributions of providers in some areas to the nearest £5m or £10m, so the figure is not always exactly 25%.

**Q6: Do you agree with our proposal to change the class thresholds for FCA product provider classes to represent 25% of the relevant intermediary claims funding class threshold? If not, what alternative would you suggest?**

4.39 Figure 4.4 reflects the proposals for the revised funding classes, retail pool and product provider contributions.

**Figure 4.4: proposed FSCS funding arrangements**



**The retail pool**

4.40 We have considered how the retail pool should operate as a result of introducing product provider contributions and changes to the funding class structure. The retail pool is currently made up of contributions from all of the funding classes and is triggered when an intermediation funding class reaches its threshold. At this point, costs are shared between all classes. Currently FCA provider contribution classes contribute to, but do not benefit from, the retail pool. If the Investment Provision class reaches its threshold, then it has access to a reduced retail pool of £590m, made up of the intermediary funding classes, and not including the provider classes.

4.41 We propose that – with the exception of the deposit acceptors class which will continue to stand alone as a provider class and not be included in an intermediary class – all of the new funding classes will benefit from and contribute to the retail pool, including the Investment Provision class. This is because the retail pool allows class thresholds to be retained at their current levels while making sure the scheme can withstand a shock event. Importantly, in our view, the revised funding class structure will reduce the risk of the retail pool being triggered at all given the increase in funding available to the intermediation classes.



**Q7: Do you have any comments on our proposal for how the retail pool will operate?**

### Assessing the affordability of the class thresholds

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**4.42** In CP16/42 we carried out an affordability analysis<sup>14</sup> and suggested keeping the current intermediary class thresholds and the current Investment Provision threshold. We asked whether or not respondents agreed with this. We also asked whether or not respondents agreed with merging the current FCA provider contribution class thresholds when combining the classes.

**4.43** In CP16/42 we asked:

**Q15:** *Do you agree with our intention to keep the current class thresholds for intermediary classes, merging the thresholds if appropriate to adopt a revised class structure?*

**Q16:** *Do you agree with our intention to keep our current class threshold of £200m for the investment provision class?*

**4.44** We received 93 and 74 responses to these questions respectively.

**4.45** The majority of respondents agreed with our intention to keep the current class thresholds for intermediary classes, and to keep the current class threshold of £200m for the Investment Provision class.

**4.46** Of those that disagreed, suggestions included basing the thresholds on the exposure to risk and using past data to assess whether or not the £200m figure was appropriate. It was acknowledged that with potential changes being made via the proposed look-through approach, the value of claims could rise.

#### Our response:

We carried out affordability analysis for the initial consideration of this issue and, having analysed the responses we received, we propose to maintain the current intermediation class thresholds and the current Investment Provision class threshold for the corresponding classes and categories in the proposed revised funding structure.

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### Using credit to smooth levies (summary of responses to Q12 in CP16/42)

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**4.47** In CP16/42 we discussed using the FSCS's credit facility to smooth levy payments for firms. We asked the FSCS to explore various options available to it. It found that it would be feasible to extend its bank credit facility but that there were high costs

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14 CP16-42, Annex 4.

attached to this. As this was aimed solely at smoothing volatility and would do nothing to reduce the overall bill we did not feel the costs were justifiable.

**Q12:** *Do you agree that it would not be justified for the FSCS to utilise a credit facility to further smooth levies, given the costs involved?*

**4.48** We received 128 responses to this question.

**4.49** The majority of respondents agreed that the FSCS should not use a credit facility to further smooth costs. Respondents said that while this was not an appropriate solution, there was a clear need to reduce the volatility of the levy and to smooth costs.

#### **Our response:**

We do not propose that the FSCS should use a credit facility to further smooth levies, given the costs involved. We remain of the view that there are other, more affordable means of reducing levy volatility.

### **Fixed levy payments for smaller firms (summary of responses to Q17 in CP16/42)**

**4.50** In CP16/42 we discussed setting a fixed fee for smaller firms. Using historic data we found that if we had set a fixed fee before, it would have been set at around £850. Over the last 6 years, 82% of smaller firms have paid annual FSCS levies of less than £850.

**Q17:** *Do you have any views on the idea of a fixed levy for smaller firms?*

**4.51** We received 144 responses to this question.

**4.52** While there was support for the principle of a fixed levy to remove volatility in levies, the majority of respondents disagreed with this proposal based on our analysis of the costs.

**4.53** Others felt that just being small in terms of turnover didn't mean a firm presented any less risk of harm, and that they should still be required to pay a proportional amount in line with other levy payers.

**4.54** Of those that supported a fixed levy, arguments were made in favour of basing it on adviser headcount. Some respondents felt that the turnover or size of a firm should not matter, and that the levy should reflect the risk exposure and complaints experience of a firm. Several respondents also suggested that this may mean fewer costs being passed on to consumers as a result of removing levy volatility.



### Our response:

We do not propose to introduce a fixed levy for smaller firms.

We understand the desire for reduced levy volatility and the ability for small firms to budget year on year. However, our analysis showed that the minimum levy we would have to set is higher than many of these firms have previously paid.

There is also the impact on firms not subject to a fixed levy, which would have to absorb additional volatility as a result. Given the strength of responses on this issue, we do not believe it is appropriate to pursue this option.

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## 5 Extending consumer protection

**5.1** In this chapter we summarise the feedback to our proposals to extend the consumer protection provided by the FSCS that we discussed in CP16/42. We also set out proposals for specific changes to our rules and guidance to:

- increase the FSCS compensation limit for investment provision, investment intermediation, home finance intermediation, and debt management claims to £85,000
- increase the limit for long term care insurance that is pure protection from £50,000 to 100%

### FSCS compensation limits (summary of responses to Q7-9 in CP16/42)

**5.2** The amount of compensation currently available to a consumer who has a claim varies and different limits apply to different types of claim:

**Figure 5.1**

Type of claim	Rulemaking Responsibility	Compensation limit
Deposits	PRA	£85,000
<b>Investment provision</b>	<b>FCA</b>	<b>£50,000</b>
<b>Investment intermediation</b>		
<b>Home finance intermediation</b>		
Long-term insurance	PRA	100% of the claim
Pure protection		
Compulsory insurance		
Professional indemnity insurance		
Death or incapacity from injury, sickness or infirmity of the policyholder		
Other types of insurance	PRA	90% of the claim
<b>Certain types of insurance intermediation claim involving: pure protection insurance; compulsory insurance; professional indemnity insurance death or incapacity from injury, sickness or infirmity of the policyholder</b>	<b>FCA</b>	<b>100% of the claim</b>
<b>Other types of insurance intermediation</b>	<b>FCA</b>	<b>90% of the claim</b>

**5.3** We committed to reviewing the FSCS compensation limits as part of the funding review, and changes to consumers' options at retirement prompted us to review the current limits for different products and services that can be used for retirement or spending retirement funds. The pension freedoms have created a clear movement in the market and more consumers invest their pension funds in retirement in drawdown products instead of insurance-based annuities. The compensation limit for provider



failure in relation to drawdown products is capped at £50,000 – assuming that it is not a contract of insurance – but under PRA rules for long-term insurance based policies, including annuities, it is 100% of the loss with no upper limit.

**5.4** We have considered (in the advice context) whether the £50,000 limit provides consumers with enough protection. For example, where consumers receive advice at retirement on how to invest their entire pension pot they would find it hard to diversify this advice because they are likely to go to only one advice firm. FSCS compensation limits are per person, per firm, and per protected type of claim, so consumers who took advice related to the investment of their pension fund from one firm could only receive a maximum of £50,000 if that firm failed and the advice was found to be unsuitable.

**5.5** In CP16/42, we discussed a number of different options for change which included:

- doing nothing, leaving the limits as they are
- increasing the limit for all investment business from £50,000 to £75,000
- increasing the limit for all investment business from £50,000 to £100,000
- increasing the limit for all investment business from £50,000 to £150,000 (which is the same as the award limit at the Financial Ombudsman Service (FOS))
- increasing the limit for all investment business from £50,000 to £1m (which is the same as the pensions lifetime allowance)
- differentiating between investment provision and investment intermediation; increasing the limit for investment provision only; and seeking to identify pensions-related claims as distinct from those made for 'traditional' investments, and introducing higher limits for claims for investment arrangements or services used purely for retirement planning

**5.6** We asked the following questions:

- Q7:** *Would you support an increase to the FSCS compensation limit in relation to any or each of the investment provision, investment intermediation and Life and Pensions Intermediation classes? If so, do you have any views on what those limits should be?*
- Q8:** *Would you support a proposal to differentiate between investment provision and investment intermediation, and to introduce higher limits for either? If so, do you have any views on what those limits should be?*
- Q9:** *Would you support a proposal to seek to make a distinction between pensions-related investment business and non-pensions investment business, and apply higher limits for pensions-related investments? If so, do you have any views on how the distinction might be made and what those limits should be?*



- 5.7** We received 138 responses to question 7, and only a small number of respondents favoured any increase at all to the limits. There was no consensus among respondents who supported an increase on what the appropriate limit might be. Suggestions varied from £75,000 to £1m, but most thought that £1m was too high. Respondents who did not support an increase were concerned about the impact of any increase on levies and took the view that the current levels of protection are sufficient.
- 5.8** We received 99 responses to question 8. Approximately one third of respondents supported the proposal, and approximately two thirds were against it. Of those in favour, there was no consensus as to what should be increased, or by how much. Suggestions ranged from £85,000 for all investment business, through increases for investment provision but not investment intermediation, to a proposal of £1m for all pensions business. Of those against the proposal, concerns were raised around:
- a lack of consistency causing greater confusion amongst consumers
  - increases only to be considered if offsetting reductions could be identified elsewhere
  - potentially causing market distortion
  - the costs to firms
- 5.9** We received 125 responses to question 9, with just over a third of respondents in favour and just over half of respondents against, the remaining respondents giving qualified answers.

#### Our response:

Having considered the responses, we are not convinced that a pensions-specific proposal would work. The main issue is defining at what point a pension-related investment becomes indistinguishable from a 'traditional', non-pension investment.

Following the initial investment of identifiable pension resources, over time the investment may change, be reinvested, added to, or partially withdrawn and those funds invested elsewhere. In these circumstances, it is difficult to see why a consumer, having entered the investments market, should benefit from greater protection from losses than any other investor.

For the reasons mentioned above, we do not intend to take this proposal forward.

We have already noted that the risk presented to consumers entering partial drawdown agreements with investment firms is greater than if they were to take out an insurance-based policy for their pension income. This concern is based on the fact that loss owing to bad advice or the failure of the investment firm can only be compensated to a maximum of £50,000 per consumer per firm, but a long-term insurance-based policy is protected to 100% with no upper limit.



In CP16/42 we set out that FCA data from a sample of firms in the first year since the introduction of the pensions freedoms showed that annuities accounted for only 14% of the total number of pension pots accessed for the first time.

Having considered the responses to CP16/42, and the need to ensure the affordability of any potential increases balanced against the benefits of improved consumer protection, we believe that an increase in the limit for all investment business from £50,000 to £85,000 is reasonable. To maintain consistency and reduce consumer and firm confusion around the limits, we also propose to increase the compensation limit for Home Finance intermediation claims and debt management claims from £50,000 to £85,000. Increasing the limit for the new debt management claims class is unlikely to increase costs for firms given the likely size of claims in this area. Harmonising all of the cash limits with the current FSCS limit for deposits should help to reduce consumer confusion. However, it is important to recognise that these limits may not remain in line with the deposits limit in future, as we believe that the reasons for deciding appropriate limits are not necessarily the same. The CBA at Annex 2 sets out our detailed estimates of the possible costs to levy payers of these options.

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### Other drivers for change

**5.10** We set out in CP16/42 that the pensions market is expected to increase significantly due to auto-enrolment and increased contributions. The government has estimated that 9m people will be automatically enrolled or contribute more by 2018, and that the amount being saved will increase by around £15bn a year by 2019/20. In terms of investment business claims, we also set out in CP16/42 that the proportion of compensation claims in excess of the £50,000 limit has been increasing, from less than 5% of all investment business claims in 2010, to over 13% of claims in 2014. There is therefore justification for increasing limits for investment business because the limit has fallen behind the market.

**Q8: Do you agree that we should increase the FSCS compensation limit for investment provision, investment intermediation, home finance intermediation claims and debt management claims from £50,000 to £85,000?**

**Q9: If you do not agree with the proposal above, do you have an alternative proposal?**

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### Loan-based crowdfunding (summary of responses to Q10 in CP16/42)

**5.11** When we took on the regulation of consumer credit, this included firms involved in loan-based crowdfunding. Our regulation covers both firms lending through loan-based crowdfunding (peer-to-peer) platforms and investment-based crowdfunding platforms, which offer investors the chance to invest in unlisted shares, or debt securities issued by businesses. Loan-based crowdfunding is not currently included within the scope of FSCS cover.

**5.12** In CP16/42 we asked:

**Q10:** *Do you have any comments about the possible risks to investors posed by crowdfunding and whether these might justify introducing FSCS protection?*

**5.13** We received 110 responses to this question. The great majority of respondents opposed bringing loan-based crowdfunding into FSCS protection. The most common reasons given were that:

- consumers should accept the higher risks associated with potentially greater returns, and take responsibility for those greater risks
- firms in this sector should make the risks much clearer through better disclosure
- it was felt that the required funding class would be unsustainable

**5.14** Of the few respondents who supported bringing loan-based crowdfunding into FSCS protection, some caveated their support by suggesting that the sector should be strongly regulated, and others said that the funding class should be ring-fenced. One respondent strongly advocated providing FSCS protection, but only if the firms involved in the market funded the compensation costs.

#### **Our response:**

While recognising the views of those respondents who support the extension of FSCS protection to loan-based crowdfunding, we do not believe that such a proposal is sustainable in practice. We do not intend to take the proposal forward.

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### **Including other activities within scope (summary of responses to Q11 in CP16/42)**

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**5.15** We considered whether there may be other activities which we should bring within the scope of FSCS protection, in particular whether FSCS protection should be extended to financial promotions. We asked:

**Q11:** *Do you have any comments about the scope of the FSCS and whether promoting financial products, or any other activities, should be included within its coverage?*

**5.16** We received 102 responses to this question. We had to disregard 35 responses, as the respondents had misunderstood the question, assuming that we were proposing that the FSCS should promote financial products. The question was whether the activity of financial promotions should be brought into FSCS coverage.

**5.17** There were no other specific proposals around the scope of the FSCS. Two thirds of relevant responses were opposed to bringing financial promotions into FSCS coverage. The main reasons given were:



- increased costs
- firms should be required to provide consumers with better information instead
- consumers should accept the risk

**5.18** Some of those in support of the proposal added conditions, including:

- only if the costs fell on promoters
- only if claims management companies paid the relevant levies
- where providers are doing the promoting

#### **Our response:**

While recognising the views of those respondents who support the extension of FSCS protection to financial promotions, our consultation did not uncover good grounds to do so. We do not intend to take this proposal forward.

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## 6 Next steps

- 6.1** We expect to publish a Policy Statement in the first half of 2018. It will contain:
- responses to the feedback we receive
  - made rules for the areas consulted on in this paper
- 6.2** Rules consulted on in this paper will be made in time for implementation in the 2019/20 financial year.



## Section 3: Feedback we received to the specific proposals we consulted on in CP16/42, our response, and next steps

## 7 Extending consumer protection

**7.1** In this chapter we provide feedback to the proposals that we consulted on in CP16/42 to extend the consumer protection provided by the FSCS. We previously consulted on specific proposals to introduce FSCS protection for some debt management activities and for structured deposit intermediation. We also consulted on proposals to extend the scope of the FSCS in other areas, including collective investment schemes (CISs) and to require Lloyd's of London to contribute to FSCS funding.

### Protection in the consumer credit market (summary of responses to Q19, 26, and 20 in CP16/42)

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**7.2** In CP16/42 we proposed extending the scope of the FSCS to cover claims regarding money lost by a protected debt management business, and proposed that this could be funded by commercial debt management firms and consumer credit lenders. We also asked for views on whether FSCS protection should be extended to negligent advice provided by debt management firms.

**7.3** In CP16/42 we asked:

**Q19:** *Do you agree with our proposals to include protection for client money for debt management activities within the scope of FSCS protection and our proposed funding arrangements?*

**Q26:** *Do you have any comments on our proposed class threshold and tariff measures for the new debt management claims class?*

**7.4** We received a total of 122 responses to these questions. Many responses covered issues relating to both questions, so we have summarised these responses together rather than reporting on them separately.

**7.5** Some respondents agreed with the proposals to include protection for client money associated with debt management activities within the scope of the FSCS, and felt that this would benefit vulnerable and low income consumers who could be disadvantaged if they were to lose money held by a debt management firm. Other respondents argued that this should not be covered by the FSCS because existing FCA rules ensure appropriate management of funds, and that client money is not held for a significant period of time by these firms. It was also suggested that debt management firms could be required to purchase a bond to protect consumers from the loss of client money.

**7.6** There were mixed views on lenders contributing to the funding of the proposed debt management class alongside debt management firms. Some respondents agreed that lenders should contribute to make the class sustainable as there could be links between their business and previous irresponsible lending practices, consumer circumstances, and the debts under management. Other respondents disagreed



that lenders should be required to pay towards the debt management claims class altogether, and raised the following arguments:

- lenders are subject to FCA requirements for assessing affordability and creditworthiness, and have no control over debt management firms;
- consumers may engage with debt management firms as a result of a wide range of events not limited to consumer credit lending, such as job loss, the breakdown of a relationship, and falling behind on council tax or utility bills;
- it could result in increased credit costs for consumers.

**7.7** It was also argued that firms with limited consumer credit permissions and firms that have the relevant consumer credit permissions because they are ancillary to their main activities – such as mortgage/insurance broking or provision – should not be required to pay towards the debt management claims class because they are unlikely to generate business for debt management firms.

**7.8** Respondents also had mixed views on whether not-for-profit (NFP) firms should be required to contribute towards the new debt management claims class, with firms arguing that NFP debt management firms should contribute because their NFP status does not mitigate the risk of failure.

**7.9** Some respondents agreed that the tariff measure for lenders should be based on the value of a firm's annual lending but other respondents suggested that it should be based on the value of a firm's annual lending in arrears as this would be a better measure of the risk the firm poses to consumers claiming on the debt management class.

**7.10** Respondents generally argued that the proposed class threshold of £45m was too high, and so the corresponding contribution to the retail pool if it was triggered would be disproportionate. Respondents considered that the risk of a debt management firm failing leading to a claim on the FSCS is low, as they are required to follow the FCA's client money rules and are unlikely to hold significant amounts of client money. However, it was also noted that it would be difficult to judge how appropriate a threshold would be as there is no claims history on which to base the threshold.

**7.11** Some respondents argued that the proposed debt management claims class should be separate to the retail pool to avoid cross-subsidy of more risky classes, and that levies should be collected from debt management firms first, with lenders only being called upon if needed.

**7.12** One respondent suggested that the proposed limit of £50k for a claim under this class should be reviewed along with the review of other limits to avoid consumer confusion about different levels of protections.

**7.13** It was also noted that vulnerable consumers are exposed to risk from more formal insolvency arrangements such as Individual Voluntary Arrangements (IVAs), and that these should also be within the scope of the FSCS.



## Our response:

We are proceeding with the proposal to introduce a new debt management claims class for claims about the loss of client money in relation to the activities *debt counselling* and *debt adjusting* carried out as part of an individual entering a *debt solution* to discharge their debts. This does not cover IVAs arranged by insolvency practitioners, which are not regulated by the FCA.

This class will be funded by debt management firms and consumer credit firms with specific lending permissions. We acknowledge that there could be several factors that result in a consumer being in a debt management plan, but we also recognise the link that exists between lenders and consumer debts, and the need for the class to be funded in a sustainable way. We will not require NFP debt management firms to contribute to the class and are extending the exclusion from contributing to the class to all firms with limited consumer credit permissions. This is in line with the approach of the regulatory regime for NFP firms and firms with limited consumer credit permissions more generally.

We considered using annual arrears as the tariff measure for contributions from lenders, but concluded that it would not be a more appropriate metric than annual lending as it could inappropriately favour some types of firms, such as those that provide overdrafts and credit cards, and exclude significant debts that are not initially classified as arrears. We plan to use the tariff measure of annual lending for lenders, and debts under management for debt managers.

Recognising concerns about the class threshold being disproportionately higher than the risks associated with the class, and the impact that this could have on contributors to the class if the retail pool is triggered, we have decided to reduce the class threshold from £45m to £20m. It is difficult to anticipate how appropriate a threshold would be in the absence of claims history, but we think that £20m would be more appropriate and prevent firms having excessive exposure to the retail pool.

The class threshold and compensation limit for the new debt management claims class may be reviewed at a later stage in light of actual claims.

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**7.14** In CP16/42 we asked:

**Q20:** *Do you have any views on whether or not coverage should be extended to negligent advice provided by debt management firms?*

**7.15** We received 103 responses to this question. Some respondents argued that consumers should be covered by the FSCS for negligent advice by debt management firms because that negligent advice could have a severe impact on vulnerable consumers. It was proposed that negligent advice would need to be defined, and compensation for these claims should be paid for by debt management firms – and



not by other firms via the retail pool. Other respondents argued that cover should not be extended to this activity because it would increase the cost of advice, and should already be covered by PII and mitigated by FCA supervision.

#### Our response:

We are not persuaded that the FSCS should be used to cover negligent advice provided by debt management firms, and do not plan to take this forward.

### Structured deposits (summary of responses to Q21 in CP16/42)

**7.16** As part of implementing MiFID II, we consulted on increasing the requirements for firms that advise on and sell structured deposits.<sup>15</sup> In CP16/42, we proposed to extend FSCS protection to the intermediation of structured deposits. We proposed including the intermediation of structured deposits within the current Investment Intermediation class (Class D2), apart from managing investments for structured deposits, which we proposed to add to the investment provision class (Class D1). We asked:

**Q21:** *Do you agree with our proposals to extend FSCS protection to structured deposits intermediation and to fund it through the Investment Intermediation and Investment Provision classes?*

**7.17** We received 108 responses to this question. Many respondents agreed with our proposal to extend FSCS protection to structured deposits and supported placing structured deposit intermediation in the investment intermediation and investment provision classes.

**7.18** A couple of respondents specifically disagreed with our example of how redress might be awarded in the case of a consumer being wrongly advised on a structured deposit.

**7.19** Some respondents agreed that FSCS protection should be given to these products, but suggested that structured product intermediation should be a standalone class on the basis of concerns around costs.

#### Our response:

We are proceeding with this proposal.

While we recognise there are concerns around the potential for additional costs as a result of extending FSCS protection to the intermediation of structured deposits, we do not consider that these are significant enough not to proceed.

15 <https://www.fca.org.uk/publication/consultation/cp16-29.pdf>

We provided an example of what might be done where a consumer is given unsuitable advice on a structured deposit. We are not prescribing a specific methodology for these cases – it was an example to demonstrate why and how FSCS protection will apply.

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## Incorporating the intermediation of structured deposits (summary of responses to Q27-28 in CP16/42)

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**7.20** We proposed to calculate levy contributions as a percentage of these firms' annual eligible income from their relevant intermediation activities but, if the firm is selling its own structured deposits, we proposed a levy based on 7% of the firm's total structured deposits as a proxy for annual eligible income.

**7.21** In CP16/42 we asked:

**Q27:** *Do you have any comments on our proposed tariff measures and metrics for calculating the deposit taker contribution for direct sales in relation to structured deposits?*

**Q28:** *Do you have any comments on how, in future, we might calculate any provider contributions required from deposit-takers, in relation to structured deposits, if we were to consult in detail on this approach?*

**7.22** We received limited responses to these questions. One respondent suggested that structured deposits should have their own class.

### Our response:

We intend to proceed with these proposals with one alteration to the tariff base. Rather than basing the levy on 7% of a firm's total structured deposits, we will base it on 7% of a firm's annual sales of structured deposits. We believe this represents a better proxy for annual eligible income.

Given the size of the market for structured deposits we do not believe that creating a standalone funding class would be proportionate or sustainable.

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## Fund management and collective investment schemes (summary of responses to Q22 in CP16/42)

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**7.23** At the moment, the FSCS must treat underlying beneficiaries, rather than the actual claimant, as having the claim in certain cases. These include cases involving bare trustees, nominee companies, or trustees of money purchase schemes. In CP16/42 we consulted on a similar 'look through' for Collective Investment Schemes (CISs) so



that, in certain circumstances, the FSCS can treat participants in the relevant fund as having a claim, instead of the CIS, operator, trustee, manager or depositary who is the actual claimant.

- 7.24** Respondents generally supported this proposal and thought that it would make things clearer for investors. Respondents that did not support the proposal expressed concerns that it did not take into account the role of the depositary, as defined in legislation. Respondents also expressed concern that the tariff base for investment provision is based on annual eligible income but depositaries and fund managers may not have access to information about end investors to determine if they are eligible claimants.

#### **Our response:**

We intend to make the rules we consulted on in CP16/42 but we will continue to discuss the levy reporting requirements with stakeholders and are open to suggestions on alternative approaches. The current definition of annual eligible income in our rules allows firms to either calculate it based on income attributable to business conducted with or for the benefit of eligible claimants or if that is not possible to include all annual income.

### **Lloyd's of London (summary of responses to Q23 in CP16/42)**

- 7.25** If high compensation and specific costs in an FCA funding class mean it breaches its threshold, then funding from other firms is needed and in some cases insurers and other product providers would be called upon to contribute to the retail pool.
- 7.26** In CP16/42 we consulted on draft rules to include the Society of Lloyd's within the retail pool. We consulted on this change because it could be argued that it would be unfair for other insurers to have to cover claims if a Lloyd's broker failed, unless Lloyd's could also be called on to make a proportionate contribution based on its share of the eligible insurance market. We asked:

**Q23:** *Do you agree with our proposed new approach to Lloyd's of London?*

- 7.27** Respondents generally supported this proposal so we intend to make the rules that we consulted on.

#### **Our response:**

We intend to make the rules we consulted on in CP16/42.

## 8 Risks and responsibilities: risk-based levies (RBLs) and reporting requirements

**8.1** In this chapter we provide feedback to the proposals we previously discussed and consulted on to seek to make sure that the levies a firm pays reflect the specific risks it poses to the FSCS.

### RBLs (summary of responses to Q1-2 in CP16/42)

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**8.2** In CP16/42 we opened up discussion on the introduction of RBLs to the funding of the FSCS and asked for suggestions on other regulatory responses. We also shared analysis on the relationship between firm-specific factors and FSCS claims, in particular relating to the distribution of NMPs. We consulted on collecting data through the Retail Mediation Activities Return (RMAR) to enable us to identify firms that distribute certain higher risk products to retail clients, and to consider whether to introduce RBLs and carry out further supervisory work.

**8.3** In CP16/42 we asked:

**Q1:** *Do you agree with the introduction of RBLs? Should we also consider other regulatory responses?*

**8.4** We received 176 responses to this question. The majority of respondents supported the principle of introducing RBLs to the funding of the FSCS, and stated that they would increase fairness, and help to reduce cross-subsidy by less risky firms to higher risk firms. Respondents also stated that RBLs could deter firms from pursuing types of business posing higher risks of consumer harm.

**8.5** Some respondents were concerned that RBLs could be unfairly calculated, and others argued that they could reduce the range of products available to consumers and that levies should not be used to distort the market. Some respondents also stated that RBLs could increase the volatility of levies for firms, and that they would be challenging to implement.

**8.6** Respondents suggested that the application of RBLs should be regularly reviewed to make sure they capture relevant risks, and that the tariff basis should be transparent and not complex. Respondents said we should consider if they should be applied depending on whether a product was sold with or without advice. Respondents asked whether they would be applied to both intermediaries and product providers, and if they would only be payable if firms generated income from the relevant business.

**8.7** Respondents suggested regulatory responses as alternatives to introducing RBLs already discussed in this paper, such as greater supervision or a reduction in scope of the FSCS.



**8.8** In CP16/42 we asked:

**Q2:** *Do you believe that RBLs could be appropriate in relation to: a) higher risk investment products; b) insurance brokers that choose to place business with unrated insurers; and c) any other types of specific products or services?*

**8.9** We received 168 responses to this question. The majority of respondents stated that it would be fair and proportionate to apply RBLs to firms that distribute higher risk investment products, but these should be clearly defined. Some respondents suggested that Enterprise Investment Scheme and Business Property Relief investments should be excluded.

**8.10** A few respondents supported applying RBLs to brokers who place business with unrated insurers but the majority of people who responded to this question did not support this proposal. Respondents argued that there is no evidence to suggest unrated insurers are more likely to fail than rated insurers, and that these proposals would adversely affect mutual and small insurers who do not purchase a rating.

**8.11** Respondents also suggested that RBLs could be applied to firms or products generating high volumes of complaints to the FOS or claims at the FSCS, and/or to activities like defined benefit pension transfers and discretionary fund management.

**8.12** In CP16/42 we asked:

**Q24:** *Do you agree with our proposal for a new reporting requirement on higher risk products in the RMAR?*

**8.13** We received 111 responses to this question. The majority of respondents supported our proposal because it would be useful for the future design of any RBLs for fairer funding of the FSCS, and for targeting supervisory resources. Respondents thought that this data would not be too difficult for firms to collect and report. We also received suggestions for expanding the data collected, for example to include the number of individual consumers sold a higher risk product.

### Our response:

We are proceeding with exploring the introduction of RBLs for higher risk investment products, and will require firms to report data in the RMAR on the distribution of products that fall within the definition of the new glossary term *enhanced reporting investment*. As proposed in CP16/42, this currently consists of investments that are subject to restrictions on retail distribution – summarised in COBS 9.3.5G. The products subject to this glossary term may change over time as we develop our thinking on which products are relevant to a RBL, or for the benefit of targeted supervisory work.

We have revised the questions in the RMAR to provide us with greater context for the relevant business, such as how much income has been generated by a specific product, and how many clients a specific product has been sold to. We do not think that it would be appropriate



to request details of historic business, and many firms may not have this information.

We will review the other products that should be included in this reporting over time, and welcome suggestions about those that are most likely to result in consumer detriment and claims to the FSCS.

We will not be exploring applying RBLs to brokers who place business with unrated insurers due to valid concerns raised in responses, such as the negative effect this would likely have on small and mutual businesses that do not, or are not required to purchase a rating. Our views on other regulatory responses are set out in chapter 3.

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## 9 Funding classes and the levy year: specific proposals

- 9.1** In this chapter, we summarise the responses to the technical proposals to change the way the current funding arrangements work in CP16/42 and a proposal to align the time periods over which we collect different levies.

### Direct debits and credit facilities for firms (summary of responses to Q25 in CP16/42)

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- 9.2** In CP16/42 we discussed options for levy payments, and consulted on removing a rule from our Handbook which allows firms to pay the levy by quarterly direct debit. We explained that the rule is not currently in operation, and that some firms use finance facilities to pay the levy in instalments. We asked:

**Q25:** *Do you agree with our proposal to remove the rule relating to paying FSCS levies by quarterly direct debits or should we consider other options?*

- 9.3** We received 91 responses to this question. The majority of respondents agreed with our proposal on the basis that the facility is not currently available, and that it would be more simple and convenient for firms to continue to receive a single annual invoice containing FSCS and other regulatory fees, which can already be paid in instalments.

#### Our response:

The FSCS levy is part of an invoice with other regulatory fees. Separating the FSCS levy to facilitate payments by instalments would be complex, and potentially expensive. We are proceeding with removing the rule relating to paying FSCS levies by quarterly direct debits as it is not available from the FCA or FSCS in practice, and firms already have the ability to pay the levy in instalments using third party finance facilities.

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### Tariff measures (summary of responses to Q29-30 in CP16/42)

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- 9.4** In CP16/42 we proposed bringing the tariff measures for contributions from deposit acceptors and life and general insurers into the retail pool in line with the tariff measures used by the PRA. We asked:

**Q29:** *Do you have any comments on our decision to maintain the current tariff measures, except for deposit acceptors and life and general insurers?*



**Q30:** *Do you have any comments on our proposal to bring the tariff bases for insurers into line with the PRA's approach?*

- 9.5** These questions received 21 and 11 responses respectively. Respondents generally supported our proposals. Some respondents stated that the tariff measures should be based on risk to make the system fairer, and that the measures should be transparent.
- 9.6** Respondents generally agreed with our proposal to bring the tariff bases for insurers into line with the PRA's approach, on the basis that it seems reasonable and would improve consistency between the regulators.

**Our response:**

We are maintaining the current tariff measures for all firms, except for deposit acceptors and life and general insurers whose tariff measures will be brought in line with the tariff measures used by the PRA so that these firms only need to report one dataset. This should reduce costs of reporting for these firms, and will improve the consistency of the data used between the regulators. Information on the tariff measures, including references to relevant sections of the PRA rulebook, is set out in our Handbook FEES 6 Annex 3 AR.

**Aligning the levy time period (summary of responses to Q31 in CP16/42)**

- 9.7** Although paid for together, the compensation costs levy is calculated from July to the following June, and the management expenses levy is calculated from April to the following March. In order to allow these periods to be aligned, in CP16/42 we proposed to require firms who already pay FCA and PRA fees on account to also pay for the FSCS levy on account, as this would help to ensure that the FSCS has sufficient funds available to pay compensation throughout the year, and assist firms with planning. We asked:

**Q31:** *Do you agree with our proposal to require firms that must pay some of their FCA/PRA levies on account to also make a payment on account in respect of their FSCS levy?*

- 9.8** We received 11 responses and the majority of respondents agreed with our proposal. Some respondents suggested that this should be introduced after any changes to provider contributions to reduce the bill for other firms, and that the arrangement should be regularly reviewed to ensure it remains reasonable.
- 9.9** A minority of respondents did not support the proposal and argued that it would make the levy system more complex, create administrative work for networks, negatively impact cash flow (particularly for small firms), and encourage firms to engage in high risk business in order to be able to pay. Others requested clarity on which firms would be affected by the proposal.



### Our response:

Currently, firms whose total fees exceeded £50,000 in the previous year receive an invoice to pay 50% of that fee on account<sup>16</sup>. We plan to take forward this proposal to require firms that already pay FCA and PRA levies on account, to also pay FSCS levies on account. We consider that this will benefit firms and the FSCS with planning. We do not consider that it is necessary to delay introducing this until the outcome of our consultation on changes to provider contributions in the funding classes, or that it would make the levy system more complex.

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16 <https://www.fca.org.uk/firms/fees>



## 10 Next steps

- 10.1** The rules set out in section 3 above are being made from 30 October 2017 in time for implementation in the 2018/19 financial year. This timing reflects the need for finance and systems changes which require significant lead time.



## Annex 1

### Questions in this paper

- Q1:** Do you have any views on our proposal to prevent personal investment firms (PIFs) from buying PII policies which exclude claims when the policyholder or a related party is insolvent?
- Q2:** Do you have any views on the potential to require PIFs to hold additional capital in trust, for the purposes of contributing to any FSCS claims?
- Q3:** Do you have any views on requiring PIFs to obtain a surety bond?
- Q4:** Do you have any comments on our proposals to merge the Life and Pensions Intermediation funding class with the Investment Intermediation funding class?
- Q5:** Do you agree with our proposal to move pure protection intermediation from the Life and Pensions Intermediation funding class to the General Insurance Distribution funding class?
- Q6:** Do you agree with our proposal to change the class thresholds for FCA product provider classes to represent 25% of the relevant intermediary claims funding class threshold? If not, what alternative would you suggest?
- Q7:** Do you have any comments on our proposal for how the retail pool will operate?
- Q8:** Do you agree that we should increase the FSCS compensation limit for investment provision, investment intermediation, home finance intermediation claims and debt management claims from £50,000 to £85,000?
- Q9:** If you do not agree with the proposal above, do you have an alternative proposal?

## Annex 2

# Cost benefit analysis

### Introduction

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1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as "an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made".
2. This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we believe it is reasonable. We make our proposals after carefully weighing up these multiple dimensions and reaching a judgement about the appropriate level of consumer protection, looking at all the other impacts we foresee.

### Reviewing the funding classes and smoothing costs

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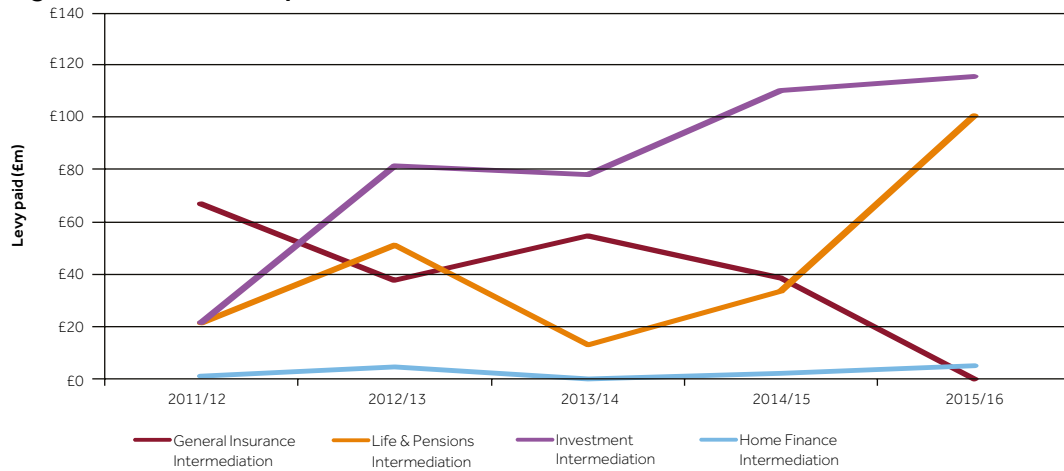
In this section, we examine the costs and benefits of the proposals discussed in Chapter 4.

#### **Merging the Life and Pensions intermediation and Investment intermediation funding classes**

3. The proposal to merge the Life and Pensions Intermediation and Investment Intermediation funding classes should smooth firms FSCS levy contribution to a degree, helping to reduce volatility. This means less uncertainty for firms in the levy each year.
4. Under the current system the percentage of Annual Eligible Income (AEI) each class has been required to pay has varied greatly. The following graphs show how these proportions have changed since 2010/11 for the three intermediation classes, and how the proposed class structure, incorporating both product provider contributions and the merging of the Life and Pensions and Investment Intermediation classes would have compared. As expected, levies as a proportion of income are more stable under the merged class. We have defined volatility as the difference between the maximum and minimum levy as a percentage of income.



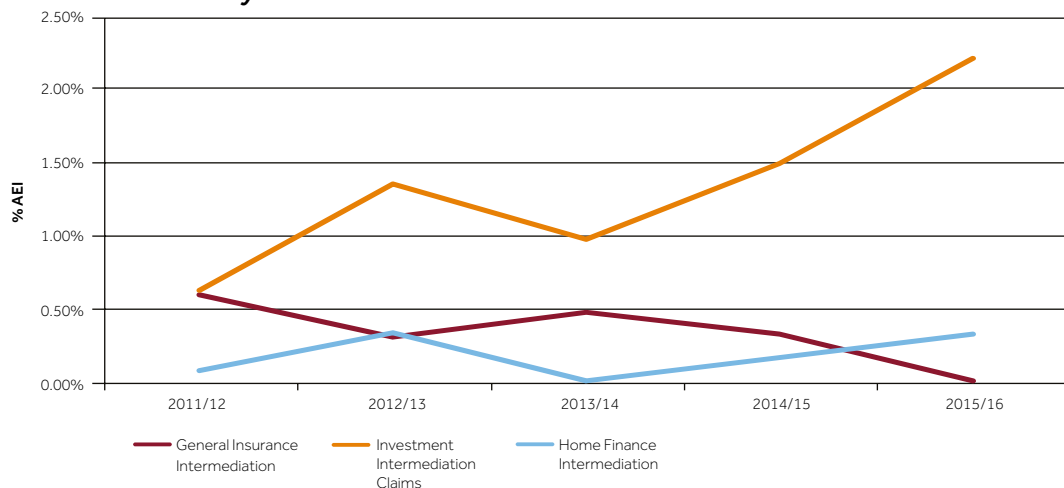
**Figure 1: actual levies paid**



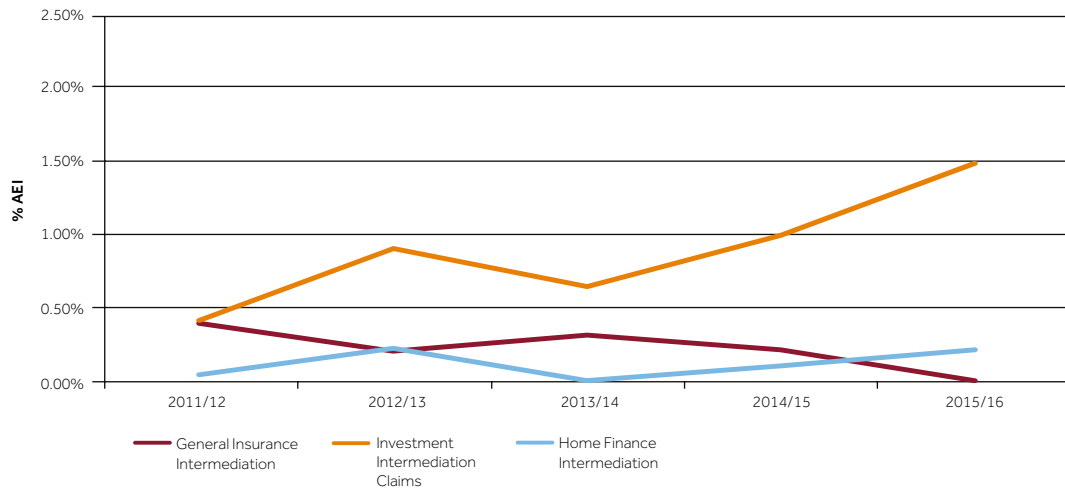
5. The charts below illustrate the overall impact of our proposed changes to the funding of the FSCS, including the different options for product provider contributions and merging the Life and Pensions and Investment Intermediation classes. Using historic levy data, we can consider how FSCS levies would have been affected if our proposed new funding model had been in place during the last five years.

6. The charts use historic levy data to show the impact of the provider contributions under the 25/75 and 50/50 options, as well as historic levies as a percentage of eligible income for merged class and existing funding classes, 2010/11 to 2015/16. Where providers are paying the same in contributions and total levies, this reflects years where the provider class had no levy historically.

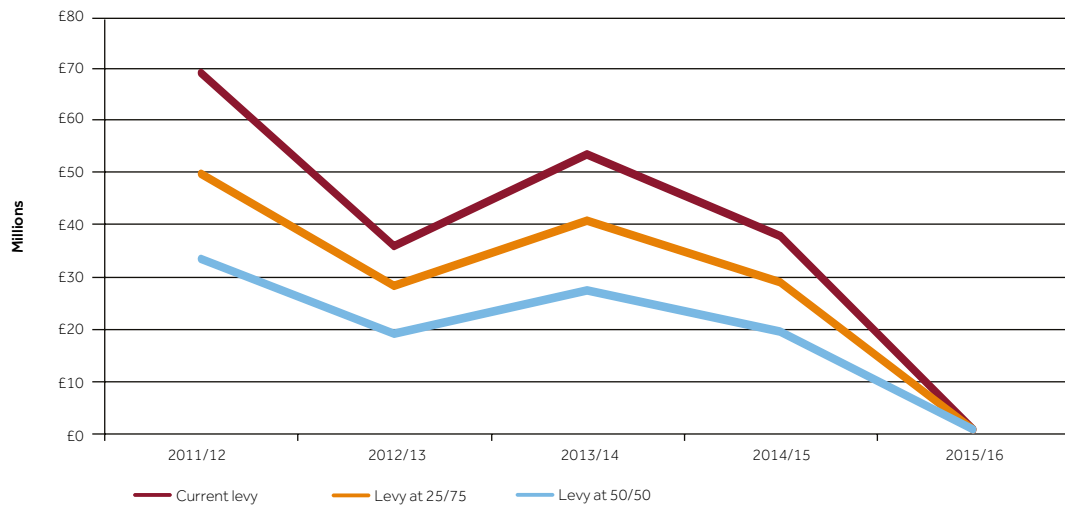
**Chart 1: 25/75: levy as % of AEI**



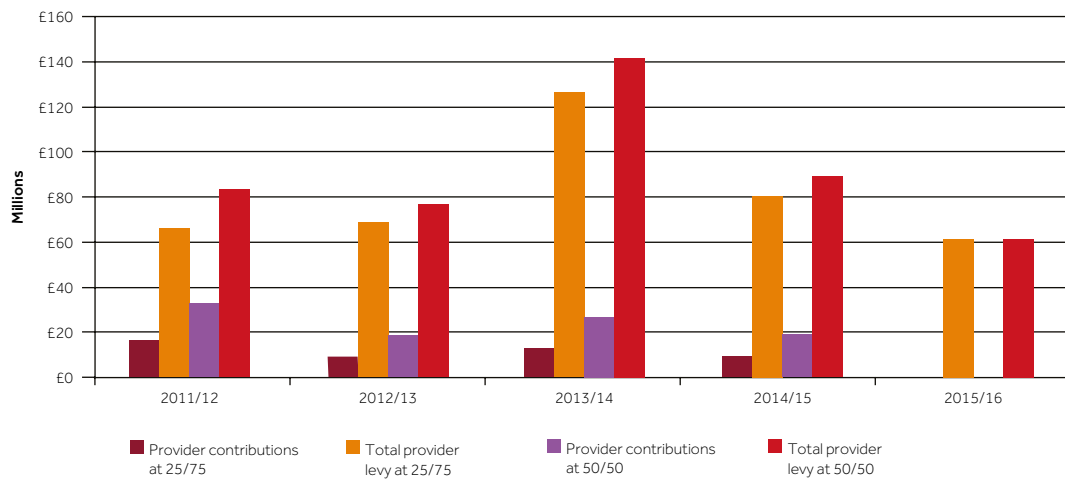
**Chart 2: 50/50: levy as % of AEI**



**Chart 3: General Insurance Distribution**

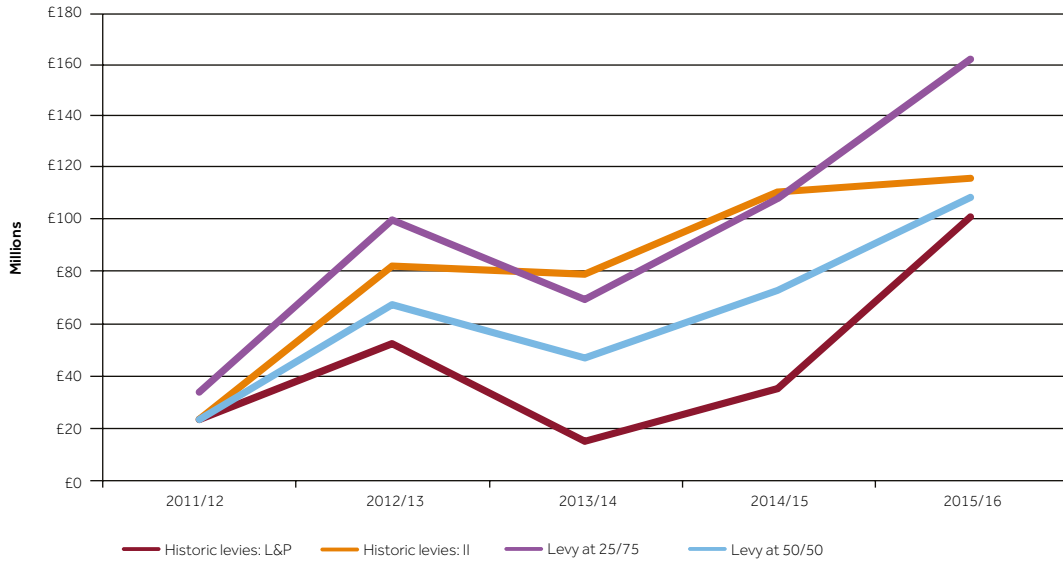


**Chart 4: General Insurance provision**

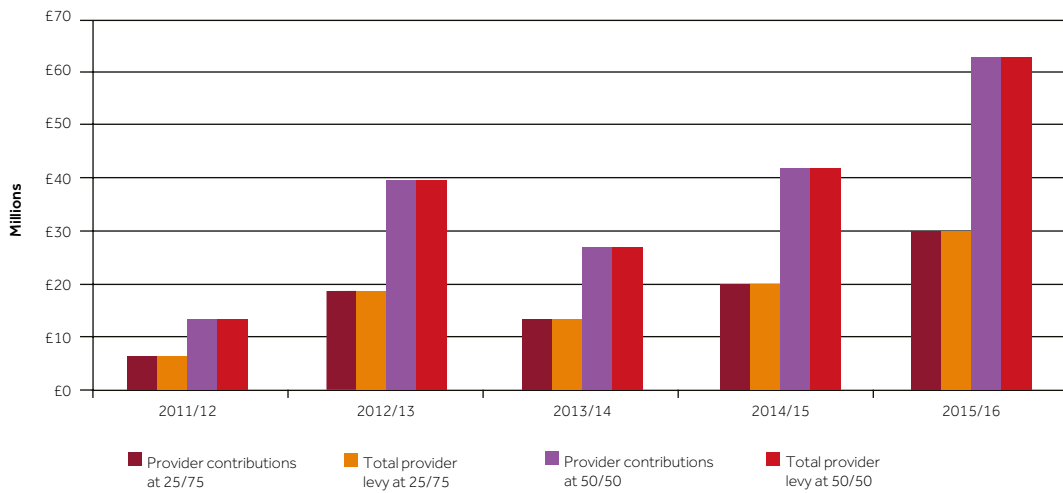




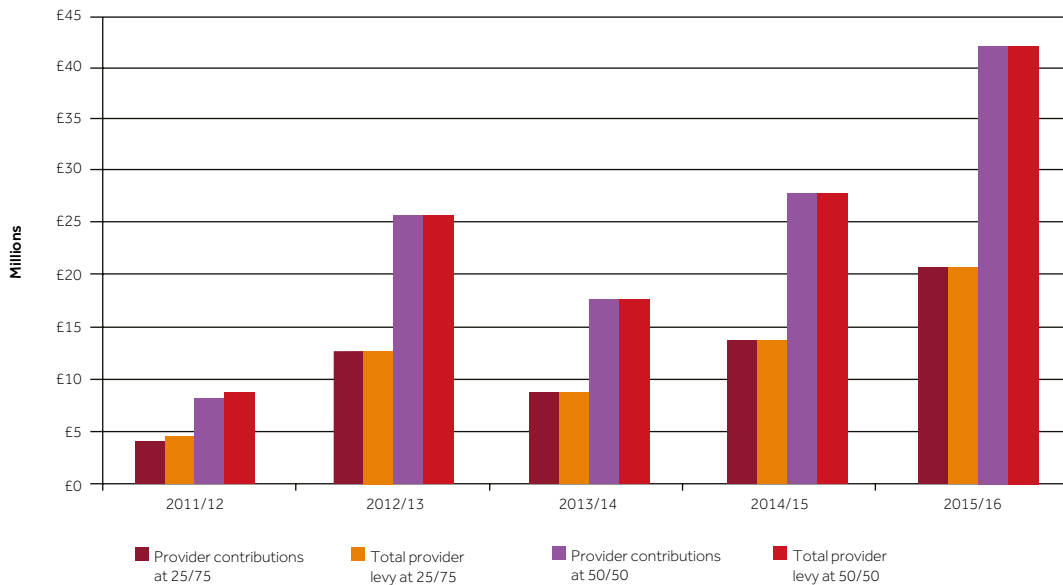
**Chart 5: Investment Intermediation Claims**



**Chart 6: Investment Provision**

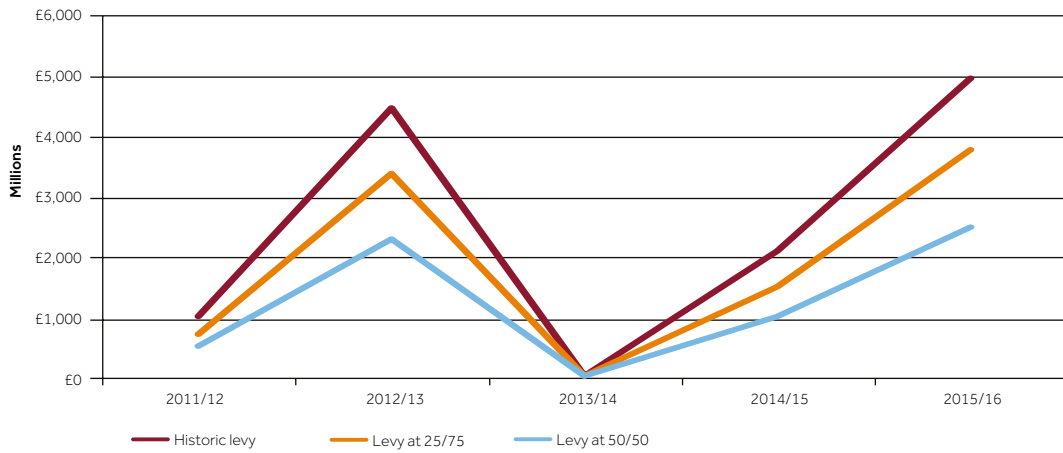


**Chart 7: Life and Pensions Provision**

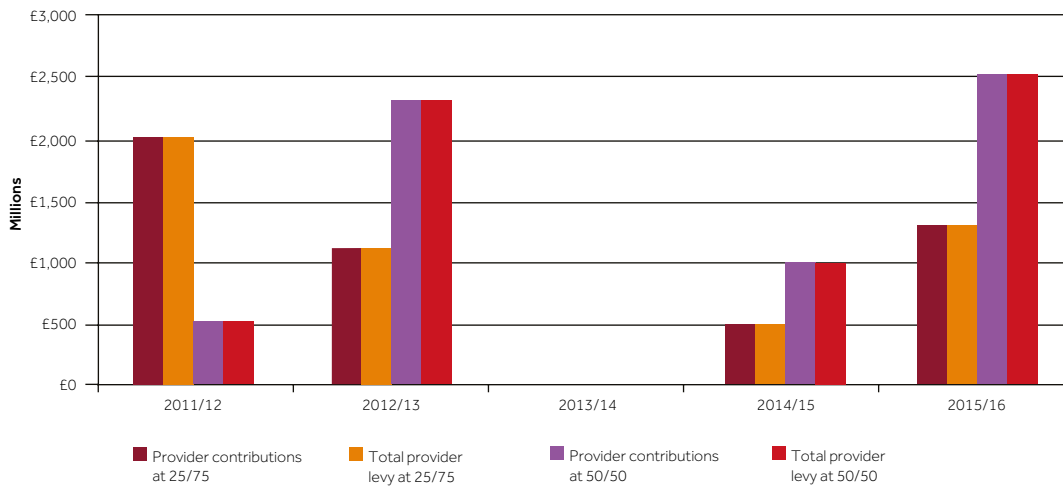




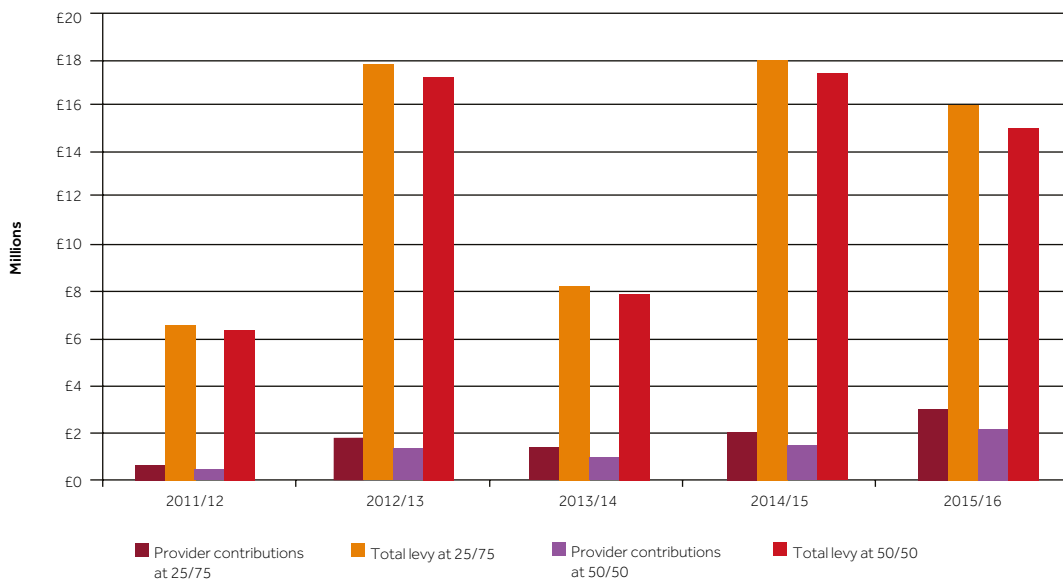
**Chart 8: Home Finance Intermediation**



**Chart 9: Home Finance Provision**



**Chart 10: Deposit acceptors**





### Cost to firms

7. The table below illustrates the impact of our proposed changes to the funding of the FSCS on the Life and Pensions and Investment Intermediation classes, including the different options for product provider contributions. Using historic levy data, we can consider how FSCS levies would have been affected if our proposed new funding model had been in place during the past five years.
8. Based on the average 2016/17 levy for a small firm and a medium firm<sup>17</sup>, the changes to the merged class would have the following impact:

**Figure 2: average levy paid**

Firm	Actual levy in 2016/17	2016/17 levy under 25/75 split	2016/17 levy under 50/50 split
Small firm in the Life and Pensions Intermediation class	£9,000	£5,846	£3,898
Medium firm in the Life and Pensions Intermediation class	£180,000	£116,929	£77,953
Small firm in the Investment Intermediation class	£9,400	£7,954	£5,302
Medium firm in the Investment Intermediation class	£188,000	£159,071	£106,047

9. The data above suggests that merging the Life and Pensions Intermediation and Investment Intermediation classes will spread the cost of failure across more firms, reducing the annual average levy for firms, reducing volatility for the class and increasing sustainability. Had the new proposals had been in place in recent years some intermediary firms would necessarily have experienced higher levies than under the current rules. However, it is unlikely the retail pool would have been triggered, reducing the cost burden on a greater number of firms.

### Moving pure protection intermediation claims from the Life and Pensions Intermediation class to the General Insurance Distribution class

10. We are consulting on moving pure protection intermediation from the Life and Pensions Intermediation class to the General Insurance Distribution class. This reflects the feedback we've received and the relative risk attached to pure protection intermediation which, compared to other types of business within the Life and Pensions Intermediation class, is low.
11. We have considered the impact on the class thresholds as a result of this move. We cannot isolate annual eligible income by specific products, and we have looked at firms with permission to carry out non-investment insurance mediation business – only or together with home finance mediation – and have reported income in the L&P intermediation class. These firms do not have a permission to carry out any other type of life or pension business, so we have assumed that the income reported in L&P class relates to pure protection business only. This does mean that we are unable to identify firms that have both permissions but only carry out pure protection intermediation, but we are not aware of any significant pure protection intermediation failures.
12. Over the last 3 years, the effect on affordability for the relevant classes is that the threshold for General Insurance distribution should be increased, and the threshold for Life and Pensions intermediation decreased, in order to retain the current threshold to income ratio.

<sup>17</sup> A small firm is considered to be a firm with an income from regulated activities under £100,000, a medium firm is a firm with an income from regulated activities between £100,001 and £1,000,000

Figure 3

		Total eligible income (£)	Threshold (£)	Threshold as % of income	Threshold required to maintain original % of income (£):	Difference (£)
<b>2015/2016</b>						
<b>Merged L&amp;P and II</b>	<b>Before</b>	7,326,189,056	250,000,000	3.4%	237,676,553	- 12,323,447
	<b>After pure protection change</b>	6,965,053,440	250,000,000	3.6%		
<b>GI</b>	<b>Before</b>	8,917,932,032	300,000,000	3.4%	312,148,650	12,148,650
	<b>After pure protection change</b>	9,279,068,160	300,000,000	3.2%		

		Total eligible income (£)	Threshold (£)	Threshold as % of income	Threshold required to maintain original % of income (£):	Difference (£)
<b>2014/15</b>						
<b>Merged L&amp;P and II</b>	<b>Before</b>	7,228,034,560	250,000,000	3.5%	238,506,831	- 11,493,169
	<b>After pure protection change</b>	6,895,742,464	250,000,000	3.6%		
<b>GI</b>	<b>Before</b>	9,013,496,832	300,000,000	3.3%	311,059,817	11,059,817
	<b>After pure protection change</b>	9,345,788,928	300,000,000	3.2%		

		Total eligible income (£)	Threshold (£)	Threshold as % of income	Threshold required to maintain original % of income (£):	Difference (£)
<b>2013/2014</b>						
<b>Merged L&amp;P and II</b>	<b>Before</b>	7,063,286,784	250,000,000	3.5%	238,544,583	- 11,455,417
	<b>After pure protection change</b>	6,739,635,200	250,000,000	3.7%		
<b>GI</b>	<b>Before</b>	8,804,275,200	300,000,000	3.4%	311,028,219	11,028,219
	<b>After pure protection change</b>	9,127,926,784	300,000,000	3.3%		



13. Based on the above analysis we are proposing to reduce the Life and Pensions Intermediation class threshold by £10m, and to increase the General Insurance Distribution class threshold by £10m. We know that these firms have not historically given rise to any significant claims in respect of pure protection intermediation and we do not believe there would be any significant transfer of compensation costs.

#### Product provider contributions to compensation for intermediary firms

14. We are proposing a change to the funding requirements that product providers face. At present, authorised product providers do not contribute to the costs of failed intermediaries – apart from levies paid in relation to intermediation activities that they may conduct themselves – unless the retail pool is triggered.
15. Adding product providers to the relevant intermediary classes would help to ensure we have a robust funding model, with sustainable classes that provide sufficient funding for compensation. It could be argued that making intermediation firms alone pay for the compensation costs of intermediation firm failures fits with FSMA's requirement that we take account of the desirability of levies on an individual class matching up with claims made in respect of that class. However, we explain in the CP that we think it is appropriate for product providers to contribute towards the cost of intermediary failures given their responsibilities for their supply chains, and the wider benefits all firms gain from an intermediated market, because their contribution will ensure the compensation scheme remains sustainable and sufficiently funded.
16. Adding product providers to the relevant intermediation classes under option 2 would increase the contributions paid by most product providers – i.e. Investment Providers, Insurers and Home Finance providers and administrators).
17. The tables below show how costs would have increased for providers over the last five years based on 25% and 50% contributions respectively, taking option 2 as the baseline for the class structure. The table shows the total FSCS levy, the figures product providers were already paying under PRA rules as a result of provider failures, and the levy the sector would pay in total is shown under "new levy". The difference between the two figures is the amount that is attributable for costs to the Intermediation class.

**Figure 4: Option 2 with product provider contributions at 25/75 and 50/50**

	Actual Contributions Paid		Contributions Under 25/75		Contributions Under 50/50	
	Average 2011-16	Levy as % of AEI	Average 2011-16	Levy as % of AEI	Average 2011-16	Levy as % of AEI
<b>Intermediation</b>						
General Insurance	£40m	0.44%	£30m	0.33%	£20m	0.22%
Life & Pensions	£44m	1.36%				
Investments	£81m	2.26%	£94m	1.38%	£63	0.92%
Home Finance	£3m	0.24%	£2m	0.18%	£1m	0.12%
Debt Management	N/A		Unknown	Unknown	Unknown	Unknown
<b>Provision</b>						
General Insurance	£72m		£82m		£91m	
Life & Pensions	£m		£12m		£25m	
Investments	£m		£17m		£37m	
Home Finance	£m		£1m		£1m	
Deposits	£12m		£13m		£13m	

18. These models do not reflect the move of pure protection intermediation from the Life and Pensions Intermediation class to the General Insurance Distribution class. To demonstrate the effect on levies, we would need to do retrospective calculations of levies based on claims, however this is a complicated exercise and we do not have all the required data.

### Changing the FCA provider contribution class thresholds

19. We are proposing relevant product providers<sup>18</sup> contribute to their corresponding intermediation class from the first pound onwards, and that each provider contributes 25% to the intermediary class.

20. The original FCA provider contribution class thresholds were set in 2013, and reflected what the then FSA expected these firms to cost the FCA, estimated at the time to be 25% of regulatory costs. These classes were then expected to contribute 25% of the costs of the retail pool on the basis that this went some way to reflecting their conduct risk. Calibrating the contribution providers should make under our proposals is a matter of judgement. We have looked at several options and are consulting on a 25% contribution as this mirrors the current maximum exposure of providers through the retail pool under the current model.

21. Merging the classes while using the existing threshold results in inconsistently proportioned product provider contributions when compared across the classes. We are proposing that each provider class should contribute 25%<sup>19</sup> to the relevant intermediation class. The exception to the 25% contributions is the deposit acceptors class, which remains a pure product provider class.

22. The maximum threshold will vary between classes:

**Figure 5: proposed class thresholds**

Option 2	Product Providers	Intermediaries	Total threshold
Deposit acceptors	£105m	n/a	£105m
<b>General Insurance</b>	<b>£100m (25%)</b>	<b>£310m</b>	<b>£410m</b>
<b>Investment and Life and Pensions</b>	<b>£90m (27%)</b>	<b>£240m</b>	<b>£330m</b>
Investment provision	£50m (14.7%)		
Deposit acceptors (in relation to structured deposits)	£5m (1.5%)		
Life insurers	£35m (10.3%)		
<b>Home Finance</b>	<b>£15m (27%)</b>	<b>£40m</b>	<b>£55m</b>
Investment Provision	£200m	n/a	£200m
Debt management	£20m	n/a	£20m

23. The amount of funding available is the same as if we simply merged the classes on the existing thresholds, but the costs have been redistributed, largely from the Home Finance intermediation class to the General Insurance distribution class. This creates increased funding capacity – compared to the retaining the current thresholds – for the Investment Intermediation and the Life and Pensions Intermediation classes. We know this is where the majority of claims have come from historically, and are likely to

18 Except for pure protection providers and their intermediaries

19 Or close to this figure, allowing for rounding in the cash threshold for each class.



come from in the coming years, so increasing funding capacity in these classes is a good idea.

- 24.** This proposal makes general insurance providers potentially liable for more of the compensation bill than before. We have tested the affordability of this by looking at the ratio of the threshold to the fee block income measure. For A003 (general insurers) the current threshold is 0.05% of gross premium income, and the proposed threshold is 0.16%. For A004 (life insurers) the current threshold is 0.13% of the adjusted gross premium income, and the proposed threshold is 0.06%. Most general insurance providers would pay an extra 0.1% of their gross premium income or less as a result of this change, if the maximum amount was levied.
- 25.** The retail pool is less likely to be triggered, given the increased funding capacity provided by the revised class structure.
- 26.** There will be a minimal cost to the FCA to adjust the invoicing system to attribute a portion of costs to product providers from the new intermediation classes.

### Changing FSCS compensation limits

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- 27.** In this section, we assess the costs and benefits of the proposal to increase the FSCS protection limit for some types of protected claims. This will increase the FSCS compensation limit for protected investment business (which includes investment provision and intermediation), home finance intermediation claims and debt management claims from £50,000 to £85,000.
- 28.** We think that customers will benefit from the proposed increases with increased financial protection if firms fail, and although total compensation costs will also increase, we believe the increases are affordable.
- 29.** It is our view that increasing the limit for the new debt management claims class from £50,000 to £85,000 is unlikely to increase costs for firms – given the likely size of claims in this area. It will also help to reduce consumer confusion regarding the limits.
- 30.** To estimate how much the increased limits will cost levy payers, we have obtained data on the pension environment both before and after the announcement of the pensions freedoms. We have based our estimates on the data we have on all claims made on the FSCS for the investment provision, investment intermediation, life & pensions intermediation and home finance intermediation classes between 2010 and 2014.
- 31.** We have also collected sample data on products taken by consumers – i.e. partial drawdown and uncrystallised funds pension lump sums (UFPLSs)<sup>20</sup> – since the pension freedoms were introduced, from July 2015 to September 2016. This data sets out:
- the number of plan holders entering into partial drawdown or partial UFPLSs
  - the value of assets under administration (AUA) for each of these groups of consumers.

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<sup>20</sup> UFPLS – is a way of taking pension benefits without going into drawdown or buying an annuity. It can be used to deplete the fund in one go, taking 25% tax free and the remaining 75% taxable.

32. From this data we can work out average 'pension pot' sizes and the proportion of products fully and partially covered by the current and potential future FSCS limits.

**Prior to the pensions freedoms**

33. We carried out analysis of historical FSCS claims data to identify the impact on compensation costs of increased FSCS limits. Our analysis is set out below.

**Increase the compensation limits from £50,000 to £85,000**

34. For an increase in the limits from £50,000 to £85,000, for all relevant claims dealt with by the FSCS in the period 2010 to 2014, total compensation paid would have increased by around £99.64m, or approximately £24.91m p.a. This gross increase of £99.64m is around 10% of the total compensation paid in the period. The total increase has the following impact on funding classes:

- £74.75m (£18.69m p.a. on average) in respect of Investment Intermediation
- £24.3m (£6.08m p.a. on average) in respect of Life & Pensions Intermediation
- £0.04m (£0.01m p.a. on average) in respect of Investment Provision
- £0.549m (£0.14m p.a. on average) in respect of Home Finance intermediation.

35. These increases would benefit claimants. The table below shows how the number of less than fully compensated claimants would have been significantly reduced had the £85,000 limit been in place from 2010 to 2014.

**Figure 6**

	Number of less than fully compensated claimants			
	Investment Provision (total claims – 36)	Investment Intermediation (total claims 52,051)	Life & Pensions Intermediation (total claims 12,880)	Home Finance Intermediation (total claims 287)
Limit £50k	3	3,517	966	25
Limit £85k	0	1,280	490	11

36. The data shows that:

- there were no claims in the Investment Provision funding class for more than £85,000, so all claims in that class would have been fully compensated
- the number of less than fully compensated claims in the Investment Intermediation funding class would have gone down by 64%, to only 2.5% of the total number of claims made in that class
- the number of less than fully compensated claims in the Life & Pensions Intermediation funding class would have gone down by 49.3%, to only 3.8% of all claims made in that class
- the number of less than fully compensated claims in the Home Finance Intermediation funding class would have gone down by 56% to only 3.8% of all claims made in that class.



### **After the introduction of the pensions freedoms**

- 37.** One of the main concerns about the current compensation limits is where, following the introduction in 2015 of the freedom for consumers to access their pension savings, consumers move away from insurance-based annuities (which provide a guaranteed retirement income and where the limit for FSCS compensation is 100% if the firm fails) to investment-based products (with potentially greater returns but an increased risk of investment losses, and where the compensation limit is currently fixed at £50,000). The difference here is likely to mean a greater risk to the security of consumers' pensions, because if the firm fails, consumers may lose a significant proportion of their pension pot with little opportunity to replenish it.
- 38.** The following analysis looks at the potential impact on the protection of consumer pension pots and costs to levy payers of increasing the investments limits from £50,000 to £85,000.

### ***Partial drawdown plans***

- 39.** From the sample data provided by firms on products since the pension freedoms were introduced, for the period July 2015 to September 2016, we understand that:
- 217,394 partial drawdown plan arrangements were entered into in the period
  - total assets under administration in respect of these plans was £19,441,288,766
- 40.** Our analysis shows that:
- 14.14% of the total assets under administration are in plans that are fully covered to the current £50,000 FSCS compensation limit for investments
  - 53.7% of individual plans are fully covered within the current £50,000 limit
  - the average pot size fully covered at the £50,000 limit is £23,550. This indicates that a large majority of partial drawdown plans are relatively small in value, and that larger-value plans make up the minority

### ***Partial UFPLSs***

- 41.** In respect of partial UFPLSs:
- 76,413 partial UFPLSs were taken in the period
  - total assets under administration in respect of the pension pots involved in these arrangements was £2,125,023,150
- 42.** Our analysis shows that:
- 48.5% of the total assets under administration were in plans that were fully covered to the current £50,000 FSCS limit
  - 87.4% of pension pots involved in these individual arrangements were within the £50,000 limit
  - the average pot size, from which the UFPLS has been withdrawn, fully covered by the £50,000 limit was £15,440



**Combined partial drawdown and partial UFPLSs**

43. The combined total in respect of partial drawdown/UFPLSs:
- 17.53% of all AUA were in pots that were fully covered within the current FSCS compensation limit
  - 62.47% of all plans had assets that would have be fully covered by the current FSCS limit
  - the average pot size fully covered by the current £50,000 limit was £20,599

**Increase the compensation limits from £50,000 to £85,000**

44. Increasing the maximum FSCS protection for investment business from £50,000 to £85,000 could also increase the number of investment-based pension pots that would be fully covered if a firm fails.
45. We have assumed a linear increase through the £50,000 to £100,000 band (for which we do have data). By increasing the limit to £85,000, 70% of the AUA and plans in the £50,000 to £100,000 band could be brought under full protection. These assumptions indicate the following:

**Figure 7**

AUA and Plans covered at £85,000					
	AUA covered	% of total AUA fully covered	No. of plans fully covered	% of total plans fully covered	Average pot size
Partial drawdown	£5,292,142,148	27.2	152,813	70.3	£34,361
Partial UFPLS	£1,302,407,685	61.3	71,325	93.3	£18,260
Combined	<b>£6,594,549,834</b>	<b>30.6</b>	<b>224,139</b>	<b>76.3</b>	<b>£29,423</b>

46. This data and these assumptions indicate that an increase in the limit from £50,000 to £85,000 might bring more than 76% of all investment-based drawdown plans into full protection (up from 62.47% protected at £50,000).
47. An increase in the limit to £85,000 would also increase the proportion of the total AUA under full protection, from 17.5% to 30.6%.
48. It is important to recognise that these are pension pots, and not necessarily individuals. So, although a limit of £85,000 might protect over 76% of investment-based drawdown pension plans, in cases where an individual has more than one product with one provider, this does not mean that the total pension assets of 76% of individuals who have such plans would be protected.
49. It is our view that increasing the limit for the new debt management claims class from £50,000 to £85,000 is unlikely to increase costs for firms – given the likely size of claims in this area. It will also help to reduce consumer confusion regarding the limits.



## The cost of a 'typical' firm failure Client Asset shortfall

- 50.** In this section we set out what the impact might be if a hypothetical firm fails. We looked at the failure of a firm with assets under administration of £2bn, and where there is a resultant shortfall in client assets of 10% (£200m).
- 51.** Using actual data, we can assume the number of plans that a firm like this might manage, and their typical values. The sample pension data collected by the FCA over the period June 2015 to September 2016, mentioned above, gives an average drawdown pot value of around £73,400. Therefore, in a firm managing £2bn of assets, there might be around 27,250 plans in place.
- 52.** Using the same pensions sample data, we can assume a distribution across the value bands. The data shows that around:
- 16.95% of all plans are valued at less than £10,000
  - 27.4% of plans are between £10,000 and £30,000
  - 18.13% of plans are between £30,000 and £50,000
  - 19.74% of plans are between £50,000 and £100,000
  - 7.2% of plans are between £100,000 and £150,000
  - 5.23% of plans are between £150,000 and £250,000
  - 5.35% of plans are over £250,000.
- 53.** The data does not provide for a distribution to £75,000, but we have assumed a linear increase through the £50,000 to £100,000 band, and therefore that 9.9% of plans are in the £50,000 to £75,000 band, and a further 9.9% of plans are in the £75,000 to £100,000 band.
- 54.** The data does not provide any stratification either for plans worth more than £250,000, but claims data from the FSCS for the period 2010 to 2014 shows that:
- 47 out of 1838 (2.9%) pension-related claims were for pre-abated losses between £250,000 and £500,000
  - 8 (0.4%) of claims were for losses between £500,000 and £750,000
  - 5 (0.3%) of claims were for losses between £750,000 and £1m
  - 2 (0.1%) of claims were for losses of more than £1m
- 55.** This gives only 3.7%, not the 5.35% indicated by the most recently available sales data, but that discrepancy could be explained by the fact that pension plans have grown in size since the 2010 to 2014 analysis. So, for the purposes of this estimate, we have increased the proportions in the claims data to make 5.35%:
- 4.2% between £250,000 and £500,000

- 0.52% between £500,000 and £750,000
- 0.42% between £750,000 and £1m
- 0.21% over £1m

56. Using this information, we can derive a distribution of the 27,250 plans managed by our hypothetical firm:

**Figure 8**

Value of plans	No. of plans
Under £10,000	4,619
Between £10,000 and £30,000	7,466
Between £30,000 and £50,000	4,940
Between £50,000 and £75,000	2,690
Between £75,000 and £100,000	2,690
Between £100,000 and £150,000	1,962
Between £150,000 and £250,000	1,425
Between £250,000 and £500,000	1,145
Between £500,000 and £750,000	142
Between £750,000 and £1,000,000	114
Over £1,000,000	57
Total	27,250

57. For the purposes of this hypothetical case, we have assumed a shortfall in client assets of 10%. Any increases to the compensation limits will only affect consumers with plans worth more than £500,000, who will therefore have shortfalls of more than £50,000. Under the current rules, the £50,000 limit would cover all the losses for consumers with plans worth up to and including £500,000. This firm has 313 plans in excess of £500,000.

58. To estimate the total compensation bill for this firm at the current £50,000 limit, we have used the following assumptions:

- the number of plans is as set out in paragraph 54 above
- the average value of each plan is as calculated from the sample pensions data collected by the FCA since July 2015
- where we do not have stratified average plan values from July 2015, we have used the claims data provided by the FSCS for the period 2010 to 2014 to derive average claim values
- the assumed 10% shortfall in client assets is applied evenly across all plans
- we also need to estimate the values of the plans within each band. The latest pensions data does not provide this, but the FSCS claims data from 2010 to 2014 shows that the average claim:
  - in the £500,000 to £750,000 band was for around £632,000

- in the £750,000 to £1m band was for around £904,000
- in the over £1m band was for £1.158m

59. The figures below set out the calculations.

**Figure 9**

Total compensation paid at £50,000 limit				
Plan size band £	Average plan value (£)	10% shortfall (£)	No. of claims	Compensation (£)
Up to £10k	4,100	410*	4,619	1,893,790
10 to 30k	19,200	1,920*	7,466	14,334,720
30 to 50k	38,100	3,810*	4,940	18,821,400
50 to 100K	69,300	6,930*	5,380	37,283,400
100 to 150k	120,100	12,010*	1,962	23,563,620
150 to 250k	189,500	18,950*	1,425	27,003,750
250 to 500k	333,700	33,370*	1,145	38,208,650
500 to 750k	632,000	63,200**	142	7,100,000
750k to 1m	904,000	90,400**	114	5,700,000
Over £1m	1,158,000	115,800**	57	2,850,000
Totals			<b>27,250</b>	<b>176,759,330</b>

\* all of these claims would be fully compensated at the £50,000 limit

\*\* compensation in respect of these claims would be limited to £50,000

60. The figure shows that total compensation of £176.8m may have been payable for all customers of this firm, compared to the total loss of £200m. This means that over 88% of consumer loss would be compensated.

61. For an increase in the limit from £50,000 to £85,000:

**Figure 10**

Total compensation paid at £85,000 limit				
Plan size band £	Average plan value (£)	10% shortfall (£)	No. of claims	Compensation (£)
Up to £10k	4,100	410*	4,619	1,893,790
10 to 30k	19,200	1,920*	7,466	14,334,720
30 to 50k	38,100	3,810*	4,940	18,821,400
50 to 100K	69,300	6,930*	5,380	37,283,400
100 to 150k	120,100	12,010*	1,962	23,563,620
150 to 250k	189,500	18,950*	1,425	27,003,750
250 to 500k	333,700	33,370*	1,145	38,208,650
500 to 750k	632,000	63,200*	142	8,974,400
750k to 1m	904,000	90,400**	114	9,690,000
Over £1m	1,158,000	115,800**	57	4,845,000
Totals			<b>27,250</b>	<b>184,618,730</b>

\* all of these claims would be fully compensated at the £85,000 limit

\*\* compensation for these claims would be limited to £85,000

**62.** If the limit was increased from £50,000 to £85,000, the total extra compensation payments made by the FSCS would be around ££7.86m, an increase of around 4.45%. This also means that 92.3% of consumer loss would be compensated.

**63.** In conclusion, in this example an increase in the limits would increase costs to the levy payers, but also reduce consumer detriment:

- an increase from £50,000 to £85,000 would cost firms almost £8,000,000 (4.45%) more, and total consumer loss would be reduced by this amount

**Adviser firm failure**

**64.** In this example, the assumption is that an adviser firm that has carried out around £4.75m of business has failed and for the purpose of this example, we have assumed that 118 claims have been made, distributed in the following bandings:

- 80 claims (68%) under £50,000 with an average claim of £11,250
- 12 claims (10%) between £50,000 and £75,000 with an average claim of £57,500
- 11 claims (9%) between £75,000 and £100,000 with an average claim of £83,750
- 9 claims (8%) between £100,000 and £150,000 with an average claim of £126,666
- 6 claims (5%) between £150,000 and £250,000 with an average claim of £183,450

**65.** The following figure sets out the compensation that would have been paid with the £50,000 limit in place, assuming a total loss of consumer assets.

**Figure 11**

Total compensation paid at £50,000 limit			
Plan size band £	Average claim size (£)	No. of claims	Compensation (£)
Up to £50k	11,250*	80	900,000
50 to 75k	57,500**	12	600,000
75 to 100k	83,750**	11	550,000
100 to 150k	126,666**	9	450,000
150 to 250k	183,450**	6	300,000
<b>Totals</b>		<b>118</b>	<b>2,800,000</b>

\* all claims fully compensated

\*\* compensation limited to £50k

**66.** With the £50,000 limit in place, the FSCS would have paid out £2.8m in compensation.

**67.** The following figure shows how an increase in the compensation limit from £50,000 to £85,000 would increase the compensation paid by the FSCS.



**Figure 12**

Total compensation paid at £85,000 limit			
Plan size band £	Average claim size (£)	No. of claims	Compensation (£)
Up to £50k	11,250*	80	900,000
50 to 75k	57,500*	12	690,000
75 to 100k	83,750*	11	921,250
100 to 150k	126,666**	9	765,000
150 to 250k	183,450**	6	510,000
<b>Totals</b>		<b>118</b>	<b>3,786,250</b>

\* all claims fully compensated

\*\* compensation limited to £85,000

- 68.** The above figure shows that an increase in the compensation limit from £50,000 to £85,000 would increase the compensation paid by the FSCS by £986,250, or by over 35%.

## Annex 3

# Professional Indemnity Insurance review

1. In CP16/42 we set out our considerations of how the professional indemnity insurance (PII) market was working for personal investment firms (PIFs), and how it interacts with the FSCS. We asked several questions of industry and committed to undertaking further work to understand the implications of any work in this area.
2. We surveyed current and previous PII providers for qualitative and quantitative data in order to build a picture of the market and how it has performed over the last ten years. We also sought qualitative and quantitative data from a representative sample of nearly 300 PIFs, and used our regulatory reporting data. In addition to these data sets, we ran a programme of external engagement with PII insurers, PII brokers, PIFs, trade bodies, claims handling firms, and other interested parties.
3. PII is liability insurance that covers firms when a third party (e.g. a consumer) claims to have suffered a loss due to professional negligence. We mandate PII for a subset of the firms we regulate, such as PIFs, mortgage intermediaries and general insurance (GI) intermediaries, to help ensure market stability and that consumers are compensated where firms are unable to pay out compensation. Our PII requirements stem from EU legislation.
4. Our initial view of the intermediaries market was that the main issues are with PIFs. However, we also took steps to evaluate the effectiveness of PII in the mortgage and general insurance intermediary sectors.
5. We did not seek to determine what precise proportion of claims should fall on PII or FSCS. Instead, for those sectors where PII is required by our rules, we tried to establish whether PII is working effectively, or whether we have a basis for policy intervention. We have also considered what type of interventions might be required to shift liabilities from the FSCS to PII, if this was considered desirable.
6. In March 2016, the Financial Advice Market Review (FAMR) reported that it had received submissions stating that some PIFs struggle to get adequate PII cover. However, our engagement suggests that PIFs can generally get the level of cover they want. 94% of our sample of PIFs told us that there were no products they would like PII to cover that are not generally covered. On average, PIFs were either satisfied or very satisfied with their PII.
7. Our modelling of the data from PIFs indicates that, over the past ten years, of consumer claims made against PIFs, 84% by value are met by a combination of PII and the excess. Of the remaining 16%, many will not have been submitted to the insurer. The survey indicates that the most frequent reason PIFs do not submit a claim to the insurer is that the claim is below the excess level; the largest PIF also told us it does not submit any claims to PII as a matter of policy. This suggests that, for PIFs that have not engaged in large-scale mis-selling, PII is working effectively.
8. Our modelling of data from insurers, which includes claims paid in respect of both trading and no longer trading PIFs, indicates that, over the past 10 years, of all claims PIFs submitted to PII insurers, 78% by value were paid by a combination of PII and the excess.



**9.** We found in particular that:

- Much of the recent pressure on the FSCS was caused by claims in the Life and Pensions and Investment Intermediation funding classes. These include most claims relating to PIFs. FSCS data shows that claims relating to mortgage and GI intermediaries have been significantly fewer in recent years.
- Over the past ten years, PIFs only caused around one third of claims to the FSCS in these two classes, so any reduction in claims (and associated reduction in FSCS levy) resulting from improved PII for PIFs could only impact this third. The remaining two thirds relate to non-PIFs (e.g. stockbrokers) who are not currently subject to PII requirements in the same way as PIFs.
- Of the third of claims relating to PIFs over the past ten years, around half appear to relate to large-scale mis-selling. The structure of the market (PII operates on a 'claims made' rather than 'business written' basis) means insurers commonly use exclusions or increase excesses on renewal to reduce their on-going exposure to these large scale risks. This appears to be a rational response to a low value, but risky, insurance class and our findings suggest that attempting to change this basic structure may result in insurers leaving the class.
- The majority of PIFs surveyed are content with their cover. PIFs that are currently trading report PII paid out on most of their claims over ten years, indicating that PII is broadly working well, apart from claims covering large scale mis-selling that cause PIFs to become insolvent.
- The FSCS has told us that the main issue it encounters in trying to claim on PII is insured firms not notifying potential claims correctly to their insurer. This means that the claim is not covered by the PII. None of the interventions or policy proposals we considered would have the effect of changing this behaviour.
- Any reduction in FSCS levies for PIFs achieved as a result of policy intervention in the PII market is likely to be outweighed by increases in premiums.
- Higher premiums are likely to apply to all PIFs as, for smaller PIFs, it is not cost-effective for insurers to price risk on an individual basis. Even for larger PIFs, the insurance industry's perception is that risks are largely driven by interventions of the FCA and the Financial Ombudsman Service, which are difficult for them to predict.
- Higher PII premiums would likely start from next renewal whereas any reduction to FSCS levies would be gradual, over around seven years. This is because it appears to take around seven years for the majority of claims relating to a PIF that has exited the market to be made. We assume that the FSCS would continue to meet the liabilities of those PIFs that either failed before any new PII regime is introduced, or any PIF that could not purchase PII.

**10.** Overall, our conclusions are that while there are some issues in the market for PIFs (such as use of exclusions and issues with the notification of claims) PII does provide beneficial cover and the cost of intervening may outweigh the benefits.



## Annex 4

# Compatibility statement

### Compliance with legal requirements

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1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).
2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.
3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.
4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.
5. The FCA's main contribution to this economic policy is working with the Bank of England's Financial Policy Committee and the Bank of England acting in its capacity as the PRA, to protect consumers, promote competition in financial services and to protect and enhance the integrity of the UK financial system. A strong and stable financial system supports economic growth, helps achieve improved outcomes for consumers, facilitates productive investment and underpins the UK's position as an important global financial centre.
6. The proposals set out in this consultation paper are relevant to the following aspects of the government's economic policy:

#### Competition/Competitiveness

7. We have considered the competition implications of our proposals regarding FSCS compensation limits and funding classes. The government is keen to see more competition in all sectors of the industry and this includes minimising barriers to entry and ensuring a diversity of business models within the industry.



### **Innovation**

8. The proposals that we are consulting on recognise differences in the nature of business models and promote competition. It is our view that our proposals to increase the FSCS compensation limits are proportionate.

### **Better outcome for consumers**

9. Our proposals regarding the FSCS compensation limits are intended to secure better outcomes for consumers.
10. This Annex includes our assessment of the equality and diversity implications of these proposals.

## **Designing a compensation scheme: s.123 of FSMA**

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11. The proposed changes to the funding for the compensation scheme are designed to ensure that the scheme remains sufficiently funded. The proposals to merge the Life and Pensions and Investment Intermediation funding classes and introduce provider contributions is intended to reduce the overall volatility of the bill for firms in those classes, and reduces the risk of the retail pool being triggered due to the increased funding capacity of the merged class.
12. The proposals have had special regard to the need to try and avoid cross-subsidy between classes, as far as practicable. Given the nature of the work that pure protection firms carry out, we are consulting on moving these intermediary firms to the new General Insurance Distribution Claims class to better align their risk profiles.

## **The FCA's objectives and regulatory principles: Compatibility statement**

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13. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because the availability of compensation will increase consumer confidence when engaging with financial services.
14. The proposals to increase the compensation limits for claims that are protected investment business, protected home finance mediation and protected debt management business from £50,000 to £85,000, advance the consumer protection objective by ensuring that the degree of protection for customers remains adequate.
15. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s. 3B FSMA including in particular the following regulatory principles:

### **The need to use our resources in the most efficient and economic way**

16. The proposals are formulated in a way that is intended to be the most efficient and economic way of achieving their ends.

### **The principle that a burden or restriction should be proportionate to the benefits**

17. For the reasons explained in the Cost Benefit Analysis, we consider that the burdens imposed by the proposals are proportionate to the benefits, considered in general terms, expected to arise from the imposition of those burdens.

### **The general principle that consumers should take responsibility for their decisions**

18. Our proposals do not alter the position of the FSCS as a compensation scheme of last resort. They are therefore compatible with the principle that consumers should take responsibility for their own decisions.

### **The principle that we should exercise our functions as transparently as possible**

19. The reasons for the proposals are set out in detail in the consultation paper.
20. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s.1B(5)(b) FSMA). However, the proposals and issues under discussion do not have a direct bearing on financial crime.

## **Expected effect on mutual societies**

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21. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies, although it should be noted that the additional data collection which we will introduce in respect of RBLs will affect firms that distribute, amongst other things, mutual society shares.

## **Compatibility with the duty to promote effective competition in the interests of consumers**

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22. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.
23. The proposals regarding the FSCS compensation limits have regard to the needs of different consumers and the options available to them at retirement.

## **Equality and diversity**

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24. We are required under the Equality Act 2010 to 'have due regard' to the need to eliminate discrimination and to promote equality of opportunity in carrying out our policies, services and functions. As part of this, we conduct an equality impact assessment to ensure that the equality and diversity implications of any new policy proposals are considered.
25. The outcome of the assessment in this case is stated in paragraph 2.17 of the Consultation Paper.



## Annex 5

# List of non-confidential respondents

1 4 U Financial Solutions Ltd

2exp FS Ltd

2Plan Wealth Management

Abacus Assurance FS Ltd

Access Underwriting Ltd

Access Wealth Management

Advance Mortgage Funding Limited T/A Pink Home Loans

Advantage Home Finance

Aegon

Affinity Financial Planning Ltd

AJ Bell

AMG financial solutions limited

AMS

Andrew Thorley

APFA

Apple Financial Solutions

Argyle Fox Finance

Ashcroft Financial Solutions Ltd

Aspire Financial

Association of British Credit Unions

Association of British Insurers

Association of Financial Mutuals

Association of Member-Directed Pension Schemes

Association of Mortgage Intermediaries



Association of Pension Lawyers  
Austin Chapel IFA LLP  
B&CE/The People's Pension  
Baillie Gifford & Co  
Bates Wells Braithwaite  
Best Practice IFA Group  
BGL Group Ltd  
Big River Ltd  
Bill White IFA Associates  
Bluetrust Ltd  
BPH Wealth Management LLP  
Brant Financial  
Brewin Dolphin  
Brian Hinchliffe Financial Services  
Brideshead Independent Financial Services  
Bridge Insurance Response  
Brighter Financial Services Ltd  
British Bankers Association  
British Insurance Brokers Association  
Caledonia Asset Management Ltd  
Capital Home Finance Ltd  
Cavendish Financial Solutions  
CG Direct  
Chadney Bulgin LLP  
Chartered Institute of Insurers  
Churchside financial planning (2 responses)  
Clover Financial Solutions Ltd



Coleman Financial Services Ltd

Colin Sadler

Competitive mortgages and financial services ltd

Compliance and Training Solutions Ltd

Connells Limited

Consumer Credit Compliance

Council of Mortgage Lenders

Cream Financial Solutions

Credit Union Consultancy

Crystal Clear Financial Planning & Mortgages

D&P Asset Management

Dalbeath Financial Planning

Dartington Wealth Management Ltd

Davies Financial Ltd

Debt Resolution Forum

DG Mortgages

Duff and Phelps Securities Limited

Easylife Mortgages & Finances Ltd

Echelon IFA Limited

Enterprise Investment Scheme Association

Facts & Figures

Fairstone Financial Mgt

FCA Practitioner Panel

FCA Small Business Practitioners Panel

Ferguson Law Financial Services Ltd

Fiducia Wealth Solutions Ltd

Finance and Leasing Association



Financial and Legal Insurance Company Limited

Financial Choices IFA Ltd

Financial Concepts Chartered Financial Planners

First Complete Limited (2 responses)

First Complete Limited trading as TMA

Firstxtra Financial Services

Forward Plan IFA Ltd

Fourways Financial Guidance LLP

Francis Stone Ltd

Fresh approach Finance Ltd

Fresh Financial Consultants Ltd (3 responses)

Future Proof

Gascoine Hoare Ltd

Geoff Carter (Individual Response)

Geoff Goult Mortgage Adviser

Giraffe Financial LLP (2 responses)

Glamis IFA

Gold Mortgage Services Ltd

Graham Harris (Individual Response)

Granite Financial Services (UK) Limited

Gregory Pennington Limited

Hanson Financial Partners Ltd

Harrington Brooks (Accountant) Ltd

Harrow Life Financial Solutions Limited

Hartley Ross LLP

Hawthorn Financial Services (Wealth Management) ltd

Hillcrest Property Solutions



HK Mortgages Ltd

HL Partnership

Home Counties Insurance Services Ltd

HomeServe Membership Limited

Hopkins Financial Services

I.T. Associates Financial Planning Ltd

Ideal Financial Management Ltd

IFA 4U

IFA Direct

IFA Financial Services (UK) ITD

IFS Wealth & Pensions

IFSWP

Impartial mortgage advice ltd

Independent Pension Specialists

Insight Financial (Kent)

Intermediary Mortgage Lenders Association

Investment and Life Assurance Group

James Hay Partnership

James Ryan Thornhill Ltd

jmc mortgage services ltd

john mills t/a mills and anderson

K Burton & Son Ltd

Kama Financial Solutions

Knightsure Insurance brokers Ltd

Lawson Financial Ltd

LEA Financial Services Ltd

LEBC Group Ltd





Leighton Brothers Limited

Lexion Financial Services Ltd (2 responses)

LFS & Partners

LFS & Partners Ltd Trading as Lyn Financial Services and lifeassuranceonline.co.uk

Libertatum

Liberty Financial Services Ltd

Lifestyle Mortgage Solutions

Lifetime Planning Ltd (2 responses)

Light Mortgages

Linear Financial Solutions

ll financial solutions ltd

Lloyd's

Lloyd's Market Association

Logic FP Ltd

London & Country Mortgages Ltd

London and International Insurance Brokers' Association

Lyn Financial services (2 responses)

M4 Mortgages Ltd

Managing General Agents Association

Manor Insurance Services Ltd

Mark One Financial Services

Mast Financial Services Limited

Mayfair Financial

McCloskey IFM

Mendip Community Credit Union

Mercer

Metro Mortgages



Michael Forward Financial Services

Michael Jones

Money

Money Advice Trust

Moneypillar Financial Solutions

Moneysupermarket Group

Montpellier Finance Ltd

Morgan Pettefar Financial Ltd

Mortgage management

Mortgage Options

Muir Consultancy

Mulberry Wealth Management

Neal Ross

Neales Financial Management Ltd

NMS Financial Ltd

North East Financial Services

Old Mutual Wealth

Oliver Financial Planning

OnPoint Financial Ltd

ontrack

Opes Independent Financial Advisers Ltd

Parkview Mortgages

Pavis Financial Management Ltd

PCM Asset Management Ltd

PD Financial

Personal Touch Financial Solutions Ltd

Premier choice mortgages



ProAssure Mortgage Solutions

PropertyPal Mortgages Ltd

Prosper Financial

Protection and investment Ltd

Prudell Ltd

Prudent Planning Scotland Ltd (2 responses)

Pure Financial Decisions

Questa Financial Services

RA Elmes Financial Planning

RateSetter

Restormel Insurance Services

Richmond House Group

Ridley Macmillan Insurance Services Ltd

RJS Financial Ltd

Robert A Neely Ltd

Royal & Sun Alliance

RPC

RSC New Homes

Security of Assets Working Group

Sense Network

Sesame Bankhall Group

SimplyBiz Group

Simplyhealth

Solicitors Financial Services (Central Scotland) Ltd

Sphere Financial Services Ltd

St James's Place Wealth Management

Starkey Financial Planning Ltd



Stein Financial Ltd

StepChange

Stephen Baker F/C Ltd

TBO Services Ltd Trading As The Insurance Octopus

TFM LLP

The Building Societies Association

The Depositary and Trustee Association

The Financial Planning Centre Ltd (2 responses)

The GI Consultant

The Glasgow Mortgage Company

The Goodman Partnership LLP (2 responses)

The Investment Association

The Mortgage Choice

The Mortgage Company NI

The On-Line Partnership Limited/The Whitechurch Network Limited (confidential submission)

The Pensions Advisory Service

The Personal Finance Society

threesixty services LLP

Tierney Financial Solutions

Tim Powell Mortgage Services

Totemic Limited t/a PayPlan

Town Close Financial Planning

Transpact

True Potential LLP

UK Crowdfunding Association

UK Financial Consultants Ltd



UK Individual Shareholders Society

Verus Wealth Chartered Financial Planners

Virgin Money

Wavelength Mortgages & Protection

What Direct Ltd

Which?

Willis Towers Watson

Willow pf

WMA

X2 Wealth Management Limited

XL Financial Services Ltd

Zebra Solutions



## Annex 6

# Abbreviations in this document

<b>AEI</b>	Annual eligible income
<b>AUA</b>	Assets under administration
<b>CBA</b>	Cost Benefit Analysis
<b>CIS</b>	Collective Investment Scheme
<b>COMP</b>	Compensation sourcebook
<b>CONC</b>	Consumer Credit Sourcebook
<b>CP</b>	Consultation Paper
<b>FAMR</b>	Financial Advice Market Review
<b>FCA</b>	Financial Conduct Authority
<b>FOS</b>	Financial Ombudsman Service
<b>FSA</b>	Financial Services Authority (predecessor regulator to the FCA and PRA)
<b>FSMA</b>	Financial Services and Markets Act
<b>FSCS</b>	Financial Services Compensation Scheme
<b>IDD</b>	Insurance Distribution Directive
<b>IVA</b>	Individual Voluntary Arrangements
<b>LLP</b>	Limited Liability Partnership
<b>MiFID II</b>	Markets in Financial Instruments Directive II
<b>NMPIs</b>	Non-mainstream pooled investments
<b>PIF</b>	Personal Investment Firm
<b>PII</b>	Professional Indemnity Insurance
<b>PPI</b>	Payment Protection Insurance
<b>PRA</b>	The Prudential Regulation Authority (part of the Bank of England)

<b>RBL</b>	Risk-based levy
<b>RMAR</b>	Retail Mediation Activities Return
<b>SIPPs</b>	self-invested personal pensions
<b>UFPLS</b>	Uncrystallised funds pension lump sum
<b>UK</b>	United Kingdom

We have developed the policy in this Consultation Paper in the context of the existing UK and EU regulatory framework. The Government has made clear that it will continue to implement and apply EU law until the UK has left the EU. We will keep the proposals under review to assess whether any amendments may be required in the event of changes in the UK regulatory framework in the future.

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

All our publications are available to download from [www.fca.org.uk](http://www.fca.org.uk). If you would like to receive this paper in an alternative format, please call 020 7066 9644 or email: [publications\\_graphics@fca.org.uk](mailto:publications_graphics@fca.org.uk) or write to: Editorial and Digital team, Financial Conduct Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS



# Appendix 1

## Draft Handbook text



**FINANCIAL SERVICES COMPENSATION SCHEME (FUNDING REVIEW)  
INSTRUMENT 2018**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the 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);
  - (4) section 213 (The compensation scheme); and
  - (5) section 214 (General);
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. Part 1 of Annex B comes into force on [*date of instrument*].
- D. The remainder of this instrument comes into force on 1 April 2019.

**Amendments to the Handbook**

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

(1)	(2)
Glossary	Annex A
Fees manual (FEES)	Annex B
Supervision manual (SUP)	Annex C
Compensation sourcebook (COMP)	Annex D

**Notes**

- F. In the Annexes 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**

- G. This instrument may be cited as the Financial Services Compensation Scheme (Funding Review) Instrument 2018.

By order of the Board  
[*date*]

## Annex A

## Amendments to the Glossary of definitions

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

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

<i>category</i>	a category of <i>participant firms</i> within a <i>class</i> : see <i>FEES</i> 6 Annex 3AR.
<i>deposit acceptors' contribution class</i>	Class 6 in <i>FEES</i> 6 Annex 3AR, to which the <i>FSCS</i> may allocate a <i>compensation costs levy</i> or <i>specific costs levy</i> allocated to the <i>retail pool</i> .

Amend the following definitions as shown.

<i>annual eligible income</i>	(in <i>FEES</i> ) (in relation to a <i>firm</i> , <del>and a class and category</del> ) the annual income (as described in <i>FEES</i> 6 Annex 3AR) for the <i>firm's</i> last financial year ended in the year to 31 December preceding the date for submission of the information under <i>FEES</i> 6.5.13R attributable to that <i>class or category</i> . A <i>firm</i> must calculate <i>annual eligible income</i> from such annual income in one of the following ways: <ul style="list-style-type: none"> <li>(a) only include such annual income if it is attributable to business in respect of which the <i>FSCS</i> may pay compensation; or</li> <li>(b) include all such annual income.</li> </ul>
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<i>levy limit</i>	(in <i>FEES</i> ) the maximum aggregate amount of <i>compensation costs</i> and <i>specific costs</i> that may be allocated to a particular <i>class or category</i> in one <del>financial year</del> <i>financial year</i> as set out in <i>FEES</i> 6 Annex 2R, whether directly or <del>(where relevant to that class)</del> through the <i>retail pool</i> . <del><i>FCA provider contribution classes</i> do not have a <i>levy limit</i>: they have a <i>retail pool</i> <i>levy limit</i>: see <i>FEES</i> 6 Annex 5R.</del>
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Delete the following definition.

<del><i>FCA provider contribution class</i></del>	<del>a class to which the <i>FSCS</i> may only allocate a <i>compensation costs levy</i> or <i>specific costs levy</i> allocated to the <i>retail pool</i>, as described in <i>FEES</i> 6.5A, namely: the deposit acceptor's contribution class; the insurers –</del>
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~~life contribution class; the insurers — general contribution class; or the home finance providers and administrators' contribution class~~

[*Editor's note:* The text in this Annex takes account of the changes suggested by CP17/33 'Insurance Distribution Directive – Consultation Paper 3' (September 2017), as if they were made.]

## Annex B

### Amendments to the Fees manual (FEES)

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

#### Part 1: Comes into force on the date of this instrument

Insert the new TP 19 after FEES TP 18 (Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19). The text is not underlined.

#### **TP 19      Transitional provisions relating to statements provided by participant firms before 1 April 2018 with respect to the FSCS 2018/19 financial year**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provision: dates in force	(6) Handbook Provisions coming into force
19.1	<i>FEES</i> 6.5.13R	R	For the purposes of statements provided by <i>participant firms</i> under <i>FEES</i> 6.5.13R before 1 April 2019 and with respect to the <i>financial year</i> of the <i>compensation scheme</i> beginning on 1 April 2019, references in <i>FEES</i> 6.5.13R to <i>classes</i> must be read as references to <i>classes</i> and <i>categories</i> to which <i>firms</i> will belong after 31 March 2019; and references to tariffs must be read as references to tariffs as in force after 31 March 2019.	From [date of instrument] to 31 March 2019	1 April 2019

## Part 2: Comes into force on 1 April 2019

### 6 Financial Services Compensation Scheme Funding

#### 6.1 Application

...

- 6.1.7A G In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into ~~ten~~ six *classes*: ~~the investment provision class; the life distribution and pensions intermediation class; the home finance intermediation class; the investment intermediation class; the general insurance distribution class; the deposit acceptor's contribution class; the insurers' life contribution class; the insurers' general contribution class; the home finance providers and administrators' contribution class and the~~ General Insurance Distribution Claims class; the Investment Intermediation Claims class; the Investment Provision Claims class; the Home Finance Intermediation Claims class; the debt management claims Debt Management Claims class; and the deposit acceptors' contribution class. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.

The management expenses levy

...

- 6.1.11A G The second element of a *management expenses levy* is a *specific costs levy* for the “specific costs” of running the *compensation scheme* in a *financial year*. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which gives rise to those costs, up to the relevant *levy limits*. *Specific costs* attributable to certain *classes*, which exceed the *class levy limits*, may be allocated to the *retail pool*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the *financial year* of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* imposed on a class is calculated by reference to the amount of business conducted by the *firm* in each of the classes, to which the FSCS has allocated specific costs that class, or categories within that class. Each *class* or *category* has a separate “tariff base” for this purpose, set out in *FEES* 6 Annex 3AR. *Participant firms* may be exempt from contributing to the *specific costs levy*.

...

6.1.15 G *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred:

...

are also treated as *compensation costs*. *Compensation costs* are attributed to the *class* which gives rise to the costs up to relevant *levy limits*. ~~Certain classes~~ Classes (other than the *deposit acceptors' contribution class*) may be funded, for *compensation costs levies* beyond the *class levy limit*, by the *retail pool*.

....

The retail pool

6.1.16A G The *FCA* has made *rules* providing that *compensation costs* and *specific costs* attributable to the ~~intermediation classes, the investment provision class and the debt management claims class~~ (that is, other than the *deposit acceptors' contribution class*), and which exceed the *class levy limits*, may be allocated to the *retail pool*. Levies allocated to the *retail pool* are then allocated amongst the other such *classes*, together with ~~certain classes~~ (known as *FCA provider contribution classes*) (see ~~FEES 6 Annex 5R~~) the deposit acceptors' contribution class. The ~~FCA provider contribution classes~~ deposit acceptors' contribution class may contribute to *compensation costs levies* or *specific costs levies* funded by the *retail pool*, but may not ~~themselves~~ itself receive any such funding. ~~The FCA provider contribution classes have a different tariff structure to the other classes, based on either on regulatory costs or the PRA Rulebook (see FEES 6 Annex 3AR).~~

...

## 6.2 Exemption

6.2.1A R ...

(3) The exemption in (1) does not apply in respect of a *specific costs levy* or *compensation costs levy* arising from the *firm's* membership of ~~an FCA provider contribution class~~ the deposit acceptors' contribution class or any of the following *categories*:

- (a) category 1.2 (General insurance provision) of Class 1 (the General Insurance Distribution Claims class); or
- (b) categories 2.3 (Life insurance provision), 2.4 (Investment provision) or 2.5 (Structured deposits provision) of Class 2 (Investment Intermediation Claims class); or
- (c) category 4.2 (Home finance provision) of Class 4 (the Home Finance Intermediation Claims class); or

- (d) category 5.2 (Consumer credit provision) of Class 5 (the Debt Management Claims class).

...

### 6.3 The FSCS's power to impose levies

...

Limits on compensation costs and specific costs levies on classes

- 6.3.5 R The maximum aggregate amount of *compensation costs* and *specific costs* for which the *FSCS* can levy each *class* (~~not including the *FCA provider contribution classes*~~ including levies through the *retail pool*) in any one *financial year* of the *compensation scheme* is limited to the amounts set out in the table in *FEES 6 Annex 2R*.

~~[Note: the *levy limits* for the *FCA provider contribution classes* are set out in *FEES 6 Annex 5R*]~~

...

### 6.4 Management expenses

...

Specific costs levy

- 6.4.6A R The *FSCS* must allocate, and calculate a *participant firm's* share of, a ~~any~~ *specific costs levy*; in the same way as for a *compensation costs levy* (see *FEES 6.5*).
- (1) ~~first, amongst the relevant *classes* in proportion to the amount of relevant costs arising from the different activities for which *firms* in those *classes* have *permission* up to the *levy limit* of each relevant *class*. The *FCA provider contribution classes* are not relevant *classes* for this purpose; and [deleted]~~
  - (2) ~~thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see *FEES 6 Annex 5R*), to the *retail pool*, in accordance with and subject to *FEES 6.5A*. [deleted]~~
- 6.4.7A R The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to *FEES 6.3.22R* (Adjustment to calculation of levy shares)) by:
- (1) ~~identifying each of the relevant *classes* to which the *participant firm* belongs, using the statement of business most recently supplied under~~

*FEES 6.5.13R;*

- (2) identifying the *management expenses* other than *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant *financial year* of the *compensation scheme*, allocated to the *classes* identified in (1), but not yet levied;
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see *FEES 6 Annex 3AR*) as a proportion of the total tariff base of all *participant firms* in the *class*;
- (4) applying the proportion calculated in (3) to the figure in (2); and
- (5) if more than one *class* is relevant, adding together the figure in (4) for each *class*. [deleted]

#### New participant firms

6.4.8 R A *firm* which becomes a *participant firm* part way through a *financial year* of the *compensation scheme* will not be liable to pay a share of a *specific costs levy* made in that year. [deleted]

...

6.4.10 G Since a *firm* that becomes a *participant firm* in the course of a *financial year* of the *compensation scheme* will already be obtaining a discount in relation to the *base costs levy* through the modified fee provisions of *FEES 4.2.6R*, no rule is necessary in *FEES 6* for discounts on the *base costs levy*. [deleted]

#### Specific costs levy for newly authorised firms

- 6.4.10A R (1) This *rule* deals with the calculation of:
- (a) a *participant firm's specific costs levy* in the *financial year* of the *compensation scheme* following the *financial year* of the *compensation scheme* in which it became a *participant firm*; or
  - (b) a *participant firm's specific costs levy* in the *financial year* of the *compensation scheme* in which it had its *permission* extended, and the following *financial year* of the *compensation scheme*; and
  - (c) the tariff base for the *classes* that relate to the relevant *permissions* or extensions, as the case may be.
- (2) Unless this *rule* says otherwise the tariff base is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (3) The rest of this *rule* only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009.



- (a) ~~If a *participant firm's* tariff base is calculated using data from a period that begins on or after it became a *participant firm* or on or after the date that the *participant firm* receives its extension of *permission*, as the case may be, the *participant firm* must use that data.~~
- (b) ~~If a *participant firm* satisfies the following conditions it must calculate its tariff base under (c) for the *FSCS financial year* following the *financial year* of the *compensation scheme* in which it became a *participant firm*:~~
  - (i) ~~it became a *participant firm* or receives its extension of *permission*, as the case may be, between 1 April and 31 December inclusive; and~~
  - (ii) ~~its tariff base, but for this *rule*, is calculated by reference to the *financial year* ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the *financial year* of the *compensation scheme*.~~
- (c) ~~If a *participant firm* satisfies the conditions in (b) it must calculate its tariff base as follows:~~
  - (i) ~~it must use actual data in relation to the business to which the tariff relates rather than projected valuations;~~
  - (ii) ~~the tariff is calculated by reference to the period beginning on the date it became a *participant firm* or had its *permission* extended, and ending on the 31 December before the start of the *financial year* of the *compensation scheme*; and~~
  - (iii) ~~the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *participant firm* became a *participant firm* or had its *permission* extended to the 31 December, as the case may be.~~
- (d) ~~Where a *participant firm* is required to use the method in (c) it must notify the *FSCS* of its intention to do so by the date specified in *FEES* 6.5.13R (Reporting Requirements).~~
- (e) ~~Where a *participant firm* is required to use actual data under this *rule*, *FEES* 6 Annex 3AR is disappplied, to the extent it is incompatible, in relation to the calculation of that *participant firm's* valuation date in its second *financial year*.~~

#### Application of FEES 6.4.10AR

- 6.4.10B G The table below sets out the period within which a *participant firm's* tariff base is calculated (“the data period”) for second year levies calculated under

~~FEES 6.4.10AR. The example is based on a *participant firm* that extends its *permission* on 1 November 2009 and has a financial year ending 31 March.~~

References in this table to dates or months are references to the latest one occurring before the start of the ~~*financial year of the compensation scheme*~~ unless otherwise stated. ~~[deleted]~~

<b>Type of permission acquired on 1 November</b>	<b>Tariff base</b>	<b>Valuation date but for <i>FEES</i> 6.4.10AR</b>	<b>Data period under <i>FEES</i> 6.4.10AR</b>
<i>Dealing in investments as agent in relation to General Insurance Intermediation</i>	<i>Annual eligible income</i>	Financial year ended 31 March 2009—so projected valuations will be used.	1 November to 31 December 2009

...

## 6.5 Compensation costs

...

### Allocation

6.5.2-A R The *FSCS* must allocate any *compensation costs levy*:

- (1) first, to the relevant *classes* (other than the *deposit acceptors' contribution class*) in proportion to the amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities for which *firms* in those *classes* have *permission*,<sup>2</sup> up to the *levy limit* of each relevant *class*. ~~The *FCA provider contribution classes* are not relevant *classes* for this purpose; and~~
- (2) next, amongst the *categories* (if any) within each *class*:
  - (a) in proportion to the *categories'* unused *levy limits* as at the date of the *levy*;
  - (b) up to those *levy limits*, subject to the conditions in *FEES* 6.5.2-AAR, 6.5.2-ACR and 6.5.2-ADR; and
- (23) thereafter, where the *levy limit* for a *class* has been reached (whether as a result of *compensation costs* or *specific costs* or both) ~~for a *class* whose attributable costs may be allocated to the *retail pool* (see *FEES* 6 Annex 5R),~~ to the *retail pool*, in accordance with, and subject to, *FEES* 6.5A and subject to the conditions in *FEES* 6.5.2-AAR, 6.5.2-ACR and 6.5.2-ADR.

Effect of levies under PRA's rules on insurers on levies under the FCA's rules on categories 1.2 (General insurance provision) and 2.3 (Life insurance provision)

6.5.2-  
AA

- R (1) (a) An allocation under FEES 6.5.2-AR(2) to category 1.2 (General insurance provision) or category 2.3 (Life insurance provision) must be capped as necessary so as not to immediately exceed the unused levy limit in (2), with any outstanding amount reallocated to the other categories in the class to which category 1.2 or category 2.3 belongs, applying FEES 6.5.2-AR(2) and (3).
- (b) An allocation to category 1.2 or category 2.3 under FEES 6.5.2-AR(3) must be capped as necessary so as not to immediately exceed the unused levy limit in (2), with any outstanding amount reallocated to the other firms in the retail pool, in accordance with, and subject to, FEES 6.5A.
- (2) The unused levy limit is the levy limit for the corresponding funding class in the PRA Rulebook minus any compensation costs levies or specific costs levies imposed on that class by the FSCS under the PRA's rules or the FCA's rules within the same financial year.
- (3) If the unused levy limit in (2) is exceeded by a subsequent compensation costs levy or a specific costs levy imposed on the corresponding funding class by the FSCS under the PRA's rules in the same financial year, the FSCS must recover any previous contributions by category 1.2 or category 2.3 under FEES 6.5.2-AR in the way set out in (4), but only to the extent necessary to correct the unused levy limit excess.
- (4) If (3) applies, then the FSCS must, as far as reasonably possible:
- (a) In the case of a previous contribution by category 1.2 or category 2.3 under FEES 6.5.2-AR(2):
- (i) impose a levy on the other categories in the class to which category 1.2 or category 2.3 belongs and thereafter to the other firms in the retail pool, applying FEES 6.5.2-AR(2) and (3); and
- (ii) credit the recovered amount to category 1.2 or category 2.3 (as applicable).
- (b) In the case of a previous contribution by category 1.2 or category 2.3 to the retail pool under FEES 6.5.2-AR(3):
- (i) impose a levy on the other firms in the retail pool in accordance with, and subject to, FEES 6.5A; and

(ii) credit the recovered amount to *category 1.2* or *category 2.3* (as applicable).

(5) The *FSCS* may, before imposing a levy under (4), raise funds to correct the unused levy limit excess by commercial or other borrowing or utilising funds as set out in, and subject to, *FEES 6.3.17R*.

6.5.2-  
AB

G (1) This is an example of the effect of levies under the *PRA*'s rules on levies on *category 1.2* (General insurance provision), as a result of *FEES 6.5.2-AAR*.

(2) The *FSCS* allocates a *compensation costs levy* and *specific costs levy* totalling £205 million to Class 1 (General Insurance Distribution Claims) under *FEES 6.5.2-AR* (see *FEES 6.4.6AR*). For the purposes of this example, this is the first levy imposed by the *FSCS* in that *financial year*. As a result of *FEES 6.5.2-AR(2)*, £155 million is allocated to *category 1.1* and £50 million to *category 1.2*.

(3) The *FSCS* next imposes a levy under the *PRA*'s rules on the funding class (general insurers) that corresponds to *category 1.2*. That levy is equal to the levy limit for that funding class (general insurers) in the *PRA Rulebook*.

(4) As a result of *FEES 6.5.2-AAR*, the *FSCS* must raise £50 million by imposing a levy on *category 1.1* and credit those funds by way of repayment to *category 1.2*.

(5) The *FSCS* then allocates a further *compensation costs levy* and *specific costs levy* totalling £50 million to Class 1 under *FEES 6.5.2-AR*. As a result of *FEES 6.5.2-AAR(1)*, the *FSCS* must allocate the whole amount of that further levy to *category 1.1*.

(6) Subsequently but in the same *financial year*, the *FSCS* incurs further *compensation costs* and *specific costs* attributable to Class 1 and totalling £75 million. However, if £75 million were allocated to Class 1, it would cause *category 1.1* to exceed its *levy limit* of £310 million when combined with the £255 million that *category 1.1* has already paid in that *financial year*. Accordingly, the *FSCS* imposes a further *compensation costs levy* and *specific costs levy* totalling £75 million and allocates it as follows:

(a) £55 million to *category 1.1*, bringing the total levies paid by that *category* in the *financial year* to its *levy limit*;

(b) £0 to *category 1.2*; and

(c) £20 million to the *retail pool* in accordance with *FEES 6.5.2-AR(3)*.

Effect of levies on Class 3 on levies on *category 2.4* (Investment provision)

- 6.5.2-AC
- R (1) The amount levied on *category 2.4* (Investment provision) as an allocation under *FEES 6.5.2-AR(2)* of a levy imposed on Class 2 (Investment Intermediation Claims) must be capped as necessary so as not to immediately exceed the unused levy limit in (2), with any outstanding amount reallocated to the other *categories* in Class 2 applying *FEES 6.5.2-AR(2)* and (3).
- (2) The unused levy limit is the levy limit for Class 3 (Investment Provision Claims) minus any compensation costs levies or specific costs levies imposed on Class 3 by the *FSCS* within the same *financial year*.
- (3) If the unused levy limit in (2) is exceeded by subsequent compensation costs or specific costs levies imposed by the *FSCS* on Class 3, the *FSCS* must recover any previous contribution by *category 2.4* under *FEES 6.5.2-AR* in the way set out in (4), but only to the extent necessary to correct the unused levy limit excess.
- (4) If (3) applies, then the *FSCS* must, as far as reasonably possible:
- (a) In the case of a previous contribution by *category 2.4* under *FEES 6.5.2-AR(2)*:
- (i) impose a levy on the other *categories* in Class 2 (Investment Intermediation Claims) and thereafter to the other *firms* in the *retail pool*, applying *FEES 6.5.2-AR(2)* and (3); and
- (ii) credit the recovered amount to *category 2.4*.
- (b) In the case of a previous contribution by *category 2.4* to the *retail pool* under *FEES 6.5.2-AR(3)*:
- (i) impose a levy on the other *firms* in the *retail pool* in accordance with, and subject to, *FEES 6.5A*; and
- (ii) credit the recovered amount to *category 2.4*.
- (5) The *FSCS* may, before imposing a levy under (4), raise funds to correct the unused levy limit excess by commercial or other borrowing or utilising funds as set out in, and subject to, *FEES 6.3.17R*.

Effect of PRA's rules limits on levies on deposit takers

- 6.5.2-AD
- R (1) (a) The amount levied on *category 2.5* (Structured deposits provision) as an allocation under *FEES 6.5.2-AR(2)* must be capped as necessary so as to not immediately exceed the unused levy limit in (2), with any outstanding amount reallocated to the other *categories* in Class 2 (Investment Intermediation Claims) applying *FEES 6.5.2-AR(2)* and (3).
- (b) The amount levied on the *deposit acceptors' contribution class* as an allocation to the *retail pool* under *FEES 6.5.2-AR(3)* must be

capped as necessary so as to not immediately exceed the unused levy limit in (2), with any outstanding amount reallocated to the other firms within the retail pool, in accordance with, and subject to, FEES 6.5A.

- (2) The unused levy limit is the levy limit for the corresponding PRA funding class in the PRA Rulebook minus any compensation costs or specific costs levies imposed on that class by the FSCS under the PRA's rules or the FCA's rules within the same financial year.
- (3) If the unused levy limit in (2) is exceeded by a subsequent compensation costs levy or a specific costs levy imposed on the corresponding funding class by the FSCS under the PRA's rules in the same financial year, the FSCS must recover any previous contributions by category 2.5 or by the deposit acceptors' contribution class under FEES 6.5.2-AR in the way set out in (4), but only to the extent necessary to correct the unused levy limit excess.
- (4) If (3) applies, then the FSCS must, as far as reasonably possible:
- (a) In the case of a previous contribution by category 2.5 under FEES 6.5.2-AR(2):
- (i) impose a levy on the other categories in Class 2 (Investment Intermediation Claims) and thereafter on the retail pool, applying FEES 6.5.2-AR(2) and (3) but excluding firms within category 2.5; and
- (ii) credit the recovered amount to category 2.5.
- (b) In the case of a previous contribution by the deposit acceptors' contribution class to the retail pool under FEES 6.5.2-AR(3):
- (i) impose a levy on the other firms in the retail pool, in accordance with, and subject to, FEES 6.5A;
- (ii) credit the recovered amount to the deposit acceptors' contribution class.
- (5) The FSCS may, before imposing a levy under (4), raise funds to correct the unused levy limit excess by commercial or other borrowing or utilising funds as set out in, and subject to, FEES 6.3.17R.

...

#### Participant firm's share of a levy

- 6.5.5 R (1) *A participant firm must pay to the FSCS a share of each compensation costs levy allocated to the classes and categories of which it is a member ...*

...

- 6.5.6A R The *FSCS* must calculate each *participant firm's* share of a *compensation costs levy* (subject to *FEES* 6.3.22R (Adjustments to calculation of levy shares)) by:
- (1) identifying each of the relevant *classes and categories* to which the *participant firm* belongs, using the statement of business most recently supplied under *FEES* 6.5.13R(1);
  - (2) identifying the *compensation costs* falling within *FEES* 6.3.1R allocated, in accordance with *FEES* 6.5.2-AR, to the *classes and categories* identified in (1);
  - (3) calculating, in relation to each relevant *class and category*, the *participant firm's* tariff base (see *FEES* 6 Annex 3AR) as a proportion of the total tariff base of all *participant firms* in the *class or category as the case may be*;

...

- (5) if more than one *class or category* is relevant, adding together the figure in (4) for each *class or category*.

- 6.5.6B G (1) This is an example of the calculation under *FEES* 6.5.6AR of a *participant firm's* share of a *compensation costs levy* and a *specific costs levy*.
- (2) A *compensation costs levy* and *specific costs levy* totalling £100,000 is allocated to Class 1 (the General Insurance Distribution Claims *class*) under *FEES* 6.5.2-AR (see *FEES* 6.4.6AR). That levy of £100,000 is allocated to the *categories* within that *class* under *FEES* 6.5.2-AR(2), with the result that £75,610 is allocated to *category* 1.1 and £24,390 is allocated to *category* 1.2.
  - (3) The reports under *FEES* 6.5.13R and under the *PRA's* compensation rules show that there are 10 *participant firms* in *category* 1.1, each doing the same amount of business in that *category*; and five *participant firms* each doing the same amount of business in *category* 1.2. Two of the *participant firms* are in both *categories*.
  - (4) In this example, as a result of *FEES* 6.5.6AR, each *participant firm* in *category* 1.1 pays a levy of £7,561 and each *participant firm* in *category* 1.2 pays a levy of £4,878. The two *participant firms* that are in both *categories* will accordingly each pay a levy in respect of Class 1 totalling £12,439.

...

New participant firms

- 6.5.9 R A firm which becomes a *participant firm* part way through a *financial year* of the *compensation scheme* will not be liable to pay a share of the *compensation costs levy* or *specific costs levy* made in that year.

[Note: since a *firm* that becomes a *participant firm* in the course of a *financial year* of the *compensation scheme* will already be obtaining a discount in relation to the *base costs levy* through the modified fee provisions of *FEES* 4.2.6R, no rule is necessary in *FEES* 6 for discounts on the *base costs levy*.]

Compensation costs levy for newly authorised firms

- 6.5.9A R ~~FEES 6.4.10AR applies to the calculation of a *participant firm's compensation costs levy* and its tariff base as it applies to the calculation of its *specific costs levy*. [deleted]~~
- 6.5.9B G ~~The example table in *FEES* 6.4.10BG can be applied to the calculation of the tariff bases under *FEES* 6.5.9AR. [deleted]~~
- 6.5.9C R (1) This rule deals with the calculation of:
- (a) a *participant firm's compensation costs levy* in the *financial year* of the *compensation scheme* following the *financial year* of the *compensation scheme* in which it became a *participant firm*; or
  - (b) a *participant firm's compensation costs levy* in the *financial year* of the *compensation scheme* in which it had its permission extended, and the following *financial year* of the *compensation scheme*; and
  - (c) the tariff base for the *classes* that relate to the relevant *permissions* or extensions, as the case may be.
- (2) Unless this rule says otherwise the tariff base is calculated, where necessary, using the projected valuation of the business to which the tariff relates.
- (3) The rest of this rule only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009.
- (a) If a *participant firm's* tariff base is calculated using data from a period that begins on or after it became a *participant firm* or on or after the date that the *participant firm* receives its extension of *permission*, as the case may be, the *participant firm* must use that data.
  - (b) If a *participant firm* satisfies the following conditions it must calculate its tariff base under (c) for the *financial year* following the *financial year* of the *compensation scheme* in which it became a *participant firm*:



- (i) it became a *participant firm* or receives its extension of *permission*, as the case may be, between 1 April and 31 December inclusive; and
  - (ii) its tariff base, but for this *rule*, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the *financial year* of the *compensation scheme*.
- (c) If a *participant firm* satisfies the conditions in (b) it must calculate its tariff base as follows:
- (i) it must use actual data in relation to the business to which the tariff relates rather than projected valuations;
  - (ii) the tariff is calculated by reference to the period beginning on the date it became a *participant firm* or had its *permission* extended, and ending on the 31 December before the start of the *financial year* of the *compensation scheme*; and
  - (iii) the figures are annualised by increasing them by the same proportion as the period of 12 *months* bears to the period starting from when the *participant firm* became a *participant firm* or had its *permission* extended to the 31 December, as the case may be.
- (d) Where a *participant firm* is required to use the method in (c) it must notify the *FSCS* of its intention to do so by the date specified in *FEES* 6.5.13R (Reporting requirements).
- (e) Where a *participant firm* is required to use actual data under this *rule*, *FEES* 6 Annex 3AR is disapplied, to the extent it is incompatible, in relation to the calculation of that *participant firm's* valuation date in its second financial year.

[**Note:** *FEES* 6.5.9CR was previously in *FEES* 6.4.10AR.]

Application of *FEES* 6.5.9CR

6.5.9D G The table below sets out the period within which a *participant firm's* tariff base is calculated (“the data period”) for second year levies calculated under *FEES* 6.5.9CR. The example is based on a *participant firm* that extends its *permission* on 1 November 2009 and has a financial year ending 31 March.

References in this table to dates or months are references to the latest one occurring before the start of the *financial year* of the *compensation scheme* unless otherwise stated.

<u>Type of permission</u>	<u>Tariff base</u>	<u>Valuation date but for <i>FEES</i> 6.5.9CR</u>	<u>Data period under <i>FEES</i></u>
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<u>acquired on 1 November</u>			<u>6.5.9CR</u>
<u>Dealing in investments as agent in relation to General Insurance Distribution</u>	<u>Annual eligible income</u>	<u>Financial year ended 31 March 2009 - so projected valuations will be used.</u>	<u>1 November to 31 December 2009</u>

[**Note:** *FEES* 6.5.9DR was previously in *FEES* 6.4.10BG.]

...

#### Reporting requirements

- 6.5.13 R (1) Unless exempt under *FEES* 6.2.1AR, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the *financial year*, by the date requested by the *FCA*) with a statement of:
- (a) *classes and categories* to which it belongs; and
  - (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by *FEES* 6 Annex 3AR (Financial Services Compensation Scheme - classes)) ending before the relevant year in relation to each of those *classes and categories* ~~except the *FCA provider contribution classes*.~~

...

- (4) ~~The *Society* must provide the statement in relation to the insurers—general contribution class and the insurers—life contribution class.~~  
[deleted]

...

- 6.5.14 R If the information in *FEES* 6.5.13R has been provided to the *FCA* under other rule obligations, or in accordance with the *PRA Rulebook*, a *participant firm* will be deemed to have complied with *FEES* 6.5.13R.

- 6.5.14A G The *FSCS* may use information provided in accordance with the *PRA Rulebook* or the *FCA*'s rules even where that information is provided other than by the end of February each year.

- 6.5.14B R The *FSCS* may use information provided in accordance with the *PRA Rulebook* or the *FCA*'s rules that relates to a previous period, if that information has not yet been provided in respect of the *financial year* of the *compensation scheme* in which a levy is being imposed, applying *FEES*

6.5.16R(2).

...

**6.5A The retail pool**

Allocation of compensation costs levies and specific costs levies through the retail pool

- 6.5A.1 R The *FSCS* must allocate a *compensation costs levy* or *specific costs levy*, which has been allocated to the *retail pool* (under *FEES* 6.5.2-AR(2)(3) or *FEES* 6.4.6AR(2)):
- (1) to *classes* whose ~~*retail pool levy limit*~~ *levy limit* has not been reached as at the date of the levy;
  - (2) in proportion to the relative sizes of the ~~*retail pool levy limits*~~ *levy limits* of the *classes* in (1) and up to those ~~*levy limits*~~ *levy limits*; and
  - (3) in accordance with the table in *FEES* 6 Annex ~~5R~~ 2R; and
  - (4) a class's share of a levy allocated to the *retail pool* must be distributed amongst any *categories* within that *class* in proportion to the unused *levy limits* for those *categories* and up to those *levy limits*: see *FEES* 6 Annex 2R.

~~[Note: The *retail pool* *levy limits* for *classes* other than the *FCA provider contribution classes* are the normal *levy limits* for that *class*. See the table in *FEES* 6 Annex 5R for the *retail pool* *levy limits* for all relevant *classes*.]~~

~~Effect of levies under PRA's rules on insurers and on deposit takers in the retail pool~~

- 6.5A.2 R (1) ~~An allocation in *FEES* 6.5A.1R to an *FCA provider contribution class* other than the home finance providers and administrators' contribution class may not be of an amount that, if it were added to any levies:~~
- (a) ~~that correspond to the *FCA's compensation costs levies* or *specific costs levies*; and~~
  - (b) ~~which have previously in the same *financial year* been imposed on the *PRA* funding class which corresponds to that *FCA provider contribution class* (as set out in *FEES* 6.5A.7R),~~
- ~~the combined figure would be greater than any *levy limit* of the corresponding *PRA* funding class.~~
- (2) ~~Where:~~
- (a) ~~an *FCA provider contribution class* has already contributed to *specific costs* or *compensation costs* (through the *retail pool*) in a *financial year*; and~~

- (b) ~~if the amount of that previous contribution by the class in (a) were added to a levy that corresponds to the FCA's compensation costs levy or specific costs levy and which is being imposed on the PRA funding class which corresponds to the class in (a) (and any previous such levies in the same financial year), the combined figure would be greater than any levy limit of the corresponding PRA funding class;~~

~~the FSCS must, so far as reasonably possible, obtain repayment of the previous contribution by the class in (a) from the retail pool (including the FCA provider contribution classes except the class in (a)) to the extent that ensures that the combined figure in (b) would no longer be greater than any levy limit of the corresponding PRA funding class, and credit the repayment to the class in (a).~~

- (3) ~~The FSCS may obtain the repayment in (2) by:~~

- (a) ~~a levy;~~
- (b) ~~commercial or other borrowing; or~~
- (c) ~~utilising funds as set out in, and subject to, FEES 6.3.17R. [deleted]~~

~~[Note 1: the home finance providers and administrators' contribution class does not have a corresponding PRA funding class.]~~

~~[Note 2: the levy limits for the corresponding PRA funding classes are contained in the PRA Rulebook.]~~

...

How levy limits affect allocation to classes in the retail pool

- 6.5A.4 R The calculation of the relative sizes of the ~~retail pool levy limit~~ levy limit (for the purpose of FEES 6.5A.1R(2)) is based on the original ~~retail pool levy limit~~ levy limits for the classes (as set out in FEES 6 Annex 5 2R) and not the remaining capacity in each class.

...

**6 Annex 2R Financial Services Compensation Scheme – annual levy limits**

This table belongs to *FEES* 6.3.5R

<u>Class</u>	<u>Class Category</u>	<u>Levy Limit (£ million)</u>
<u>Class 1: General Insurance Distribution Claims</u>	<del>B2:</del> <u>1.1: General insurance distribution</u>	310
	<u>1.2: General insurance provision</u>	<u>100 (subject to FEES 6.5.2-AAR)</u>
		<b><u>Total: 410</u></b>
<u>Class 2: Investment Intermediation Claims</u>	<del>€2:</del> <u>2.1: Life distribution and pensions intermediation</u>	<del>400</del> <u>240</u>
	<u>2.2: Investment intermediation</u>	
	<u>2.3: Life insurance provision</u>	<u>35 (subject to FEES 6.5.2-AAR)</u>
	<u>2.4: Investment provision</u>	<u>50 (subject to FEES 6.5.2-ACR)</u>
	<u>2.5: Structured deposits provision</u>	<u>5 (subject to FEES 6.5.2-ADR)</u>
		<b><u>Total: 330</u></b>
<u>Class 3: Investment Provision Claims</u>	<del>Đ1:</del> <u>Investment provision</u>	200
	<del>Đ2:</del> <u>Investment intermediation</u>	150
<u>Class 4: Home Finance Intermediation Claims</u>	<del>€2:</del> <u>4.1: Home finance intermediation</u>	40
	<u>4.2: Home finance provision</u>	<u>15</u>
		<b><u>Total: 55</u></b>
<u>Class 5: Debt Management Claims</u>	<del>К:</del> <u>5.1: Debt management claims</u>	20
	<u>5.2: Consumer credit</u>	

	<u>provision</u>	
<u>Class 6: Deposit acceptors' contribution</u>		<u>105 (subject to FEES 6.5.2-ACR)</u>

...

## 6 Annex 3AR Financial Services Compensation Scheme – classes and categories

This table belongs to ~~FEES 6.4.7AR~~ and FEES 6.5.6AR

<u>Class 1</u>	<u>General Insurance Distribution Claims</u>
<del>Class B1</del>	{deleted}
<del>Class B2</del> <u>Category 1.1</u>	General Insurance Distribution
<b>Firms with permission for:</b>	Any of the following in respect of <i>general insurance contracts</i> <u>or</u> <i>pure protection contracts</i> :
	<i>dealing in investments as agent;</i>
	<i>arranging (bringing about) deals in investments;</i>
	<i>making arrangements with a view to transactions in investments;</i>
	<i>assisting in the administration and performance of a contract of insurance;</i>
	<i>advising on investments;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above.</i>
<u>Category 1.2</u>	<u>General insurance provision</u>
<b>Firms with permission for:</b>	<i>effecting contracts of insurance; and/or</i>
	<i>carrying out contracts of insurance;</i>
	<i>that are general insurance contracts.</i>
<b>Also includes:</b>	<u>the Society</u>
<b>Tariff base for category 1.1</b>	<del>Class B2</del> <u>Category 1.1</u> : <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this box. Annual income is calculated as the sum of (a) and (b):

	<p>(a) the net amount retained by the <i>firm</i> of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the <i>firm</i> in respect of or in relation to <i>class B2</i> activities, including any income received from an <i>insurer</i>; and</p> <p>(b) if the <i>firm</i> is an <i>insurer</i>, in relation to <del><i>class B2</i></del> <u><i>category 1.1</i></u> activities, the amount of <i>premiums</i> receivable on its <i>contracts of insurance</i> multiplied by 0.07, excluding those <i>contracts of insurance</i> which result from <del><i>class B2</i></del> <u><i>category 1.1</i></u> activities carried out by another <i>firm</i>, where a payment has been made by the <i>insurer</i> to that other <i>firm</i> and that payment is of a type that falls under (a).</p> <p>Notes relating to the calculation of the tariff base for <del><i>class B2</i></del> <u><i>category 1.1</i></u>:</p> <p>(1) <del>Exclude annual income for pure protection contracts. Only include general insurance contracts.</del> [deleted]</p> <p>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(3) Net amount retained means all the commission, fees, etc. in respect of <del><i>class B2</i></del> <u><i>category 1.1</i></u> activities that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.</p> <p>(4) <del><i>Class B2 Category 1.1</i></del> activities mean activities that fall within <del><i>class B2</i></del> <u><i>category 1.1</i></u>. They also include activities that now fall within <del><i>class B2</i></del> <u><i>category 1.1</i></u> but that were not <i>regulated activities</i> when they were carried out.</p> <p>(5) A reference to a <i>firm</i> also includes a reference to any <i>person</i> who carried out activities that would now fall into <del><i>class B2</i></del> <u><i>category 1.1</i></u> but which were not at the time <i>regulated activities</i>.</p>
<p><b><u>Tariff base for category 1.2</u></b></p>	<p>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</p> <p>(a) that tariff base applied to each <i>member</i> in respect of their <u><i>insurance business</i></u> in relation to <i>general insurance contracts</i>; and</p> <p>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</p> <p>For all other <i>participant firms</i>, the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</p>
<p><b><u>Class 2</u></b></p>	<p><b><u>Life and Pensions Investment Intermediation Claims</u></b></p>

<b>Class C1</b>	[deleted]
<b>Class C2</b> <b>Category 2.1</b>	<del>Life Distribution and Pensions Intermediation</del> <u>distribution and pensions intermediation</u>
<b>Firms with permission for:</b>	Any of the following:
	<i>dealing in investments as agent;</i>
	<i>arranging (bringing about) deals in investments;</i>
	<i>making arrangements with a view to transactions in investments;</i>
	<i>assisting in the administration and performance of a contract of insurance;</i>
	<i>advising on investments;</i>
	<i>advising on pension transfers and pension opt-outs;</i>
	<i>basic advice;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above;</i>
	in relation to any of the following:
	<i>long-term insurance contracts (but not including pure protection contracts);</i>
<i>rights under a stakeholder pension scheme or a personal pension scheme.</i>	
<b>Category 2.2</b>	<u>Investment intermediation</u>
<b>Firms with permission for:</b>	<u><i>intermediation of structured deposits (except for managing investments in relation to structured deposits) and/or</i></u>
	<u><i>Any of the following in relation to designated investment business:</i></u>
	<u><i>dealing in investments as principal;</i></u>
	<u><i>dealing in investments as agent;</i></u>
	<u><i>MiFID business bidding;</i></u>
	<u><i>arranging (bringing about) deals in investments;</i></u>
<u><i>making arrangements with a view to transactions in investments;</i></u>	



	<i>advising on investments;</i>
	<i>basic advice;</i>
	<i>safeguarding and administering investments;</i>
	<i>arranging safeguarding and administering of assets;</i>
	<i>operating a multilateral trading facility;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above;</i>
	<i>BUT excluding activities that relate to long-term insurance contracts or rights under a stakeholder pension scheme or a personal pension scheme.</i>
<b><u>Category 2.3</u></b>	<u>Life insurance provision</u>
<b><u>Firms with permission for:</u></b>	<i>effecting contracts of insurance; and/or</i>
	<i>carrying out contracts of insurance;</i>
	<i>that are long-term insurance contracts (including pure protection contracts);</i>
	<i>entering as provider into a funeral plan contract.</i>
<b><u>Also includes:</u></b>	<i>the Society</i>
<b><u>Category 2.4</u></b>	<u>Investment provision</u>
<b><u>Firms with permission for:</u></b>	Any of the following:
	<i>managing investments;</i>
	<i>managing an AIF;</i>
	<i>managing a UCITS;</i>
	<i>acting as trustee or depositary of an AIF;</i>
	<i>acting as trustee or depositary of a UCITS;</i>
	<i>establishing, operating or winding up a collective investment scheme;</i>
	<i>establishing, operating or winding up a stakeholder pension scheme;</i>

	<p><i>establishing, operating or winding up a personal pension scheme;</i></p> <p><i>agreeing to carry on a regulated activity which is within any of the above.</i></p>
<b><u>Category 2.5</u></b>	<b><u>Structured deposits provision</u></b>
<b><u>Firms with permission for:</u></b>	<i>accepting deposits and/or operating a dormant account fund. BUT does not include any fee payer who either effects or carries out contracts of insurance.</i>
<b><u>Tariff base for category 2.1</u></b>	<p><del>Class C2:</del> <i>annual Annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this box. Annual income is calculated as the sum of (a) and (b):</p> <p>(a) the net amount retained by the <i>firm</i> of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the <i>firm</i> in respect of or in relation to <del>class C2</del> <i>category 2.1</i> activities including any income received from an <i>insurer</i>; and</p> <p>(b) if the <i>firm</i> is a life and pensions <i>firm</i>, in relation to <del>class C2</del> <i>category 2.1</i> activities, the amount of <i>premiums</i> or commission receivable on its life and pensions contracts multiplied by 0.07, excluding those life and pensions contracts which result from <del>class C2</del> <i>category 2.1</i> activities carried out by another <i>firm</i>, where a payment has been made by the life and pensions <i>firm</i> to that other <i>firm</i> and that payment is of a type that falls under (a).</p> <p>Notes relating to the calculation of the tariff base for <del>class C2</del> <i>category 2.1</i>:</p> <p>(1) Life and pensions contracts mean <i>long-term insurance contracts</i> (<b>but not</b> including <i>pure protection contracts</i>) and rights under a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i>.</p> <p>(2) Life and pensions <i>firm</i> means an <i>insurer</i>. It also means a <i>firm</i> that provides <i>stakeholder pension schemes</i> or <i>personal pension schemes</i> if those activities fall into <del>class D1</del> <i>category 2.2</i>.</p> <p>(3) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(4) Net amount retained means all the commission, fees, etc. in respect of <del>class C2</del> <i>category 2.1</i> activities that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.</p> <p>(5) <del>Class C2</del> <i>Category 2.1</i> activities mean activities that fall within <del>class C2</del> <i>category 2.1</i>. They also include activities that</p>

	<p>now fall within <del>class C2</del> <u>category 2.1</u> but that were not <i>regulated activities</i> when they were carried out.</p> <p>(6) A reference to a <i>firm</i> also includes a reference to any <i>person</i> who carried out activities that would now fall into <del>class C2</del> <u>category 2.1</u> but which were not at the time <i>regulated activities</i>.</p>
<p><b><u>Tariff base for category 2.2</u></b></p>	<p><u>Except in respect of <i>direct sales of structured deposits: annual eligible income</i> where <i>annual eligible income</i> means <i>annual income</i> adjusted in accordance with this box. <i>Annual income</i> is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <u>category 2.2</u>.</u></p> <p><u>Notes on <i>annual eligible income</i> for <i>category 2.2</i> (except in respect of <i>direct sales of structured deposits</i>):</u></p> <p><u>(1) For the purposes of calculating <i>annual income</i>, <i>net amount retained</i> means all the commission, fees, etc. in respect of activities falling within <i>category 2.2</i>, that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as <i>general business expenses</i> (for example employees' salaries and overheads) must not be deducted.</u></p> <p><u>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</u></p> <p><u>(3) <i>Box management profits</i> are excluded from the calculation of <i>annual income</i>.</u></p> <p><u>In respect of <i>direct sales of structured deposits</i>: the tariff base for Class A (DGS members) set out in the Depositor Protection part of the <i>PRA Rulebook</i>, but only to the extent that it:</u></p> <p><u>(a) relates to <i>structured deposits</i> accepted in the <i>firm's</i> last financial year ended in the year to 31 December preceding the date for submission of the information under <i>FEES 6.5.13R</i> attributable to that <i>category</i>; and</u></p> <p><u>(b) multiplied by 0.07.</u></p>
<p><b><u>Tariff base for category 2.3</u></b></p>	<p><u>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</u></p> <p><u>(a) that tariff base applied to each <i>member</i> in respect of their <i>insurance business</i> in relation to <i>long-term insurance contracts</i> (including <i>pure protection contracts</i>); and</u></p> <p><u>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</u></p> <p><u>For all other <i>participant firms</i>, the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</u></p>

<p><b><u>Tariff base for category 2.4</u></b></p>	<p><i>Annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this box. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>category 2.4</i>.</p> <p>Notes on <i>annual eligible income</i> for <i>category 2.4</i>:</p> <p>(1) For the purposes of calculating annual income, net amount retained means all the commission, fees, etc. in respect of activities falling within <i>category 2.4</i>, that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees’ salaries and overheads) must not be deducted.</p> <p>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(3) Box management profits are excluded from the calculation of annual income.</p>
<p><b><u>Tariff base for category 2.5</u></b></p>	<p>The tariff base for Class A (DGS members) in the Depositor Protection part of the <i>PRA Rulebook</i> but only to the extent that it relates to deposits that are <i>structured deposits</i>.</p>
<p><b><u>Class 3</u></b></p>	<p><b><u>Investment Provision Claims</u></b></p>
<p><b><u>Class D1</u></b></p>	<p>Investment provision</p>
<p><b>Firms with permission for:</b></p>	<p>Any of the following:</p> <p><i>managing investments;</i></p> <p><i>managing an AIF;</i></p> <p><i>managing a UCITS;</i></p> <p><i>acting as trustee or depositary of an AIF;</i></p> <p><i>acting as trustee or depositary of a UCITS;</i></p> <p><i>establishing, operating or winding up a collective investment scheme;</i></p> <p><i>establishing, operating or winding up a stakeholder pension scheme;</i></p> <p><i>establishing, operating or winding up a personal pension scheme;</i></p> <p><i>agreeing to carry on a regulated activity which is within any of the above.</i></p>

<b>Class D2</b>	Investment intermediation
<b>Firms with permission for:</b>	<p><i>intermediation of structured deposits (except for managing investments in relation to structured deposits); and/or</i></p> <p><i>Any of the following in relation to designated investment business:</i></p> <p><i>dealing in investments as principal;</i></p> <p><i>dealing in investments as agent;</i></p> <p><i>MiFID business bidding;</i></p> <p><i>arranging (bringing about) deals in investments;</i></p> <p><i>making arrangements with a view to transactions in investments;</i></p> <p><i>advising on investments;</i></p> <p><i>basic advice;</i></p> <p><i>safeguarding and administering investments;</i></p> <p><i>arranging safeguarding and administering of assets;</i></p> <p><i>operating a multilateral trading facility;</i></p> <p><i>agreeing to carry on a regulated activity which is within any of the above;</i></p> <p><b>BUT</b> excluding activities that relate to <i>long-term insurance contracts or rights under a stakeholder pension scheme or a personal pension scheme.</i></p>
<b>Tariff base</b>	<p><b>Class D1:</b> <i>annual Annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this box. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>class D1 3</i>.</p> <p><b>Class D2</b> except in respect of <i>direct sales of structured deposits:</i> <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this box. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>class D2</i>.</p> <p>Notes on <i>annual eligible income</i> for <i>classes D1 and D2 class 3</i> (except in respect of <i>direct sales of structured deposits</i>):</p> <p>(1) For the purposes of calculating annual income, net amount retained means all the commission, fees, etc. in respect of</p>

	<p>activities falling within <i>class D1 or D2</i>, as the case may be <u>3</u>, that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.</p> <p>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(3) Box management profits are excluded from the calculation of annual income.</p> <p><del>Class D2 in respect of <i>direct sales of structured deposits</i>: the tariff base for Class A (DGS members) set out in the Depositor Protection part of the <i>PRA Rulebook</i>, but only to the extent that it:</del></p> <p><del>(a) relates to <i>structured deposits</i> accepted in the <i>firm's</i> last financial year ended in the year to 31 December preceding the date for submission of the information under <i>FEES</i> 6.5.13R attributable to that <i>class</i>; and</del></p> <p><del>(b) multiplied by 0.07.</del></p>
<b><u>Class 4</u></b>	<b>Home Finance <u>Intermediation Claims</u></b>
<b><u>Class E2</u></b> <b><u>Category 4.1</u></b>	<del>Home Finance Intermediation</del> <u>finance intermediation</u>
<b>Firms with permission for:</b>	<p>Any of the following activities:</p> <p><i>arranging (bringing about) a home finance transaction;</i></p> <p><i>making arrangements with a view to a home finance transaction;</i></p> <p><i>advising on home finance transaction;</i></p> <p>the activities of a <i>home finance provider</i> which would be arranging but for article 28A of the <i>Regulated Activities Order</i> (Arranging contracts or plans to which the arranger is a party);</p> <p><i>agreeing to carry on a regulated activity</i> which is within any of the above.</p>
<b><u>Category 4.2</u></b>	<u>Home finance provision</u>
<b><u>Firms with permission for:</u></b>	<p><u>Any of the activities below:</u></p> <p><u><i>entering into a home finance transaction;</i></u></p> <p><u><i>administering a home finance transaction;</i></u></p> <p><u><i>agreeing to carry on a regulated activity</i> which is within any of the above.</u></p>

<b><u>Tariff base for category 4.1</u></b>	Class: <del>E2: annual</del> <u>Annual eligible income</u> where the annual income is calculated in accordance with the fee-block A18 in part 2 of <i>FEES 4 Annex 1AR</i> .
<b><u>Tariff base for category 4.2</u></b>	The number of <i>home finance transactions</i> , calculated in accordance with the tariff base for fee-block A2 in part 2 of <i>FEES 4 Annex 1AR</i> .
<b><u>Class 5</u></b>	<b><u>Debt Management Claims</u></b>
<b><u>Category 5.1</u></b>	<u>Debt management</u>
<b><u>Firms with permission for:</u></b>	<u>Any of the following except if held under a <i>limited permission</i>:</u>
	<u><i>debt adjusting</i>; and/or</u>
	<u><i>debt counselling</i>;</u>
	<u>in each case in relation to <i>protected debt management business</i> except where these activities are carried on by a <i>not-for-profit debt advice body</i>.</u>
<b><u>Category 5.2</u></b>	<u>Consumer credit provision</u>
<b><u>Firms with permission for:</u></b>	<u>Any of the following, except if held under a <i>limited permission</i>:</u>
	<u><i>entering into a regulated credit agreement as lender</i>;</u>
	<u>exercising, or having the right to exercise, the <i>lender's</i> rights and duties under a <i>regulated credit agreement</i>.</u>
<b><u>Tariff base for category 5.1</u></b>	<u>Annual debts under management being the annual total value of the <i>participant firm's</i> relevant debts under management.</u>
<b><u>Tariff base for category 5.2</u></b>	<u>Annual lending being the annual total amount provided under all <i>regulated credit agreements</i> in respect of which the <i>participant firm</i> is the <i>lender</i> or exercises, or has the right to exercise, the <i>lender's</i> rights and duties under such agreements.</u>
<b><u>Class F6</u></b>	<b><u>Deposit acceptor's' contribution</u></b>
<b><u>Firms with permission for:</u></b>	<i>accepting deposits</i> and/or <i>operating a dormant account fund</i> . BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i> .
<b><u>Tariff base</u></b>	The tariff base for Class A (DGS members) in the Depositor Protection part of the <i>PRA Rulebook</i> .
<b><u>Class G</u></b>	<b><u>Insurers — life contribution</u></b>

<b>Firms with permission for:</b>	<i>effecting contracts of insurance; and/or</i>
	<i>carrying out contracts of insurance;</i>
	<i>that are long term insurance contracts (including pure protection contracts);</i>
	<i>entering as provider into a funeral plan contract.</i>
<b>Also includes:</b>	the <i>Society</i>
<b>Tariff base</b>	<p>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</p> <p>(a) that tariff base applied to each <i>member</i> in respect of their <i>insurance business</i> in relation to <i>long term insurance contracts (including pure protection contracts)</i>; and</p> <p>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</p> <p>For all other <i>participant firms</i>, the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</p>
<b>Class H</b>	<b>Insurers – general contribution</b>
<b>Firms with permission for:</b>	<i>effecting contracts of insurance; and/or</i>
	<i>carrying out contracts of insurance;</i>
	<i>that are general insurance contracts.</i>
<b>Also includes:</b>	the <i>Society</i>
<b>Tariff base</b>	<p>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</p> <p>(a) that tariff base applied to each <i>member</i> in respect of their <i>insurance business</i> in relation to <i>general insurance contracts</i>; and</p> <p>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</p> <p>For all other <i>participant firms</i>, the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</p>
<b>Class I</b>	<b>Home finance provision</b>
<b>Firms with</b>	Any of the activities below:



<b>permission for:</b>	<i>entering into a home finance transaction;</i>
	<i>administering a home finance transaction;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above.</i>
<b>Tariff base</b>	The number of <i>home finance transactions</i> , calculated in accordance with the tariff base for fee block A2 in part 2 of FEES 4 Annex 1AR.
<b>Class K</b>	<b>Debt management claims</b>
<b>Firms with permission for:</b>	Any of the following except if held under a <i>limited permission</i> :
	<i>debt adjusting and/or debt counselling in each case in relation to protected debt management business except where these activities are carried on by a not for profit debt advice body;</i>
	<i>entering into a regulated credit agreement as lender;</i>
	exercising, or having the right to exercise, the <i>lender's</i> rights and duties under a <i>regulated credit agreement</i> .
<b>Tariff base</b>	For <i>debt adjusting and debt counselling</i> : annual debts under management being the annual total value of the <i>participant firm's relevant debts under management</i> .  For all other <i>participant firms</i> in this <i>class</i> : annual lending being the annual total amount provided under all <i>regulated credit agreements</i> in respect of which the <i>participant firm</i> is the <i>lender</i> or exercises, or has the right to exercise, the <i>lender's</i> rights and duties under such agreements.

...

**6 Annex 4G Guidance on the calculation of tariff bases**

This table belongs to FEES 6.5.8G

<b>Calculation of annual eligible income for firms in <del>class D1</del> <u>category 2.4</u> and <u>class 3</u> who carry out discretionary fund management and are in FCA fee block A7</b>		
-1.1	G	The tariff base for <del>class D1</del> <u>category 2.4</u> and <u>class 3</u> is calculated by taking gross income falling into <del>class D1</del> <u>category 2.4</u> and <u>class 3</u> and then deducting commission, fees and similar amounts rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) should not be deducted. The calculation may be further adjusted so as to include only income that is attributable to in respect of which the FSCS may

		pay compensation, unless the <i>firm</i> chooses to include all its annual income.
...		
1.2	G	<i>Annual eligible income</i> should exclude
		income received or receivable from assets managed on a non-discretionary basis, being assets that the <i>firm</i> has a contractual duty to keep under continuous review but in respect of which prior specific consent of the client must be obtained for proposed transactions, as this activity is covered in <del>class D2</del> <u>category 2.2</u> (the investment intermediation <del>class</del> <u>category</u> ).
1.3	G	A <i>firm</i> should make appropriate arrangements to ensure that income is not double counted in relation to the activities it undertakes (for example, where it operates and manages a <i>personal pension scheme</i> or <i>collective investment scheme</i> ).
<b>Calculation of annual eligible income for firms in <del>sub-class D1</del> <u>category 2.4 and class 3</u> and who carry out activities within FCA fee block A9</b>		
2.1	G	The calculation of income in respect of activities falling into <del>class D1</del> <u>category 2.4 or class 3</u> , and FCA fee block A9, should be based on the tariff base provisions for that fee block (in Part 3 of FEES 4 Annex 1AR). It may be adjusted so as to include only income that is attributable to business in respect of which the FSCS may pay compensation, unless the <i>firm</i> chooses to include all its annual income.
2.2	G	Although the calculation should be based on the one for fee block A9, the calculation is not the same. FCA fee block A9 is based on gross income. <del>Class D1 is</del> <u>Category 2.4 and class 3</u> are based on net income retained.
<b>Calculation of annual eligible income for a firm in <del>class B2 or class C2</del> <u>categories 1.1 or 2.1</u></b>		
3.1	G	...
...		

FEES 6 Annex 5R (Classes participating in the retail pool and applicable limits) is deleted in its entirety. The deleted text is not shown.

**6 Annex 5R** Classes participating in the retail pool and applicable limits [deleted]

Insert the new TP 20 after FEES TP 19 (Transitional provisions relating to statements provided by participant firms before 1 April 2018 with respect to the FSCS 2018/19 financial year). The text is not underlined.

**TP 20 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2019/20**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional Provision	(5) Transitional provision: dates in force	(6) Handbook Provisions coming into force
20.1	The changes made to <i>FEES</i> 6 by the Financial Services Compensation Scheme (Funding Review) Instrument 2018	R	The changes in (2) apply to any levy made after 31 March 2019. This is so even if:  (1) the claim against the <i>relevant person</i> or <i>successor in default</i> arose or relates to circumstances arising before that date; or  (2) the <i>relevant person</i> or <i>successor</i> was <i>in default</i> before that date.	From 1 April 2019 indefinitely	1 April 2019
20.2	<i>FEES</i> 6.3.19R	R	<b>Allocation of recoveries</b> Any recoveries made by the <i>FSCS</i> after 31 March 2019 in relation to <i>protected claims</i> compensated prior to 1 April 2019, the costs of which were allocated to the <i>class</i> in place at the time, must be credited to the <i>class</i> in place after 31 March 2019 to which the costs of the <i>protected claim</i> would have been allocated had it been compensated after that date, or if relevant, in	From 1 April 2019 indefinitely	1 April 2019

			accordance with <i>FEES</i> 6.3.20R.		
20.3	<i>FEES</i> 6.3.14R		<p><b>Allocation of surplus/deficit</b></p> <p>The <i>FSCS</i> must allocate any surplus or deficit in a <i>class</i> that existed on 31 March 2019 to the corresponding <i>class</i> that exists after 1 April 2019.</p>	From 1 April 2019 indefinitely	1 April 2019
20.4	<i>FEES</i> 6.3.17R	R	<p><b>Management of funds</b></p> <p>In relation to <i>classes</i> C2 and D2 as existing before 1 April 2019, where:</p> <p>(1) the <i>FSCS</i> has used money, in accordance with <i>FEES</i> 6.3.17R, held to the credit of one of the above <i>classes</i> (the creditor class) to pay <i>compensation costs</i> or <i>specific costs</i> attributable or allocated by way of levy to the other of those <i>classes</i> (the debtor class); and</p> <p>(2) on 31 March 2019 the creditor class is not yet reimbursed by the debtor class; the <i>FSCS</i> must ensure that the debtor class pays interest to the creditor class under <i>FEES</i> 6.3.17R(2)(b) for the period up to 1 April 2019 and no later.</p>	From 1 April 2019 indefinitely	1 April 2019

## Annex C

## Amendments to the Supervision manual (SUP)

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

SUP 16 Annex 18AR (Section J: Data Required for Calculation of Fees, Part 1) is amended as follows.

## Section J: data required for the calculation of fees

## Part 1

		A	B	C
		FCA	FOS	FSCS
		Annual Income	Relevant Annual Income	Annual Eligible Income
		(£s)	(£s)	(£s)
1	Home Finance Intermediation	<i>FEES 4 Annex 1AR</i> Part 3, fee block A.18	<i>FEES 5 Annex 1R</i> , industry block 16	<i>FEES 6 Annex 3AR</i> <del>Class E2</del> <u>category 4.1</u>
2	General Insurance Distribution	<i>FEES 4 Annex 1AR</i> Part 3, fee block A.19	<i>FEES 5 Annex 1R</i> , industry block 17	<i>FEES 6 Annex 3AR</i> <del>Class B2</del> <u>category 1.1</u>
3	Life_Distribution and Pensions Intermediation	<i>FEES 4 Annex 1AR</i> Part 3, fee block A.13	Annual income as applied in relation to the equivalent activity groups set out in Part 1 of <i>FEES 4 Annex 1R</i> in respect of industry blocks 8 and 9	<i>FEES 6 Annex 3AR</i> <del>Class C2</del> <u>category 2.1</u>
4	Investment Intermediation	<i>FEES 4 Annex 1AR</i> , Part 3, fee block A.13	Annual income as applied in relation the equivalent activity groups set out in Part 1 of <i>FEES 4 Annex 1R</i> in respect of industry blocks 8 and 9	<i>FEES 6 Annex 3AR</i> <del>Class D2</del> <u>category 2.2</u>

**16**      **Notes for Completion of the Retail Mediation Activities Return ('RMAR')**  
**Annex**  
**18BG**

...

**Section J: Data required for calculation of fees**

Part 1

...

This information is required so that we can calculate the fees payable by *firms* in respect of the *FCA*, *FOS* and the *FSCS*.

<b>Data for fees calculations</b>	<i>Firms</i> will need to report data for the purpose of calculating <i>FCA</i> , <i>FOS</i> and <i>FSCS</i> levies
...	...
FSCS	The relevant information required is the tariff data set out in <del>classes B2, C2, D2 and E2</del> <u>categories 1.1, 2.1, 2.2 and 4.1, FEES 6 Annex 3AR</u> . Note that <i>firms</i> are required to report tariff data information relating to all business falling within <del>classes B2, C2, D2 and E2</del> <u>categories 1.1, 2.1, 2.2 and 4.1, FEES 6 Annex 3AR</u> .

...

Part 2

...

Both Parts 1 and 2

...

	<b>FCA</b> Annual Income (£s)	<b>FOS</b> Relevant Annual Income (£s)	<b>FSCS</b> Annual Eligible Income (£s)
Home finance intermediation	<i>FEES</i> 4 Annex 11AR, 13G	<i>FEES</i> 5 Annex 1R industry block 16	<i>FEES</i> 6 Annex 3AR <del>class E2</del> <u>category 4.1</u>
General insurance <del>mediation</del> <u>distribution</u>	<i>FEES</i> 4 Annex 11AR, 13G	<i>FEES</i> 5 Annex 1R industry block 17	<i>FEES</i> 6 Annex 3AR <del>class B2</del> <u>category 1.1</u>
Life <u>distribution</u> and pensions intermediation	<i>FEES</i> 4 Annex 11AR, 13G	<i>FEES</i> 5 Annex 1R industry block 8, 9	<i>FEES</i> 6 Annex 3AR <del>Class C2</del> <u>category 2.1</u>
Investment intermediation	<i>FEES</i> 4 Annex 11AR, 13G	<i>FEES</i> 5 Annex 1R industry block 8, 9	<i>FEES</i> 6 Annex 3AR <del>class D2</del> <u>category 2.2</u>

...

## Annex D

### Amendments to the Compensation sourcebook (COMP)

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

#### 7 Assignment or subrogation of rights

...

#### 7.6 Treatment of recoveries

...

7.6.5 G As an example of the circumstances which *COMP* 7.6.4R is designed to address, take two claimants, A and B.

- (1) Both A and B have a *protected investment business claim* of ~~£60,000~~ £120,000 against a *relevant person* (or, where applicable, a *successor*) *in default*. The *FSCS* offers both claimants ~~£50,000~~ £85,000 compensation (the maximum amount payable for such claims under *COMP* 10.2.3R). A accepts immediately, and assigns his rights against the *relevant person* (or, where applicable, a *successor*) to the *FSCS*, but B delays accepting the *FSCS*'s offer of compensation.
- (2) In this example, the liquidator is able to recover assets from the *relevant person* (or, where applicable, a *successor*) *in default* and makes a payment of 50p in the pound to all the *relevant person's* or *successor's*, as appropriate, creditors. If the liquidator made the payment before any offer of compensation from the *FSCS* had been accepted, A and B would both receive ~~£30,000~~ £60,000 each from the liquidator, leaving both with a loss of ~~£30,000~~ £60,000 to be met by the *FSCS*. Both *claims* would be met in full.
- (3) However, if the payment were made by the liquidator after A had accepted the *FSCS*'s offer of compensation and assigned his rights to the *FSCS*, but before B accepted the *FSCS* offer of compensation, A would be disadvantaged relative to B even though he has received ~~£50,000~~ £85,000 compensation from the *FSCS*. A would be disadvantaged relative to B because he promptly accepted the *FSCS* offer and assigned his rights to the *FSCS*. Because A has assigned his rights to the *FSCS*, any payment from the liquidator will be made to the *FSCS* rather than A. In this case the *FSCS* has paid A more than ~~£30,000~~ £60,000, so the ~~£30,000~~ £60,000 from the liquidator that would have been payable to A will be payable in full to the *FSCS* and not to A.

- (4) B is able to exercise his rights against the liquidator because he delayed accepting the *FSCS's* offer and receives ~~£30,000~~ £60,000 from the liquidator. B can then make a claim for the remaining ~~£30,000~~ £60,000 to the *FSCS* which the *FSCS* can pay in full (see *COMP* 10.2.2G). B therefore suffers no loss whereas A is left with a loss of ~~£10,000~~ £35,000, being the difference between his claim of ~~£60,000~~ £120,000 and the compensation paid by the *FSCS* of ~~£50,000~~ £85,000.

...

## 10 Limits on the amount of compensation payable

...

### 10.2 Limits on compensation payable

...

#### 10.2.3 R Table Limits

This table belongs to *COMP* 10.2.1R

Type of claim	Level of cover	Maximum payment
<i>Protected investment business (except where the <u>designated investment</u> is a <u>long-term care insurance contract</u> that is a <u>pure protection contract</u>)</i>	100% of <i>claim</i>	<del>£50,000</del> <u>85,000</u>
<i>Protected investment business where the <u>designated investment</u> is a <u>long-term care insurance contract</u> that is a <u>pure protection contract</u></i>	<u>100% of claim</u>	<u>Unlimited</u>
<i>Protected home finance mediation</i>	100% of <i>claim</i>	<del>£50,000</del> <u>85,000</u>
...		



<i>Protected debt management business</i>	100% of claim	<del>£50,000</del> <u>85,000</u>
---	---------------	----------------------------------

...

Amend the following as shown.

## TP 1 Transitional Provisions

### TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions coming into force
...					
<u>41</u>	<u>Amendments introduced by the Financial Services Compensation Scheme (Funding Review) Instrument 2018</u>	<u>R</u>	<u>The changes referred to in column (2) do not apply in relation to a <i>claim</i> against a <i>relevant person</i>, or against a <i>successor</i>, that was <i>in default</i> before 1 April 2019.</u>	<u>From 1 April 2019 indefinitely</u>	<u>1 April 2019</u>



## Appendix 2

### Made rules (legal instrument)

**FINANCIAL SERVICES COMPENSATION SCHEME (FUNDING AND SCOPE)  
INSTRUMENT 2017**

**Powers exercised**

- A. The Financial Conduct Authority makes this instrument in the exercise of the powers and related provisions in:
- (1) the following sections of 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 213 (The compensation scheme);
    - (e) section 214 (General); and
    - (f) section 215 (Rights of the scheme in insolvency);
    - (g) section 316 (Direction by a regulator); and
  - (2) the other powers and related provisions listed in Schedule 4 (Powers exercised) to the General Provisions of the Handbook.
- B. The rule-making powers listed above are specified for the purpose of section 138G (Rule-making instruments) of the Act.

**Commencement**

- C. Part 1 of Annex B comes into force on 30 October 2017.
- D. Part 1 of Annex A and Part 2 of Annex B come into force on 3 January 2018.
- E. The remainder of this instrument comes into force on 1 April 2018.

**Amendments to the Handbook**

- F. The modules of the FCA’s Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2) below:

(1)	(2)
Glossary	Annex A
Fees manual (FEES)	Annex B
Supervision manual (SUP)	Annex C
Compensation sourcebook (COMP)	Annex D
Consumer Credit sourcebook (CONC)	Annex E

**Notes**

- G. In the Annexes 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**

- H. This instrument may be cited as the Financial Services Compensation Scheme (Funding and Scope) Instrument 2017.

By order of the Board  
19 October 2017

## Annex A

## Amendments to the Glossary of definitions

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

## Part 1: Comes into force on 3 January 2018

Amend the following definition as shown.

- participant firm*     ~~(1)~~ (except in ~~FEES 1~~ and ~~FEES 6~~) a ~~firm~~ or a ~~member~~ other than:
- ~~(a)~~     ~~(in accordance with~~ an incoming EEA firm to the extent
  - (1)     prescribed for the purposes of section 213(10) of the *Act* (The compensation scheme) ~~and~~ under regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons) ~~an incoming EEA firm which is:~~
  - ~~(i)~~     a *credit institution*;
  - ~~(ii)~~     a *MiFID investment firm*; ~~or~~
  - ~~(iii)~~     [deleted]
  - ~~(iv)~~     both (i) and (ii); ~~or~~
  - ~~(v)~~     an *IMD insurance intermediary* or an *IMD reinsurance intermediary* which is neither (i) or (ii); ~~or~~
  - ~~(vi)~~     an *AIFM* managing an *unauthorised AIF* or providing the services in article 6(4) of *AIFMD*; ~~or~~
  - ~~(vii)~~     an *MCD mortgage credit intermediary*;

in relation to its *passport activities*, unless it has *top-up cover*;

[Note: This covers certain incoming EEA firms: see COMP 14.1 and 14.2.]

- ~~(aa)~~     ~~(in accordance with section 213(10) of the Act (The compensation scheme) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons) an incoming EEA firm which is a *management company* other than to the extent that it carries on the following activities from a *branch* in the *United Kingdom* or under the freedom to provide *cross border services*:~~

- (i) ~~collective portfolio management for a UCITS scheme; or~~
- (ii) ~~managing investments (other than of a collective investment scheme), advising on investments or safeguarding and administering investments (the services referred to in article 6(3) of the UCITS Directive), but only if it has top-up cover;~~
- ~~(b)~~ a service company;
- (2)
- ~~(c)~~ [deleted]
- ~~(d)~~ [deleted]
- ~~(e)~~ an underwriting agent, or members' adviser, in respect of (3) ~~advising on syndicate participation at Lloyd's or managing the underwriting capacity of a Lloyd's syndicate as a managing agent at Lloyd's;~~
- ~~(f)~~ an authorised professional firm that is subject to the rules of (4) the Law Society (England and Wales) or the Law Society of Scotland and with respect to its *regulated activities* participates in the relevant society's compensation scheme;
- ~~(g)~~ an ICVC;
- (5)
- ~~(h)~~ a UCITS qualifier;
- (6)
- ~~(i)~~ [deleted]
- ~~(j)~~ (7) in respect of the carrying on of *bidding in emissions auctions*, a firm that is exempt from MiFID under article 2(1)(i);
- ~~(k)~~ an AIFM qualifier;
- (8)
- ~~(l)~~ (9) an operator of an electronic system in relation to lending in respect of operating the system.
- (2) ~~(in FEES 1 and FEES 6) a firm specified in paragraph (1) above that is not a member.~~

## Part 2: Comes into force on 1 April 2018

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

<i>direct sales of structured deposits</i>	the sale by a <i>firm</i> with <i>permission</i> for <i>accepting deposits</i> of its own <i>structured deposits</i> .
<i>enhanced reporting investment</i>	any <i>investment</i> subject to a restriction on retail distribution under the <i>FCA's rules</i> , as summarised in <i>COBS 9.3.5G(1)</i> .
<i>intermediation of structured deposits</i>	(in <i>COMP</i> and <i>FEES 6</i> ) any of the following: <ul style="list-style-type: none"> <li>(1) <i>direct sales of structured deposits</i>;</li> <li>(2) in relation to <i>structured deposits</i>: <ul style="list-style-type: none"> <li>(a) <i>advising on investments</i>; or</li> <li>(b) <i>dealing in investments as agent</i>; or</li> <li>(c) <i>arranging (bringing about) deals in investments</i>; or</li> <li>(d) <i>making arrangements with a view to transactions in investments</i>; or</li> <li>(e) <i>managing investments</i>.</li> </ul> </li> </ul>
<i>protected debt management business</i>	<i>debt management activities</i> which are covered by the <i>compensation scheme</i> , as set out in <i>COMP 5.8.1R</i> .

Amend the following definitions as shown.

<i>annual eligible income</i>	(in <i>FEES</i> ) (in relation to a <i>firm</i> and a <i>class</i> ) the annual income (as described in <i>FEES 6 Annex 3R 3AR</i> ) for the <i>firm's</i> last financial year ended in the year to 31 December preceding the date for submission of the information under <i>FEES 6.5.13R</i> attributable to that <i>class</i> . A <i>firm</i> must calculate <i>annual eligible income</i> from such annual income in one of the following ways: <ul style="list-style-type: none"> <li>(a) only include such annual income if it is attributable to business <del>conducted with or for the benefit of <i>eligible claimants</i> and is otherwise attributable to compensatable business</del> <u>in respect of which the <i>FSCS</i> may pay compensation</u>; or</li> <li>(b) include all such annual income.</li> </ul>
<i>class</i>	...

- (5) (in *FEES*) one of the ~~broad classes to which FSCS allocates levies as described set out in *FEES 6.4.7AR*, *FEES 6.5.6AR* and *FEES 6 Annex 3AR*~~, to which the *FSCS* allocates levies.
- client money* ...
- (2B) (in *CASS 11* ~~and~~, *CONC 3.9*, *CONC 8.3*, *CONC 10*, *COMP 5* and *COMP 12*) money which a *CASS debt management firm* receives or holds on behalf of a *client* in the course of or in connection with *debt management activity*.
- ...
- (4) (in *COMP* other than *COMP 5* and *COMP 12*) *client money* for the purposes of the relevant *client money rules*.
- compensation scheme* the Financial Services Compensation Scheme established under section 213 of the *Act* (The compensation scheme) for compensating *persons* in cases where *authorised persons* and *appointed representatives*, or, where applicable, a *successor* or a *tied agent* of a firm, are unable, or are likely to be unable, to satisfy *claims* against them (and, unless the context otherwise requires, references to the compensation scheme in the *FCA's Handbook* are to those aspects of the scheme established under the *FCA's rules*).
- financial year* (1) (in *DISP* ~~and~~, *FEES 5* and *FEES 6*) the 12 months ending with 31 March.
- ...
- MiFID investment firm* (1) (in summary) (except in *SUP 13*, *SUP 13A* and *SUP 14* in relation to notification of *passport activity*) a *firm* to which *MiFID* applies including, for some purposes only, a *credit institution* and *collective portfolio management investment firm*.
- (2) (in full) a *firm* (except in *SUP 13*, *SUP 13A* and *SUP 14* in relation to notification of *passport activity*) a *firm* which is:
- (a) an *investment firm* with its head office in the *EEA* (or, if it has a registered office, that office);
- (b) a *CRD credit institution* (only when providing an *investment service or activity* or when selling, or advising *clients* in relation to, *structured deposits* for the purposes of:
- (i) the *rules* implementing the articles referred to in article 1(3) of *MiFID* and article 1(4) of *MiFID*;
- (ii) the requirements imposed upon it by and under *MiFIR*; and



- (iii) the requirements imposed upon it by *EU regulations* made under *MiFID*); or
- (ba) a CRD credit institution (only when providing an investment service or activity) in relation to COMP or FEES 6);
- (c) ...
- (3) ...
- regulatory costs* the periodic fees payable to the ~~appropriate regulator~~ FCA by a *participant firm* in accordance with *FEES 4* (Periodic fees).
- top-up cover* cover provided by the *compensation scheme* for *claims* against an *incoming EEA firm* (which is ~~a credit institution, an IMD insurance intermediary, an IMD reinsurance intermediary, a MiFID investment firm, a UCITS management company, an MCD mortgage credit intermediary or an AIFM~~) in relation to the *firm's passported activities* and in addition to, or due to the absence of, the cover provided by the *firm's Home State compensation scheme* (see has elected to participate in accordance with section 214(5) of the Act, regulation 3 of the *Electing Participants Regulations* (Persons who may elect to participate) and COMP 14 (Participation by EEA firms)).

Delete the following definitions. The text is not shown struck through.

- DGD claim* a *claim*, in relation to a *protected deposit*, against a *CRD credit institution*, whether established in the *United Kingdom* or in another *EEA State*.
- professional indemnity insurance contract* a *contract of insurance* against the risk of the person insured incurring liability to a third party arising out of the insured's business activities.
- protected contract of insurance* a *contract of insurance* which is covered by the *compensation scheme*, as defined in *COMP 5.4.1R*.
- protected deposit* a *deposit* which is covered by the *compensation scheme*, as defined in *COMP 5.3.1R*.
- relevant net premium income*
- (1) (in relation to business which is not *occupational pension fund management business*) the premium income in respect of *protected contracts of insurance* of a *firm*; or
  - (2) (in relation to *occupational pension fund management business*) the *remuneration* retained by a *firm* in relation to its carrying on

*occupational pension fund management business*

in the year preceding that in which the date for submission of the information under *FEES* 6.5.13R falls, net of any relevant rebates or refunds.

## Annex B

## Amendments to the Fees manual (FEES)

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

## Part 1: Comes into force on 30 October 2017

**6 Annex 3AR Financial Services Compensation Scheme – classes**

This table belongs to *FEES 6.4.7AR* and *FEES 6.5.6AR*

...	
	<b>Life and Pensions</b>
...	
<b>Class C2</b>	Life and Pensions Intermediation
<b>Firms with permission for:</b>	Any of the following:
	<i>dealing in investments as agent;</i>
	<i>arranging (bringing about) deals in investments;</i>
	<i>making arrangements with a view to transactions in investments;</i>
	<i>assisting in the administration and performance of a contract of insurance;</i>
	<i>advising on investments;</i>
	<i>advising on pension transfers and pension opt-outs;</i>
	<del><i>providing basic advice on a stakeholder product;</i></del> <u><i>basic advice;</i></u>
...	
...	
	<b>Investment</b>
...	
<b>Class D2</b>	Investment intermediation
<b>Firms with permission for:</b>	Any of the following in relation to <i>designated investment business</i> : <i>dealing in investments as principal;</i>

	<p><i>dealing in investments as agent;</i></p> <p><i>MiFID business bidding;</i></p> <p><i>arranging (bringing about) deals in investments;</i></p> <p><i>making arrangements with a view to transactions in investments;</i></p> <p><i>advising on investments;</i></p> <p><del><i>providing basic advice on a stakeholder product;</i></del> <u><i>basic advice;</i></u></p> <p>...</p>
--	---

Insert the new TP 18 after FEES TP 17 (Transitional provisions relating to fees payable for authorisation as an authorised payment institution or registration as a small payment institution under the Payment Services Regulations 2017).

**TP 18**      **Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19**

<u>(1)</u>	<u>(2)</u> <u>Material to which the transitional provision applies</u>	<u>(3)</u>	<u>(4)</u> <u>Transitional provision</u>	<u>(5)</u> <u>Transitional provision: dates in force</u>	<u>(6)</u> <u>Handbook provisions coming into force</u>
<u>18.1</u>	<u>FEES 6.5.13R</u>	<u>R</u>	<p><u>For the purposes of statements provided by <i>participant firms</i> under <i>FEES 6.5.13R</i> before 1 April 2018 and with respect to the <i>financial year</i> of the <i>compensation scheme</i> beginning on 1 April 2018, references in <i>FEES 6.5.13R</i> to <i>classes</i> must be read as references to <i>classes</i> to which <i>firms</i> will belong after 31 March 2018; and references to <i>tariffs</i> must be read as references to <i>tariffs</i> as in force after 31 March 2018.</u></p>	<p><u>From 30 October 2017 to 31 March 2018</u></p>	<u>1 April 2018</u>

**Part 2: Comes into force on 3 January 2018**

Insert the new TP 18.2 after FEES TP 18.1 in FEES TP 18 (Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19).

**TP 18 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions coming into force
...	...	...	...	...	...
<u>18.2</u>	<u>FEES 6 Annex 3AR</u>	<u>R</u>	<u>Any reference to <i>managing investments</i> in <i>FEES 6 Annex 3AR</i> shall not include <i>managing investments</i> in relation to <i>structured deposits</i> before <u>1 April 2018</u>.</u>	<u>From 3 January 2018 to 31 March 2018</u>	<u>1 April 2018</u>

**Part 3: Comes into force on 1 April 2018**

**6 Financial Services Compensation Scheme Funding**

**6.1 Application**

...

6.1.2 G (1) ...

(2) ~~Although a *member* is a *participant firm* for the purposes of most provisions of *COMP*, a *member* is excluded from the definition of *participant firm* for the purposes of *FEES 6* (see definition of *participant firm* in *Glossary*). This is because the~~ The fees levied in relation to the carrying on of *insurance market activities* by *members* will be imposed on the *Society* rather than individually on each *member* (see *FEES 6.3.24R*).

Purpose

6.1.3 G The purpose of this chapter is to set out the requirements on *participant firms* to pay levies imposed by the *FSCS* to provide funding for its functions under

COMP. The *PRA Rulebook* deals with funding for the *FSCS*'s functions for depositor protection and policyholder protection.

...

- 6.1.6 G In calculating a *compensation costs levy*, the *FSCS*:
- (1) ~~for claims for protected deposits, may include compensation costs expected in the 12-month period following the date of the levy; and~~
  - (2) ~~for other protected claims, may include up to the greater of one third of the compensation costs expected in the 36-month period following the date of the levy~~ 1 April of the *financial year* of the *compensation scheme* in relation to which the levy is imposed, or the *compensation costs* expected in the 12 months following that date.
- 6.1.6A G The total amount of all *management expenses levies* attributable to a ~~financial year~~ *financial year* and levied by the *FSCS* under this chapter or under the *PRA Rulebook* will be restricted to the amount set out on an annual basis in *FEES* 6 Annex 1R.
- 6.1.7A G In order to allocate a share of the amount of *specific costs* and *compensation costs* to be funded by an individual *participant firm*, the funding arrangements are split into ~~twelve~~ ten *classes*: ~~the deposits class; the life and pensions provision class; the general insurance provision class; the investment provision class; the life and pensions intermediation class; the home finance intermediation class; the investment intermediation class; the general insurance intermediation class; the deposit acceptor's contribution class; the insurers - life contribution class; the insurers - general contribution class; and the home finance providers and administrators' contribution class~~ and the debt management claims class. The *permissions* held by a *participant firm* determine into which *class*, or *classes*, it falls.
- 6.1.8 G The provisions on the allocation of levies to *classes* ~~up to their levy limits~~ meet a requirement of section 213(5) of the *Act* that the ~~appropriate regulator~~ *FCA*, in making rules to enable the *FSCS* to impose levies, must take account of the desirability of ensuring that the amount of the levies imposed on a particular class of *authorised person* reflects, so far as practicable, the amount of claims made, or likely to be made, in respect of that class of person.

#### The management expenses levy

- 6.1.9 G Section 223 of the *Act* (Management expenses) prevents the *FSCS* from recovering, through a levy, any *management expenses* attributable to a particular period in excess of the limit set in *COMP* as applicable to that period. 'Management expenses' are defined in section 223(3) to mean expenses incurred or expected to be incurred by the *FSCS* in connection with its functions under the *Act*, except:
- (1) expenses incurred in paying compensation;

- (2) expenses incurred as a result of the *FSCS* making the arrangements to secure continuity of insurance ~~set out in *COMP 3.3.1R* and *COMP 3.3.2R*~~ or taking the measures ~~set out in *COMP 3.3.3R* and *COMP 3.3.4R*~~ ~~when a relevant person is an insurer in financial difficulties~~ to make payments to or in respect of policyholders or to safeguard policyholders, under *PRA* rules made under sections 216(3) or (4), 217(1) or 217(6) of the *Act*;

...

- 6.1.10 G A *management expenses levy* may consist of two elements. The first is a *base costs levy*, for 50% of the base costs of running the *compensation scheme* in a ~~financial year~~ financial year, that is, costs which are not dependent upon the level of activity of the *compensation scheme* and which therefore are not attributable to any specific *class*. The *PRA* allocates the other 50% of the base costs under its rules. Included in ~~this category~~ base costs are items such as the salary of the members of the board of the *FSCS*, the costs of the premises which the *FSCS* occupies, and its audit fees. It would also likely include the cost of any insurance cover secured by *FSCS* against the risk of it paying claims out in circumstances where the *levy limit* of the particular *class* to which the claim would otherwise be attributable has exceeded its *levy limit* for the year, as the insurance cover is likely to benefit all *classes* which may have costs allocated to them if the *levy limit* of another *class* is breached. The amount that each *participant firm* pays towards a *base costs levy* is calculated by reference to the *regulatory costs* paid by the *firm*. All *participant firms* are liable to contribute towards a *base costs levy*.
- 6.1.11A G The second element of a *management expenses levy* is a *specific costs levy* for the “specific costs” of running the *compensation scheme* in a ~~financial year~~ financial year. These costs are attributable to a *class*, and include the salary costs of certain staff of the *FSCS* and claims handling and legal and other professional fees. It also may include the cost of any insurance cover that *FSCS* secures against the risk of *FSCS* paying out claims above a given level in any particular *class* (but below the *levy limit* for that *class* for the year). ~~The specific costs are attributed to the class which is responsible for those costs.~~ When the *FSCS* imposes a *specific costs levy*, the levy is allocated to the *class* which ~~is responsible for~~ gives rise to those costs, up to the relevant *levy limits*. *Specific costs* attributable to certain *classes*, which exceed the *class levy limits*, may be allocated to the *retail pool*. The *FSCS* may include in a *specific costs levy* the *specific costs* that the *FSCS* expects to incur (including in respect of defaults not yet declared at the date of the levy) during the ~~financial year~~ financial year of the *compensation scheme* to which the levy relates. The amount that each *participant firm* pays towards the *specific costs levy* is calculated by reference to the amount of business conducted by the *firm* in each of the *classes* to which the *FSCS* has allocated *specific costs*. Each *class* has a separate “tariff base” for this purpose, set out in *FEES 6 Annex 3AR*. *Participant firms* may be exempt from contributing to the *specific costs levy*.

...

- 6.1.13 G The limit on the *management expenses* attributable to the forthcoming ~~financial year~~ *financial year* of the *FSCS: compensation scheme* will be consulted on in January each year.

The compensation costs levy

- 6.1.14 G In imposing a *compensation costs levy* in each ~~financial year~~ *financial year* of the *compensation scheme* the *FSCS* will take into account the *compensation costs* which the *FSCS compensation scheme* has incurred and has not yet raised through levies, any recoveries it has had made using the rights that have been assigned to it or to which it is subrogated and a further amount calculated taking into account:

- (1) ~~for claims for protected deposits, those compensation costs it expects to incur (including in respect of defaults yet to be declared) in the 12 months following the date of the levy; and [deleted]~~
- (2) ~~for other protected claims: [deleted]~~
- (a) the *compensation costs* it expects to incur in the ~~12 months following the date of the levy~~ *financial year* of the *compensation scheme* in relation to (3) which the levy is imposed; or, if greater
- (b) one third of the *compensation costs* it expects to incur in the ~~36 months following the date of the levy~~ (4) 1 April of the *financial year* of the *compensation scheme* in relation to which the levy is imposed (see *FEES* 6.3.1R (Imposing management expenses and compensation costs levies)).

- 6.1.15 G *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred:

- (1) ~~in securing continuity of long-term insurance; or [deleted]~~
- (2) ~~in safeguarding eligible claimants when insurers are in financial difficulties; or [deleted]~~
- (3) ~~in making payments or giving indemnities under *COMP* 11.2.3R; or [deleted]~~

...

are also treated as *compensation costs*. *Compensation costs* are attributed to the *class* which ~~is responsible for~~ gives rise to the costs. ~~When the *FSCS* imposes a *compensation costs levy* the levy is allocated to the *class* which is responsible for the costs up to relevant *levy limits*. Certain *classes* may be funded, for *compensation costs levies* beyond the *class levy limit*, by the *retail pool*.~~

Participant firms that are members of more than one class

- 6.1.16 G If a *participant firm* is a member of more than one *class*, the total *compensation costs levy* and *specific costs levy* for that *firm* in a particular year will be the



aggregate of the individual levies calculated for the *firm* in respect of each of the *classes* for that year. Each *class* has a *levy limit* which is the maximum amount of *compensation costs* and *specific costs* which may be allocated to a particular *class* in a ~~financial year~~ financial year for the purposes of a levy.

The retail pool

- 6.1.16A G The *FCA* has made *rules* providing that *compensation costs* and *specific costs* attributable to the intermediation *classes*, ~~and~~ the investment provision *class* and the debt management claims *class*, and which exceed the *class levy limits*, may be allocated to the *retail pool*. Levies allocated to the *retail pool* are then allocated amongst the other such *classes*, together with certain *classes* (known as *FCA provider contribution classes*) (see *FEES 6 Annex 5R*). The *FCA provider contribution classes* may contribute to *compensation costs levies* or *specific costs levies* funded by the *retail pool*, but not themselves receive any such funding. The *FCA provider contribution classes* have a different tariff structure to the other *classes*, based either on regulatory costs or the *PRA Rulebook* (see *FEES 6.5A.6R 6 Annex 3AR*).

...

## 6.2 Exemption

- 6.2.1A R (1) Except as set out in (3), a *participant firm* which does not conduct business ~~that could give rise to a protected claim by an eligible claimant~~ in respect of which the *FSCS* may pay compensation and has no reasonable likelihood of doing so is exempt from a *specific costs levy*, or a *compensation costs levy*, or both, provided that:
- ...
- ...
- 6.2.2 R ~~FEES 6.2.1R~~ 6.2.1AR does not apply to a *participant firm* that may be subject to a claim under *COMP 3.2.4R*.
- 6.2.3 G A *participant firm* to which ~~FEES 6.2.2R~~ COMP 3.2.4R applies must report *annual eligible income* in accordance with *FEES 6.5.13R*. Such a *participant firm* may take advantage of the option to report its annual income attributable to business ~~conducted with or on behalf of eligible claimants~~ in respect of which the *FSCS* may pay compensation.
- 6.2.4 R A *participant firm* which is exempt under ~~FEES 6.2.1R~~ 6.2.1AR must notify the *FSCS* in writing as soon as reasonably practicable if the conditions in *FEES 6.2.1R* 6.2.1AR no longer apply.
- 6.2.5 G A *participant firm* to which the conditions in ~~FEES 6.2.1R~~ 6.2.1AR no longer apply will then become subject to *FEES 6.3*.
- 6.2.6 R If a *participant firm* ceases to conduct business that could give rise to a *protected claim* by an *eligible claimant* and notifies the *FSCS* of this under ~~FEES 6.2.1R(1)~~ 6.2.1AR, it will be treated as a *participant firm* to which *FEES*

6.7.6R applies until the end of the ~~financial year~~ financial year of the *compensation scheme* in which the notice was given.

- 6.2.7 G The financial year of the *compensation scheme* is the twelve months ending on 31 March. The effect of FEES 6.2.6R and ~~FEES 6.2.1R(2)~~ 6.2.1AR is that if a *firm* fails to notify FSCS of an exemption under ~~FEES 6.2.1R~~ 6.2.1AR by 31 March it will be treated as non-exempt for the whole of the next ~~financial year~~ financial year.
- 6.2.8 R For the purposes of ~~FEES 6.2.1R~~ 6.2.1AR a *participant firm* will only be exempt from a *specific costs levy* or *compensation costs levy* for any given ~~financial year~~ financial year if it met the conditions in ~~FEES 6.2.1R~~ 6.2.1AR on 31 March of the immediately preceding ~~financial year~~ financial year.

### 6.3 The FSCS's power to impose levies

Imposing management expenses and compensation costs levies

- 6.3.1 R The FSCS may at any time impose a *management expenses levy* or a *compensation costs levy*, provided that the FSCS has reasonable grounds for believing that the funds available to it to meet relevant expenses are, or will be, insufficient, taking into account expenditure already incurred, actual and expected recoveries and:
- (1) in the case of a *management expenses levy*, the level of the FSCS's expected expenditure in respect of those expenses in the ~~financial year~~ financial year of the *compensation scheme* in relation to which the levy is imposed; and
  - (2) ~~in the case of a compensation costs levy relating to claims for protected deposits, the level of the FSCS's expected expenditure in respect of compensation costs in the 12 months immediately following the levy; and~~ [deleted]
  - (3) in the case of a *compensation costs levy* ~~relating to other protected claims;~~ ;
    - (a) the FSCS's expenditure in respect of *compensation costs* expected in the 12 months ~~following the levy~~ of the financial year of the compensation scheme in relation to which the levy is imposed; or, if greater
    - (b) one third of the FSCS's expenditure in respect of *compensation costs* expected in the 36 months following the ~~levy~~ 1 April in the financial year of the compensation scheme in relation to which the levy is imposed.

...

- 6.3.2A G The *FSCS* will usually levy once in each ~~financial year~~ financial year ~~(and in respect of *compensation costs*, for expenditure expected in the 12 months or, if greater, one third of the expenditure expected in the period of 36 months following 1 July in that year)~~. However, if the *compensation costs* or *specific costs* incurred, or expected to be incurred, exceed the amounts held, or reasonably expected to be held, to meet those costs, the *FSCS* may, at any time during the ~~financial year~~ financial year, do one or more of the following:

...

- 6.3.3 G The *FSCS* has committed itself in a Memorandum of Understanding with each of the *FCA* and the *PRA* to publish its policy in respect of levying.

...

#### Imposing a MERS levy

- 6.3.4A R The *FSCS* may at any time impose a *MERS levy* provided that the *FSCS* has reasonable grounds for believing that the funds available to it to meet relevant expenses are or will be sufficient, taking into account relevant expenses incurred or expected to be incurred in the ~~12 months following the date of the levy~~ financial year of the compensation scheme in relation to which the levy is imposed.

#### Limits on compensation costs and specific costs levies on classes

- 6.3.5 R The maximum aggregate amount of *compensation costs* and *specific costs* for which the *FSCS* can levy each *class* ~~(not including the *FCA provider contribution classes*)~~ in any one ~~financial year~~ financial year of the *compensation scheme* is limited to the amounts set out in the table in *FEES 6 Annex 2R*.

[Note: the levy limits for the *FCA provider contribution classes* are set out in *FEES 6 Annex 5R*]

...

#### Management of funds

- 6.3.11 R The *FSCS* must hold any amount collected from a *specific costs levy* or *compensation costs levy* to the credit of the *classes* in accordance with the allocation established under ~~*FEES 6.4.6R*~~ *6.4.6AR* and ~~*FEES 6.5.2R*~~ *6.5.2-AR*.

...

#### Firms acquiring businesses from other firms

- 6.3.22C R (1) This *rule* applies to the calculation of the levies of a *firm* (A) if:
- (a) either:

...

- (ii) A became authorised as a result of B's simple change of legal status (as defined in *FEES* 3 Annex 4 1R Part 6);

...

...

- (3) This *rule* only applies in respect of those ~~financial years~~ *financial years* of the *FSCS compensation scheme* for which A's levies are calculated on the basis of a statement of business under *FEES* 6.5.13R drawn up to a date, or as of a date, before the acquisition or change in legal status took place.

...

#### Levies on the Society of Lloyd's

6.3.24 R The *FSCS* may impose a levy on the *Society* to be calculated as the aggregate of the levies that would be imposed on each *member* if this chapter applied to *members*, as follows:

- (1) a share of the *base costs levy* for each *financial year*; and
- (2) a share of a *specific costs levy* or a *compensation costs levy* allocated to the *insurers – life contribution class* or *insurers – general contribution class* in the *retail pool* in accordance with this chapter.

6.3.25 D The following *core provisions* of the *Act* apply to the carrying on of *insurance market activities* by *members*:

- (1) Part 9A (Rules and guidance) for the purpose of applying the *rules* in *FEES* 6 and relevant interpretative provisions;
- (2) Part XV (Financial Services Compensation Scheme).

[Note: section 316 of the *Act*]

6.3.26 G The *insurance market direction* in *FEES* 6.3.25D is intended to advance the *FCA's* consumer protection objective in section 1C of the *Act* by assisting the *FSCS* to impose a levy on the *Society*, calculated as the aggregate of the levies that would be imposed on *members*, in accordance with *FEES* 6.3.24R. As a result of section 317(2) of the *Act*, references to an *authorised person* in Part XV of the *Act* include a *member*.

## 6.4 Management expenses

...

## Limit on management expenses

- 6.4.2 R The total of all *management expenses levies* (taken together with the management expenses levies under the PRA Rulebook) attributable to a particular period of the *compensation scheme* may not exceed the limit applicable to that period set out in *FEES 6 Annex 1R*.

...

## Base costs levy

- 6.4.5 R Subject to *FEES 6.3.22R*, the *FSCS* must calculate a *participant firm's* share of a *base costs levy* by:

- (1) identifying the *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant ~~financial year~~ financial year of the *compensation scheme*, but has not yet levied, and:
  - (a) ~~allocating 50% of those base costs as the sum to be levied on participants in activity groups A.1, A.3, A.4, A.5 and A.6 (as listed in FEES 4 Annex 1BR); and~~
  - (b) allocating 50% of those ~~base costs~~ base costs as the sum to be levied on participants in all the activity groups listed in *FEES 4 Annex 1AR*;
- (2) calculating the amount of the *participant firm's* ~~regulatory costs~~ regulatory costs as a proportion of the total *regulatory costs* relating to all *participant firms* for the relevant ~~financial year~~ financial year; and
  - (a) ~~if the participant firm belongs to any of the activity groups in (1)(a), imposed by the PRA in respect of those groups; and~~
  - (b) ~~if the participant firm belongs to any of the activity groups in (1)(b), imposed by the FCA in respect of those groups; and~~
- (3) applying the proportion calculated in (2)(a), ~~if any to the sum in (1)(a), and the proportion calculated in (2)(b) (if any) to the sum in (1)(b).~~

- 6.4.5A G ~~The effect of FEES 6.4.5R is that if a participant firm belongs to activity groups in both (1)(a) and (1)(b) of that rule, it will be required to pay a share of the base costs levy in respect of both sets of activity groups. [deleted]~~

- 6.4.5B G The FCA and the PRA each allocate 50% of the base costs in a given financial year of the compensation scheme in accordance with their respective rules.

## Specific costs levy

- 6.4.6A R The *FSCS* must allocate any *specific costs levy*:

...

- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see *FEES* 6 Annex 5 5R), to the *retail pool*, in accordance with and subject to *FEES* 6.5A.

6.4.7A R The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to *FEES* 6.3.22R (Adjustment to calculation of levy shares)) by:

...

- (2) identifying the *management expenses* other than *base costs* which the *FSCS* has incurred, or expects to incur, in the relevant ~~financial year~~ *financial year* of the *compensation scheme*, allocated to the *classes* identified in (1), but not yet levied;
- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see *FEES* 6 Annex 3A 3AR) as a proportion of the total tariff base of all *participant firms* in the *class*, ~~using the statement of business most recently supplied under *FEES* 6.5.13R (but this paragraph is modified for a *specific costs levy* allocated to an *FCA provider contribution class* in the *retail pool* by *FEES* 6.5A.6R);~~

...

#### New participant firms

6.4.8 R A *firm* which becomes a *participant firm* part way through a ~~financial year~~ *financial year* of the *compensation scheme* will not be liable to pay a share of a *specific costs levy* made in that year.

...

6.4.10 G Since a *firm* that becomes a *participant firm* in the course of a ~~financial year~~ *financial year* of the *compensation scheme* will already be obtaining a discount in relation to the *base costs levy* through the modified fee provisions of *FEES* 4.2.6R, no *rule* is necessary in *FEES* 6 for discounts on the *base costs levy*.

...

#### Specific costs levy for newly authorised firms

- 6.4.10A R (1) This *rule* deals with the calculation of:
- (a) a *participant firm's* *specific costs levy* in the ~~financial year~~ *financial year* of the ~~*FSCS*~~ *compensation scheme* following the ~~*FSCS*~~ *financial year* *financial year* of the *compensation scheme* in which it became a *participant firm*; or
- (b) a *participant firm's* *specific costs levy* in the ~~financial year~~ *financial year* of the ~~*FSCS*~~ *compensation scheme* in which it had its *permission* extended, and the following ~~*FSCS*~~ *financial year*

financial year of the compensation scheme; and

- (c) the tariff base for the *classes* that relate to the relevant *permissions* or extensions, as the case may be.

...

- (3) The rest of this *rule* only applies to a *firm* that becomes a *participant firm*, or extends its *permission*, on or after 1 April 2009.

...

- (b) If a *participant firm* satisfies the following conditions it must calculate its tariff base under (c) for the ~~FSCS financial year~~ financial year following the FSCS financial year financial year of the compensation scheme in which it became a participant firm:

(i) ...

- (ii) its tariff base, but for this *rule*, is calculated by reference to the financial year ended in the calendar year ending 31 December or the twelve *months* ending 31 December before the ~~FSCS financial year~~ financial year of the compensation scheme.

- (c) If a *participant firm* satisfies the conditions in (b) it must calculate its tariff base as follows:

(i) ...

- (ii) the tariff is calculated by reference to the period beginning on the date it became a *participant firm* or had its *permission* extended, and ending on the 31 December before the start of the ~~FSCS financial year~~ financial year of the compensation scheme; and

...

...

- (e) Where a *participant firm* is required to use actual data under this *rule*, FEES 6 Annex 3R ~~3AR~~ is disapplied, to the extent it is incompatible, in relation to the calculation of that *participant firm's* valuation date in its second financial year.

#### Application of FEES 6.4.10AR

- 6.4.10B G The table below sets out the period within which a *participant firm's* tariff base is calculated (“the data period”) for second year levies calculated under FEES ~~6.4.10B~~ 6.4.10AR. The example is based on a *participant firm* that extends its *permission* on 1 November 2009 and has a financial year ending 31 March.

References in this table to dates or months are references to the latest one occurring before the start of the *FSCS financial year* financial year of the compensation scheme unless otherwise stated.

Type of permission acquired on 1 November	Tariff base	Valuation date but for <i>FEES</i> <del>6.5.13BR</del> <u>6.4.10AR</u>	Data period under <i>FEES</i> <del>6.5.13bR</del> <u>6.4.10AR</u>
<i>Accepting deposits</i>	Protected deposits	As at 31 December 2009	As at 31 December 2009
<i>Effecting contracts of insurance</i> ( <del>Insurers – general</del> )	<i>Relevant net premium income</i>	<del>The firm's tariff base calculated in the year 2009 – so projected valuation will be used.</del>	1 November to 31 December 2009
<i>Dealing in investments as agent in relation to General Insurance Intermediation</i>	<i>Annual eligible income</i>	Financial year ended 31 March 2009 - so projected valuations will be used.	1 November to 31 December 2009

...

## 6.5 Compensation costs

...

Allocation: ~~all classes except A, B and C~~

6.5.2-A R The *FSCS* must allocate any *compensation costs* levy:

...

- (2) thereafter, where the *levy limit* has been reached (whether as a result of *compensation costs* or *specific costs* or both) for a *class* whose attributable costs may be allocated to the *retail pool* (see *FEES* 6 Annex ~~5R~~), to the *retail pool*, in accordance with, and subject to, *FEES* 6.5A.

...

6.5.6A R The *FSCS* must calculate each *participant firm's* share of a *compensation costs* levy (subject to *FEES* 6.3.22R (Adjustments to calculation of levy shares)) by:

...

- (2) identifying the *compensation costs* falling within ~~*FEES* 6.5.4R~~ 6.3.1R



allocated, in accordance with ~~FEES 6.5.2R~~ 6.5.2-AR, to the *classes* identified in (1);

- (3) calculating, in relation to each relevant *class*, the *participant firm's* tariff base (see ~~FEES 6 Annex 3A~~ 3AR) as a proportion of the total tariff base of all *participant firms* in the *class*, ~~using the statement of business most recently supplied under FEES 6.5.13R (but this paragraph is modified for a compensation costs levy allocated to an FCA provider contribution class in the retail pool by FEES 6.5A.6R);~~

...

Classes and tariff bases for compensation cost levies and specific costs levies

- 6.5.8 G *Guidance* on parts of ~~FEES 6 Annex 3R~~ 3AR can be found in ~~FEES 6 Annex 4G~~.

New participant firms

- 6.5.9 R A *firm* which becomes a *participant firm* part way through a ~~financial year~~ financial year of the *compensation scheme* will not be liable to pay a share of the *compensation costs levy* made in that year.

...

Reporting requirements

- 6.5.13 R (1) Unless exempt under ~~FEES 6.2.1R~~ or ~~FEES 6.2.1AR~~, a *participant firm* must provide the *FSCS* by the end of February each year (or, if it has become a *participant firm* part way through the ~~financial year~~ financial year, by the date requested by the ~~appropriate regulator~~ FCA) with a statement of:
- (a) *classes* to which it belongs; and
  - (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the most recent valuation period (as specified by ~~FEES 6 Annex 3R~~ 3AR (Financial Services Compensation Scheme - classes)) ending before the relevant year in relation to each of those *classes* except the FCA provider contribution classes.
- (2) ...
- (3) ...
- (4) The Society must provide the statement in (1) in relation to the insurers – general contribution class and the insurers – life contribution class.
- 6.5.13A G For example, when the tariff base for a particular *class* is based on a *firm's* *annual eligible income* the valuation period for that *class* is the *firm's* last financial year ending in the year to 31 December preceding the ~~financial year~~

*financial year* of the *FSCS compensation scheme* for which the calculation is being made. ~~In the case of a firm in class A1 (Deposits) its valuation period will be 31 December.~~

- 6.5.14 R If the information in *FEES* 6.5.13R has been provided to the ~~appropriate regulator~~ *FCA* under other *rule* obligations, a *participant firm* will be deemed to have complied with *FEES* 6.5.13R.

...

- 6.5.16 R If a *participant firm* does not submit a complete statement by the date on which it is due in accordance with *FEES* 6.5.13R and any prescribed submission procedures:

- (1) the *firm* must pay an administrative fee of £250 (but not if it is already subject to an administrative fee under *FEES* 4 Annex 2AR, Part 1 or *FEES* 5.4.1R for the same ~~financial year~~ *financial year*); and
- (2) the *compensation costs levy* and any *specific costs levy* will be calculated using (where relevant) the valuation or valuations of business applicable to the previous period, multiplied by the factor of 1.10 (or, if it has become a *participant firm* part way through a ~~financial year~~ *financial year*, on the basis of information provided to the ~~appropriate regulator~~ *FCA* for the purposes of *FEES* 4.4.2R) or on any other reasonable basis, making such adjustments as seem appropriate in subsequent levies once the true figures are known.

...

## 6.5A The retail pool

Allocation of compensation costs levies and specific costs levies through the retail pool

- 6.5A.1 R The *FSCS* must allocate a *compensation costs levy* or *specific costs levy*, which has been allocated to the *retail pool* (under *FEES* 6.5.2-AR(2) or *FEES* 6.4.6AR(2)):

- (1) ...
- (2) in proportion to the relative sizes of the *retail pool* levy limits of the *classes* in (1) and up to those levy limits; and
- (3) in accordance with the table in *FEES* 6 Annex 5 5R.

[**Note:** The *retail pool* levy limits for *classes* other than the *FCA provider contribution classes* are the normal *levy limits* for that *class*. See the table in *FEES* 6 Annex 5 5R for the *retail pool* levy limits for all relevant *classes*.]

Effect of levies under the PRA's rules on insurers and deposit-takers in the retail pool

- 6.5A.2 R (1) An allocation in *FEES* 6.5A.1R to an *FCA provider contribution class*

other than the home finance providers and administrators' contribution *class* may not be of an amount that, if it were added to any levies:

- (a) that correspond to the FCA's compensation costs levies or specific costs levies; and
- (b) which have previously in the same financial year been imposed on the *PRA* funding ~~*class*~~ class which corresponds to that *FCA* provider contribution *class* (as set out in *FEES* 6.5A.7R)<sub>2</sub>

the combined figure would be greater than ~~the *levy limit*~~ any levy limit of the corresponding *PRA* funding ~~*class*~~ class.

(2) Where:

- (a) an *FCA* provider contribution *class* has already contributed to *specific costs* or *compensation costs* (through the *retail pool*) in a financial year; and
- (b) if the amount of that previous contribution by the *class* in (a) were added to a levy that corresponds to the FCA's compensation costs levy or specific costs levy and which is being imposed on the *PRA* funding ~~*class*~~ class which corresponds to the *class* in (a) (and any previous such levies in the same financial year), the combined figure would be greater than ~~the *levy limit*~~ any levy limit of the corresponding *PRA* funding ~~*class*~~ class;

the *FSCS* must, so far as reasonably possible, obtain repayment of the previous contribution by the *class* in (a) from the *retail pool* (including the *FCA* provider contribution *classes* except the *class* in (a)) to the extent that ensures that the combined figure in (b) would no longer be greater than ~~the *levy limit*~~ any levy limit of the corresponding *PRA* funding ~~*class*~~ class, and credit the repayment to the *class* in (a).

(3) ...

[**Note 1:** the home finance providers and administrators' contribution *class* does not have a corresponding *PRA* funding class.]

[**Note 2:** the levy limits for the corresponding *PRA* funding classes are contained in the *PRA Rulebook*.]

- 6.5A.3 G In considering which of the options in *FEES* 6.5A.2R(2)(3) to adopt, the *FSCS* will generally impose a levy, rather than borrow or utilise funds as described in ~~*FEES* 6.5A.2R(2)(c)~~ *FEES* 6.5A.2R(3)(c), unless the latter options appear to be preferable in the specific circumstances prevailing at the relevant time.

How levy limits affect allocation to classes in the retail pool

- 6.5A.4 R ...

...

Calculation of participant firms' shares in levies allocated to classes in the retail pool

- 6.5A.6 R In relation to a ~~specific costs levy or compensation costs levy~~ allocated to an ~~FCA provider contribution class in the retail pool, FEES 6.4.7AR(3) and FEES 6.5.6AR(3), respectively,~~ are replaced by the following: "calculating, in relation to each relevant class, the participant firm's most recent regulatory costs arising from its membership of the corresponding activity group (as listed in FEES 4 Annex 1AR) set out in FEES 6.5A.7R, as a proportion of the total most recent regulatory costs of all participant firms in that activity group arising from their membership of that group;" ~~[deleted]~~
- 6.5A.7 R The corresponding PRA funding classes and corresponding activity groups referred to in FEES 6.5A.2R and FEES 6.5A.6R respectively are as follows: ~~[deleted]~~

<b>FCA provider contribution class</b>	<b>Corresponding PRA funding class</b>	<b>Corresponding activity group</b>
Deposit acceptor's contribution class	Deposits	A.1: Deposit acceptors
Insurers—life contribution class	Life and pensions provision	A.4: Insurers—life
Insurers—general contribution class	General insurance provision	A.3: Insurers—general
Home finance providers and administrators' contribution class	None	A.2: Home finance providers and administrators

## 6.6 Incoming EEA firms

- 6.6.1 R If an incoming EEA firm, which is a ~~CRD credit institution~~, an IMD insurance intermediary, an MCD mortgage credit intermediary or a MiFID investment firm, is a participant firm, the FSCS must give the firm such discount (if any) as is appropriate on the share of any levy it would otherwise be required to pay, taking account of the nature of the levy and the extent of the compensation coverage provided by the firm's Home State scheme.

## 6.7 Payment of levies

### Payments on account by certain firms

- 6.7.-1 R Where a *participant firm* must pay its periodic fees for a *fee year* in accordance with FEES 4.3.6R(1C) to (1E), it must pay its share of any levy made by FSCS for the *financial year* of the *compensation scheme* which is the same as that *fee year* as follows:
- (1) by 1 April an amount equal to 50%, or such lower percentage as the FSCS may determine, of the *participant firm*'s share of the levy payable for the previous *financial year* of the *compensation scheme*; and
  - (2) by 1 September the balance of the levy due from the *participant firm* for the current *financial year* of the *compensation scheme*.

Payments of levy by other firms

- 6.7.1 R A *participant firm* that is not within FEES 6.7.-1R, must pay its share of any levy made by the FSCS:
- (1) in one payment;
  - (2) where the FSCS agrees, quarterly, at the beginning of each quarter, by direct debit agreement.
- 6.7.2 G ~~The amount paid under a direct debit agreement arrangement will be adjusted on a continuous basis to take account of interim levies and other adjustments made during the course of the financial year.~~ [deleted]
- 6.7.3 R A *participant firm*'s share of a levy to which FEES 6.7.1R(1) 6.7.1R applies is due on, and payable within 30 days of, the date when the invoice is issued.

Payments of interim levies

- 6.7.3A R A *participant firm*'s share of any interim levy is due on, and payable within 30 days of, the date when the invoice is issued.
- 6.7.4 R ~~If a *participant firm* does not pay its share of a levy subject to a direct debit arrangement as required by FEES 6.7.1R(2), the entire amount of the levy becomes due and payable to the FSCS, and additional administrative fees are payable at the rate set out in FEES 2.2.1R.~~ [deleted]

Method of payment

- 6.7.5 R A *participant firm* liable to pay its share of the levy under FEES 6.7.-1R, 6.7.1R and 6.7.3R must do so using one of the methods set out in FEES 4.2.4R save that no additional amount or discount is applicable.

Firms ceasing to be a *participant firm*

- 6.7.6 R If a *firm* ceases to be a *participant firm* or carry out activities within one or more *classes* part way through a ~~financial year~~ *financial year* of the *compensation scheme*:

- (1) ...
- (2) the *FSCS* may make one or more levies upon it (which may be before or after the *firm* has ceased to be a *participant firm* or carry out activities within one or more *classes*, but must be before it ceases to be an *authorised person*) for the costs which it would have been liable to pay had the *FSCS* made a levy on all *participant firms* or *firms* carrying out activities within that *class* in the ~~financial year~~ *financial year* it ceased to be a *participant firm* or carry out activities within that *class*.
- ...

6 Annex 2R **Financial Services Compensation Scheme – annual levy limits**

This table belongs to *FEES* 6.3.5R and ~~*FEES* TP 2.5.2R~~

Class	Levy Limit (£ million)
A: Deposits	1,500
B1: General insurance provision	600
B2: General insurance intermediation	300
<del>C1: Life and pensions provision</del>	<del>690</del>
C2: Life and pensions intermediation	100
D1: Investment provision	200
D2: Investment intermediation	150
E2: Home finance intermediation	40
<u>K: Debt management claims</u>	<u>20</u>

6 Annex 3AR **Financial Services Compensation Scheme – classes**

This table belongs to *FEES* 6.4.7AR and *FEES* 6.5.6AR

Class A	Deposits [deleted]
<b>Firms with permission for:</b>	<del><i>accepting deposits and/or operating a dormant account fund. BUT does not include any fee payer who either effects or carries out contracts of insurance.</i></del>
<b>Tariff base</b>	<del>(1) <i>Protected deposits and/or</i></del>

	<del>(2) Protected dormant accounts multiplied by 0.2 as at 31 December. Except where paragraph (4) says otherwise, protected deposits must be adjusted as follows.</del>
	<del>(1) Only include a protected deposit to the extent that an eligible claimant would have a claim in respect of it.</del>
	<del>(2) Exclude any amount in respect of which the FSCS would not pay compensation due to the maximum payment limits in COMP 10.2.</del>
	<del>(3) The tariff base calculation is made on the basis of the information that the firm would have to include in the single customer views it has to be able to produce under COMP 17 (Systems requirements for firms that accept deposits). The information must be of the extent and standard required if the firm was preparing the single customer views as at the valuation date for the tariff base (31 December).</del>
	<del>(4) (a) If this paragraph applies, the adjustments in (1) to (3) do not apply and the calculation is based on protected deposits.</del>
	<del>(b) This paragraph applies with respect to a protected deposit to the extent that, under COMP 17, the firm does not have to identify an eligible claimant with respect to that protected deposit because the account is held by the account holder on behalf of others.</del>
	<del>(c) This paragraph applies with respect to a protected deposit that has been excluded from the single customer view because it is an account that is not active, as defined in COMP 17.2.3R(2).</del>

	General Insurance
<b>Class B1</b>	General Insurance Provision [deleted]
<b>Firms with permission for:</b>	<del>effecting contracts of insurance; and/or</del>
	<del>carrying out contracts of insurance;</del>
	<del>that are general insurance contracts.</del>
<b>Class B2</b>	General Insurance Intermediation
<b>Firms with permission for:</b>	Any of the following in respect of <i>general insurance contracts</i> :
	<i>dealing in investments as agent;</i>
	<i>arranging (bringing about) deals in investments;</i>

	<p><i>making arrangements with a view to transactions in investments;</i></p> <p><i>assisting in the administration and performance of a contract of insurance;</i></p> <p><i>advising on investments;</i></p> <p><i>agreeing to carry on a regulated activity which is within any of the above.</i></p>
<b>Tariff base</b>	<p><del>Class B1: <i>Relevant net premium income</i> and eligible gross technical liabilities. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to <i>relevant net premium income</i>. The tariff base for the second portion (25%) is based on eligible gross technical liabilities.</del></p> <p><del>Eligible gross technical liabilities are calculated in accordance with the method for calculating gross technical liabilities in fee block A3 in part 3 of <i>FEES 4 Annex 1BR</i> with the following adjustments:</del></p> <p><del>(1) Eligible gross technical liabilities are calculated by reference to <i>protected contracts of insurance with eligible claimants</i>.</del></p> <p><del>(2) A <i>firm</i> may choose not to apply paragraph (1) and instead include all gross technical liabilities that it would be obliged to take into account for fee block A3 as long as the amount that it would include under (1) is lower.</del></p> <p><del>(3) If an <i>incoming EEA firm</i> does not report gross technical liabilities in the way contemplated by this table, the <i>firm's</i> gross technical liabilities are calculated in the same way as they would be for a <i>UK firm</i>.</del></p> <p><del>(4) None of the notes for the calculation of fees in fee block A3 in part 3 of <i>FEES 4 Annex 1BR</i> apply except for the purposes of (2).</del></p> <p><del>(5) A <i>directive friendly society</i> must also calculate eligible gross technical liabilities in accordance with this table.</del></p> <p><del>(6) A <i>non-directive friendly society</i> must calculate gross technical liabilities as the amount that it is required to show in FSC 2 – Form 9 line 11 in Appendix 10 of <i>IPRU(FSOC)</i> (assets allocated towards the general insurance business required minimum margin) in relation to the most recent financial year of the <i>firm</i> (as at the applicable reporting date under <i>FEES 6.5.13R</i>) for which the <i>firm</i> is required to have reported that information to the <i>PRA</i> under <i>IPRU(FSOC)</i>. A <i>non-directive friendly society</i> must disregard for this purpose such amounts as are not required to be included by reason of a <i>waiver</i> or a written concession carried forward as an amendment to the <i>rule</i> to which it relates under SUP TP.</del></p>
	<p>Class B2: <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this table <u>box</u>. Annual income is calculated as the sum of (a) and (b):</p>



	<p>(a) the net amount retained by the <i>firm</i> of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the <i>firm</i> in respect of or in relation to <i>class B2</i> activities, including any income received from an <i>insurer</i>; and</p> <p>(b) if the <i>firm</i> is an <i>insurer</i>, in relation to <i>class B2</i> activities, the amount of <i>premiums</i> receivable on its <i>contracts of insurance</i> multiplied by 0.07, excluding those <i>contracts of insurance</i> which result from <i>class B2</i> activities carried out by another <i>firm</i>, where a payment has been made by the <i>insurer</i> to that other <i>firm</i> and that payment is of a type that falls under (a).</p> <p>Notes relating to the calculation of the tariff base for <i>class B2</i>:</p> <p>(1) Exclude annual income for <i>pure protection contracts</i>. Only include <i>general insurance contracts</i>.</p> <p>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(3) Net amount retained means all the commission, fees, etc. in respect of <i>class B2</i> activities that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.</p> <p>(4) <i>Class B2</i> activities mean activities that fall within <i>class B2</i>. They also include activities that now fall within <i>class B2</i> but that were not <i>regulated activities</i> when they were carried out.</p> <p>(5) A reference to a <i>firm</i> also includes a reference to any <i>person</i> who carried out activities that would now fall into <i>class B2</i> but which were not at the time <i>regulated activities</i>.</p>
	<b>Life and Pensions</b>
<b>Class C1</b>	<del>Life and Pensions Provision</del> [deleted]
<b>Firms with permission for:</b>	<del>effecting contracts of insurance; and/or</del>
	<del>carrying out contracts of insurance;</del>
	<del>that are long term insurance contracts (including pure protection contracts).</del>
<b>Class C2</b>	Life and Pensions Intermediation
<b>Firms with permission for:</b>	Any of the following:
	<i>dealing in investments as agent;</i>
	<i>arranging (bringing about) deals in investments;</i>

	<p><i>making arrangements with a view to transactions in investments;</i></p> <p><i>assisting in the administration and performance of a contract of insurance;</i></p> <p><i>advising on investments;</i></p> <p><i>advising on pension transfers and pension opt-outs;</i></p> <p><i>basic advice;</i></p> <p><i>agreeing to carry on a regulated activity which is within any of the above;</i></p> <p>in relation to any of the following:</p> <p><i>long-term insurance contracts (including pure protection contracts);</i></p> <p>rights under a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i>.</p>
<b>Tariff base</b>	<p><del>Class C1: Relevant net premium income and eligible mathematical reserves. The levy is split into two in the ratio 75:25. The tariff base for the first portion (75%) is calculated by reference to relevant net premium income. The tariff base for the second portion (25%) is based on mathematical reserves.</del></p> <p>Eligible mathematical reserves are calculated in accordance with the method for calculating mathematical reserves in fee block A4 in part 3 of FEES 4 Annex 1BR with the following adjustments:</p> <p>(1) Eligible mathematical reserves are calculated by reference to <i>protected contracts of insurance with eligible claimants</i>.</p> <p>(2) A firm may choose not to apply paragraph (1) and instead include all mathematical reserves that it would be obliged to take into account for fee block A4 as long as the amount that it would include under (1) is lower.</p> <p>(3) If an <i>incoming EEA firm</i> does not report mathematical reserves in the way contemplated by this table, the <i>firm's</i> mathematical reserves are calculated in the same way as they would be for a <i>UK firm</i>.</p> <p>(4) None of the notes for the calculation of fees in fee block A4 in part 3 of apply except for the purposes of (2).</p> <p>(5) A <i>directive friendly society</i> must also calculate eligible mathematical reserves in accordance with this table.</p> <p>(6) A <i>non-directive friendly society</i> must calculate mathematical reserves as the amount that it is required to show in FSC 2 – Form 9 line 23 in Appendix 10 of <i>IPRU(FSOC)</i> (total mathematical</p>

	<p>reserves after distribution of surplus) in relation to the most recent financial year of the <i>firm</i> (as at the applicable reporting date under <i>FEES</i> 6.5.13R) for which the <i>firm</i> is required to have reported that information to the <i>PRA</i> under <i>IPRU(FSOC)</i>. A <i>non-directive friendly society</i> must disregard for this purpose such amounts as are not required to be included by reason of a <i>waiver</i> or a written concession carried forward as an amendment to the <i>rule</i> to which it relates under SUP TP.</p> <p>(7) The provisions relating to pension fund management business in Part 2 of <i>FEES</i> 4 Annex 1BR do not apply. A <i>firm</i> undertaking such business that does not carry out any other activities within <i>class C1</i> (ignoring any activities that would have a wholly insignificant effect on the calculation of its tariff base for <i>class C1</i>) must use its Long-term insurance capital requirement instead of gross technical liabilities. The Long-term insurance capital requirement means the amount that it is required to show as its Long-term insurance capital requirement in Form 2 Line 31 (Statement of solvency – Long-term insurance business) in relation to the most recent financial year of the <i>firm</i> (as at the applicable reporting date under <i>FEES</i> 6.5.13R) for which the <i>firm</i> is required to have reported that information to the <i>PRA</i>.</p> <p>(8) The split in the levy between <i>relevant net premium income</i> and eligible mathematical reserves does not apply to a partnership pension society (as defined in Chapter 7 of <i>IPRU(FSOC)</i> (Definitions)). Instead the levy is only calculated by reference to <i>relevant net premium income</i>.</p>
	<p>Class C2: <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this <u>table box</u>. Annual income is calculated as the sum of (a) and (b):</p> <p>(a) the net amount retained by the <i>firm</i> of all brokerages, fees, commissions and other related income (for example, administration charges, overrides and profit shares) due to the <i>firm</i> in respect of or in relation to <i>class C2</i> activities including any income received from an <i>insurer</i>; and</p> <p>(b) if the <i>firm</i> is a life and pensions <i>firm</i>, in relation to <i>class C2</i> activities, the amount of <i>premiums</i> or commission receivable on its life and pensions contracts multiplied by 0.07, excluding those life and pensions contracts which result from <i>class C2</i> activities carried out by another <i>firm</i>, where a payment has been made by the life and pensions <i>firm</i> to that other <i>firm</i> and that payment is of a type that falls under (a).</p> <p>Notes relating to the calculation of the tariff base for <i>class C2</i>:</p> <p>(1) Life and pensions contracts mean <i>long-term insurance contracts</i> (including <i>pure protection contracts</i>) and rights under a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i>.</p> <p>(2) Life and pensions <i>firm</i> means an <i>insurer</i>. It also means a <i>firm</i></p>

	<p>that provides <i>stakeholder pension schemes</i> or <i>personal pension schemes</i> if those activities fall into <i>class D1</i>.</p> <p>(3) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(4) Net amount retained means all the commission, fees, etc. in respect of <i>class C2</i> activities that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example, employees' salaries and overheads) must not be deducted.</p> <p>(5) <i>Class C2</i> activities mean activities that fall within <i>class C2</i>. They also include activities that now fall within <i>class C2</i> but that were not <i>regulated activities</i> when they were carried out.</p> <p>(6) A reference to a <i>firm</i> also includes a reference to any <i>person</i> who carried out activities that would now fall into <i>class C2</i> but which were not at the time <i>regulated activities</i>.</p>
	<b>Investment</b>
...	
<b>Class D2</b>	Investment intermediation
<b>Firms with permission for:</b>	<u><i>intermediation of structured deposits (except for managing investments in relation to structured deposits); and/or</i></u>
	Any of the following in relation to <i>designated investment business</i> :
	<i>dealing in investments as principal;</i>
	<i>dealing in investments as agent;</i>
	<i>MiFID business bidding;</i>
	<i>arranging (bringing about) deals in investments;</i>
	<i>making arrangements with a view to transactions in investments;</i>
	<i>advising on investments;</i>
	<i>basic advice;</i>
	<i>safeguarding and administering investments;</i>
	<i>arranging safeguarding and administering of assets;</i>
	<i>operating a multilateral trading facility;</i>
<i>agreeing to carry on a regulated activity which is within any of the above;</i>	

	BUT excluding activities that relate to <i>long-term insurance contracts</i> or rights under a <i>stakeholder pension scheme</i> or a <i>personal pension scheme</i> .
<b>Tariff base</b>	<p>Class D1: <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this <u>table box</u>. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>class D1</i>.</p> <p>Class D2 <u>except in respect of direct sales of structured deposits</u>: <i>annual eligible income</i> where <i>annual eligible income</i> means annual income adjusted in accordance with this <u>table box</u>. Annual income is equal to the net amount retained by the <i>firm</i> of all income due to the <i>firm</i> in respect of or in relation to activities falling within <i>class D2</i>.</p> <p>Notes on <i>annual eligible income</i> for <i>classes D1 and D2</i> (<u>except in respect of direct sales of structured deposits</u>):</p> <p>(1) For the purposes of calculating annual income, net amount retained means all the commission, fees, etc. in respect of activities falling within <i>class D1</i> or <i>D2</i>, as the case may be, that the <i>firm</i> has not rebated to customers or passed on to other <i>firms</i> (for example, where there is a commission chain). Items such as general business expenses (for example employees' salaries and overheads) must not be deducted.</p> <p>(2) The calculation is adjusted in accordance with the definition of <i>annual eligible income</i>.</p> <p>(3) Box management profits are excluded from the calculation of annual income.</p> <p><u>Class D2 in respect of direct sales of structured deposits: the tariff base for Class A (DGS members) set out in the Depositor Protection part of the PRA Rulebook, but only to the extent that it:</u></p> <p><u>(a) relates to structured deposits accepted in the firm's last financial year ended in the year to 31 December preceding the date for submission of the information under FEES 6.5.13R attributable to that class; and</u></p> <p><u>(b) multiplied by 0.07.</u></p>

	Home Finance
<b>Class E2</b>	Home Finance Intermediation
<b>Firms with permission</b>	<p>Any of the following activities:</p> <p><i>arranging (bringing about) a home finance transaction;</i></p>

<b>for:</b>	<i>making arrangements with a view to a home finance transaction;</i>
	<i>advising on home finance transaction;</i>
	the activities of a <i>home finance provider</i> which would be arranging but for article 28A of the <i>Regulated Activities Order</i> (Arranging contracts or plans to which the arranger is a party);
	<i>agreeing to carry on a regulated activity</i> which is within any of the above.
<b>Tariff base</b>	Class: E2: annual <i>eligible income</i> where the annual income is calculated in accordance with the fee-block A18 in part 2 of <i>FEES 4 Annex 1AR</i> .
<b>Class F</b>	<b>Deposit acceptor's contribution</b>
<b>Firms with permission for:</b>	<i>accepting deposits</i> and/or <i>operating a dormant account fund</i> . BUT does not include any fee payer who either effects or carries out <i>contracts of insurance</i> .
<b><u>Tariff base</u></b>	<u>The tariff base for Class A (DGS members) in the Depositor Protection part of the <i>PRA Rulebook</i>.</u>
<b>Class G</b>	<b>Insurers – life contribution</b>
<b>Firms with permission for:</b>	<i>effecting contracts of insurance</i> ; and/or
	<i>carrying out contracts of insurance</i> ;
	<u>in respect of specified investments including <i>life policies</i> that are <i>long term insurance contracts (including pure protection contracts)</i>;</u>
	<i>entering as provider into a funeral plan contract</i> .
<b><u>Also includes:</u></b>	<u>the <i>Society</i></u>
<b><u>Tariff base</u></b>	<p><u>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</u></p> <p><u>(a) that tariff base applied to each <i>member</i> in respect of their <i>insurance business</i> in relation to <i>long-term insurance contracts (including pure protection contracts)</i>; and</u></p> <p><u>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</u></p> <p><u>For all other <i>participant firms</i>, the tariff base for Insurance Class C1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</u></p>

<b>Class H</b>	<b>Insurers – general contribution</b>
<b>Firms with permission for:</b>	<i>effecting contracts of insurance; and/or</i>
	<i>carrying out contracts of insurance;</i>
	<i>in respect of <del>specified investments</del> that are: –general insurance contracts; <del>or</del> –<del>long-term insurance contracts other than life policies.</del></i>
<b>Also includes:</b>	<i>the Society</i>
<b><u>Tariff base</u></b>	<p>For the <i>Society</i>, the aggregate of the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i> that would apply to each <i>member</i> if:</p> <p>(a) that tariff base applied to each <i>member</i> in respect of their <i>insurance business</i> in relation to <i>general insurance contracts</i>; and</p> <p>(b) all references to “firm” or “participant firm” in the Policyholder Protection part of the <i>PRA Rulebook</i> were read as referring to the <i>member</i>.</p> <p>For all other <i>participant firms</i>, the tariff base for Insurance Class B1 in the Policyholder Protection part of the <i>PRA Rulebook</i>.</p>
<b>Class I</b>	<b>Home finance provision</b>
<b>Firms with permission for:</b>	Any of the activities below:
	<i>entering into a home finance transaction;</i>
	<i>administering a home finance transaction;</i>
	<i>agreeing to carry on a regulated activity which is within any of the above.</i>
<b><u>Tariff base</u></b>	The number of <i>home finance transactions</i> , calculated in accordance with the tariff base for fee-block A2 in part 2 of <i>FEES 4 Annex 1AR</i> .
<b>Class K</b>	<b><u>Debt management claims</u></b>
<b><u>Firms with permission for:</u></b>	<i>Any of the following except if held under a limited permission:</i>
	<i>debt adjusting and/or debt counselling, in each case in relation to protected debt management business except where these activities are carried on by a not-for-profit debt advice body;</i>
	<i>entering into a regulated credit agreement as lender;</i>

	<u>exercising, or having the right to exercise, the lender’s rights and duties under a regulated credit agreement.</u>
<b><u>Tariff base</u></b>	<p><u>For debt adjusting and debt counselling: annual debts under management being the annual total value of the participant firm’s relevant debts under management.</u></p> <p><u>For all other participant firms in this class: annual lending being the annual total amount provided under all regulated credit agreements in respect of which the participant firm is the lender or exercises, or has the right to exercise, the lender’s rights and duties under such agreements.</u></p>

<b><u>Notes for all classes</u></b>
...
<p>(3) The question of whether a person is an <i>eligible claimant</i> or not <del>or whether a contract of insurance is a protected contract or not</del> or whether business is compensatable business or not must be judged at whichever of the following dates the firm chooses:</p> <p>...</p> <p><del>However this does not apply for the purpose of calculating the tariff base for class A (Deposits) so far as it relates to protected deposits.</del></p>
<p>(4) For classes G to I (inclusive) the tariff base is not set out in this Annex: see FEES 6.4.7R(3), FEES 6.5.6R(3) and FEES 6.5A.6R</p>

**6 Annex 4G Guidance on the calculation of tariff bases**

This table belongs to FEES 6.5.8G

<b>Calculation of annual eligible income for firms in class D1 who carry out discretionary fund management and are in FCA fee block A7</b>		
-1.1 <del>[FCA]</del>	G	<p>The tariff base for class D1 is calculated by taking gross income falling into class D1 and then deducting commission, fees and similar amounts rebated to customers or passed on to other firms (for example, where there is a commission chain). Items such as general business expenses (for example employees’ salaries and overheads) should not be deducted. The calculation <del>should</del> <u>may</u> be further adjusted so as to <del>exclude</del> <u>include only</u> income that is <del>not</del> <u>attributable to business conducted with or for the benefit of eligible claimants in respect of which the FSCS may pay compensation</u>, unless the firm chooses to include <del>such</del> <u>all its annual</u> income.</p>



1.1 {FCA}	G	Gross income for the activity of <i>managing investments</i> is the sum of the following:
		(1) the amount of the annual charge on all assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in the latest accounting period (this is calculated as a percentage of funds invested, typically 1% p.a.); plus
		(2) the front-end or exit charge levied on sales or redemptions of assets in portfolios which the <i>firm</i> manages on a discretionary basis (typically 4-5% of sales/redemptions) in that same accounting period; plus
		(3) the amount of performance management fees from the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis received or receivable in that same accounting period; plus
		(4) any other income directly attributable to the management of assets in portfolios which the <i>firm</i> manages on a discretionary basis in that same accounting period, including commission and interest received.
1.2 {FCA}	G	<i>Annual eligible income</i> should exclude
		income received or receivable from assets managed on a non-discretionary basis, being assets that the <i>firm</i> has a contractual duty to keep under continuous review but in respect of which prior specific consent of the client must be obtained for proposed transactions, as this activity is covered in <i>class D2</i> (the investment intermediation <i>class</i> ).
1.3 {FCA}	G	A <i>firm</i> should make appropriate arrangements to ensure that income is not double counted in relation to the activities it undertakes (for example, where it operates and manages a <i>personal pension scheme</i> or <i>collective investment scheme</i> ).
<b>Calculation of annual eligible income for firms in sub-class D1 and who carry out activities within FCA FCA fee block A9</b>		
2.1 {FCA}	G	The calculation of income in respect of activities falling into <i>class D1</i> and <i>FCA</i> fee block A9 should be based on the tariff base provisions for that fee block (in Part 3 of <i>FEES 4 Annex 1AR</i> ). It <del>should</del> <u>may</u> be adjusted so as to <del>exclude</del> <u>include only</u> income that is <del>not</del> <u>attributable to business conducted with or for the benefit of eligible claimants in respect of which the FSCS may pay compensation</u> , unless the <i>firm</i> chooses to include <del>such</del> <u>all its annual</u> income.
2.2 {FCA}	G	Although the calculation should be based on the one for fee block A9, the calculation is not the same. <i>FCA</i> fee block A9 is based on gross income. <i>Class D1</i> is based on net income retained.

Calculation of annual eligible income for a firm in class B2 or class C2		
3.1 {FCA}	G	The amount of <i>annual eligible income</i> should include the amount of any trail or renewable commission due to the <i>firm</i> . Trail commission is received as a small percentage of the value of a policy on an ongoing basis. Renewable commission is received from a very small percentage of the value of a policy from ongoing premiums often received once the initial commission period is over.
Difficulties in calculating annual eligible income		
4.1 {FCA}	G	The purpose of Note 2 in the section of notes at the end of <del>FEES</del> <i>FEES</i> 6 Annex <del>3R</del> <i>3AR</i> (Financial Services Compensation Scheme - classes) is to deal with the practical difficulties of allocating income correctly between different <i>classes</i> and in deciding whether income falls outside <del>FEES</del> <i>FEES</i> 6 Annex <del>3R</del> <i>3AR</i> altogether. Note 2 requires a <i>firm</i> to carry out the necessary apportionment on a reasonable and consistent basis.
4.2 {FCA}	G	The following provides some <i>guidance</i> as to how <i>firms</i> may approach the allocation of <i>annual eligible income</i> .
4.3 {FCA}	G	Where a <i>firm</i> cannot separate its income on the basis of activities, such as a fund manager which acts on a discretionary and non-discretionary basis for the same <i>client</i> and who only sends out a single invoice, the <i>firm</i> may apportion the income in another way. For instance, a <i>firm</i> may calculate that the business it undertook for a <i>client</i> was split 90% on a discretionary basis and 10% on a non-discretionary basis calculated by reference to funds under management. The <i>firm</i> may split the income accordingly.
4.4 {FCA}	G	A <i>firm</i> may allocate trail or renewable commission on the basis of the type of <i>firm</i> it receives it from. For instance, if it comes from a life provider the <i>firm</i> may consider it as life and pensions mediation income. If it comes from a fund manager the <i>firm</i> may treat it as investment mediation income.
4.5 {FCA}	G	If a <i>firm</i> receives <i>annual eligible income</i> from a platform based business it may report <i>annual eligible income</i> in line with the proportionate split of business that the <i>firm</i> otherwise undertakes. For instance, if a <i>firm</i> receives 70% of its other commission from life and pensions mediation business and 30% from investment mediation business, then it may divide what it receives in relation to the platform business on the same basis.
<u>4.5A</u>	<u>G</u>	<u><i>Firms</i> should have regard to the ability of the <i>FSCS</i> to pay compensation to members of pension schemes and to <i>participants in collective investment schemes</i> (see <i>COMP 12A</i> (Special cases)) when calculating their <i>annual eligible income</i>.</u>

4.6 {FCA}	G	Unless a <i>firm</i> chooses to include all relevant annual income, <i>annual eligible income</i> excludes business that is not compensatable under the <i>compensation scheme</i> . This can create difficulties because, for example, a <i>person</i> may move between being and not being an <i>eligible claimant</i> over time. The purpose of Note 3 in the section of notes at the end of <i>FEES 6 Annex 3R 3AR</i> is to deal with that difficulty by fixing a date for deciding this.
<b>Gross technical liabilities and mathematical reserves for non-directive friendly societies</b>		
5.1 {PRA}	G	<del>The tariff base for a <i>non-directive friendly society</i> carrying out general insurance business is based in part on gross technical liabilities and the tariff base for a <i>non-directive friendly society</i> carrying out life insurance business is based in part on mathematical reserves. These concepts do not directly apply to <i>non-directive friendly societies</i> and so the tariff base calculation uses a corresponding concept.</del>
5.2 {PRA}	G	<del>The figures for gross technical liabilities and mathematical reserves of a <i>non-directive friendly society</i> for the purpose of calculating its tariff base in <i>class B1</i> (General Insurance Provision) and <i>C1</i> (Life and Pensions Provision) are based on a valuation. This valuation only has to be made every three years. <i>FEES 6</i> does not require a <i>non-directive friendly society</i> to update that information every year. Instead the figures from a <i>non-directive friendly society's</i> valuation will be used on a rolling three year basis for the purposes of the levy calculations in <i>FEES 6</i>. The effect of this calculation is therefore to modify the normal basis on which information is supplied under <i>FEES 6.5.13R</i>.</del>

## 6 Annex 5R Classes participating in the retail pool and applicable limits

This table belongs to *FEES 6.5A.1R*.

Class	Attributable costs for this class in excess of levy limit allocated to the retail pool?	Retail pool levy limit (£ million)	Retail pool compensation costs levy or specific costs levy allocated to this class?
<b>FCA provider contribution classes</b>			
[Note: The <i>FCA provider contribution classes</i> contribute to a <i>compensation costs levy</i> or <i>specific costs levy</i> allocated to the <i>retail pool</i> , unless the <i>compensation costs</i> or <i>specific costs</i> are attributable to the investment provision <i>class</i> . <i>Compensation costs</i> or <i>specific costs</i> attributable to the corresponding <i>PRA funding classes</i> are never allocated to the <i>retail pool</i> ]			
...			

<b>Classes that both contribute to and are funded by the retail pool</b>			
[ <del>Note</del> Note: ...]			
...	Yes, under <del>FEES 6.5.2AR(2)</del> <u>6.5.2-AR(2)</u> (but costs attributable to the investment provision <i>class</i> cannot be allocated to the <i>FCA provider contribution classes</i> )	...	...
...			
...			
...			
...			
<u>Debt management claims</u>			

...

**TP 2 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8 and in 2008/9**

...			
<b>2.4</b>	<b>Allocation of recoveries</b>		
2.4.1 [ <del>FCA</del> ] [ <del>PRA</del> ]	R	Any recoveries made by the <i>FSCS</i> after 31 March 2008 in relation to <i>protected claims</i> compensated prior to 1 April 2008, the costs of which were allocated to the relevant contribution group in place at the time, must be credited to the <i>sub-class</i> in place after 31 March 2008 to which the costs of the <i>protected claim</i> would have been allocated had it been compensated after that date, or if relevant, in accordance with <i>FEES</i> 6.3.20R.	
2.4.2 [ <del>FCA</del> ] [ <del>PRA</del> ]	R	<i>FEES</i> TP 2.4.1R does not apply to the extent that it is inconsistent with the <i>compensation transitionals order</i> .	
<b>2.5</b>	<b>Interpretation</b>		
2.5.1 [ <del>FCA</del> ] [ <del>PRA</del> ]	R	In <i>FEES</i> TP 2 ‘contribution group’ means one of the groups of participant firms within a sub-scheme in existence prior to 1 April 2008 set out in <i>FEES</i> 6.5.7R at the time, being groups that carried on business of a similar nature, to which <i>compensation costs</i> and <i>specific costs</i> were allocated in accordance with <i>FEES</i> 6.4 and <i>FEES</i> 6.5 in force at the time. Sub-scheme means one of the sub-schemes to which <i>FSCS</i> allocated liabilities for <i>compensation costs</i> prior to 1 April 2008, as described in <i>FEES</i> 6.5.7R at the time.	

2.5.2 [FCA] [PRA]	R	<p>For the purpose of <i>FEES</i> 6.5.13R as it applies with respect to the <del>FSCS's financial year</del> <i>financial year of the compensation scheme</i> beginning on 1 April 2008:</p> <p>(1) references in <i>FEES</i> 6.5.13R to <i>sub-classes</i> must be read as references to <i>sub-classes</i> to which <i>firms</i> will belong after 31 March 2008; and</p> <p>(2) (where <i>FEES</i> TP provides for the tariff base for a <i>sub-class</i> to be calculated by reference to a contribution group prior to that date) <i>FEES</i> 6.5.13R(1) must be read as also including a requirement for the supply of the necessary information in relation to that contribution group.</p>
2.5.3 [FCA] [PRA]	R	<p>The amendments made to <i>FEES</i> 6.5.16R by the Fees Manual (FSCS Funding) Instrument 2007 only have effect before 1 April 2008 for the purpose of <del>FSCS's financial year</del> <i>the financial year of the compensation scheme</i> beginning on 1 April 2008.</p>
2.5.4 [FCA] [PRA]	G	<p><i>FEES</i> 6 Annex 2R and <i>FEES</i> 6 Annex 3R (<i>classes, sub-classes</i> and tariff bases) are brought into force for the purpose of <i>FEES</i> TP and <i>FEES</i> 6.5.13R in November 2007. However they do not have any other effect until 1 April 2008.</p>
<b>2.6</b>	<b>Past defaults</b>	
2.6.1 [FCA] [PRA]	G	<p>The changes made to the <i>levy rules</i> made by the Fees Manual (FSCS Funding) Instrument 2007 apply to any levy made after 31 March 2008. This is so even if:</p> <p>(1) the claim against the <i>firm in default</i> arose or relates to circumstances arising before that date; <u>or</u></p> <p>(2) the <i>firm</i> was <i>in default</i> before that date; <del>or</del> <u>or</u></p> <p>(3) <del>the levy relates to arrangements or measures under COMP 3.3 made or taken before that date. [deleted]</del></p>
...		

...

**TP 7 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2013/14**

7.1 <del>[FCA]</del> <del>[PRA]</del>	R	As at 31 March 2013, the <i>FSCS</i> must:	
		(1)	allocate any surplus or deficit in the balance of an <i>FSA</i> activity group in respect of <i>base costs</i> , to the account of the corresponding <i>FCA</i> activity group as listed in <i>FEES</i> 4 Annex 1AR as at 1 April 2013; and
		(2)	take that surplus or deficit (so allocated) into account when calculating the amount to be levied under <i>FEES</i> 6.4.5R in respect of the <del>financial year</del> <i>financial year of the compensation scheme</i> commencing on 1 April 2013.
7.2 <del>[FCA]</del>	R	For the purpose of <i>FEES</i> 6.5A.6R, ' <i>FEES</i> 4 Annex 1AR' must be read as ' <i>FEES</i> 4 Annex 1R' (as it was in force immediately before 1 April 2013) until the <i>regulatory costs</i> arising from the activity group in <i>FEES</i> 4 Annex 1AR have been determined. The <i>FSCS</i> may recalculate the liabilities once the <i>regulatory costs</i> arising from the activity group in <i>FEES</i> 4 Annex 1AR have been determined and credit or debit <i>participant firms</i> as appropriate.	

Insert the new TP 18.3 after FEES TP 18.2 in FEES TP 18 (Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19).

**TP 18 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2018/19**

(1)	(2) Material to which the transitional provision applies	(3)	(4) Transitional provision	(5) Transitional provision: dates in force	(6) Handbook provisions coming into force
...	...	...	...	...	...
<u>18.3</u>	<u>The changes made to <i>FEES</i> 6 by the Financial Services Compensation Scheme (Funding and Scope) Instrument 2017</u>	<u>R</u>	<u>The changes in column (2) apply to any levy made after 31 March 2018. This is so even if:</u>  <u>(1) the claim against the <i>relevant person</i> or <i>successor in default</i> arose or relates to circumstances arising before that date; or</u>  <u>(2) the <i>relevant person</i> or <i>successor</i> was <i>in default</i> before that date.</u>	<u>From 1 April 2018 indefinitely</u>	<u>1 April 2018</u>

## Annex C

## Amendments to the Supervision manual (SUP)

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

## 13A Qualifying for authorisation under the Act

...

13A Application of the Handbook to Incoming EEA Firms  
Annex 1G

...

(1) Module of Handbook	(2) Potential application to an incoming EEA firm with respect to activities carried on from an establishment of the firm (or its appointed representative) in the United Kingdom	(3) Potential application to an incoming EEA firm with respect to activities carried on other than from an establishment of the firm (or its appointed representative) in the United Kingdom
...		
COMP	Applies, except in relation to the <i>passported activities</i> of a <i>MiFID investment firm</i> , a <del>CRD credit institution</del> (other than an electronic money institution within the meaning of article 1(3)(a) of the <i>E Money Directive</i> that has the right to benefit from the mutual recognition arrangements under the <del>CRD</del> ), an <i>IMD insurance intermediary</i> , a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i> , an <i>MCD mortgage credit intermediary</i> and an incoming <i>AIFM branch</i> carrying on either <i>AIFM management functions</i> for an <i>unauthorised AIF</i> or non-core services under article 6.4 of <i>AIFMD</i> (see the definition of “ <i>participant firm</i> ”). However, a <i>firm</i> specified above may be able to apply for <i>top-up</i>	Does not apply in relation to the <del>passported activities</del> <u>passported activities</u> of an a <i>MiFID investment firm</i> , a <del>CRD credit institution</del> , an <i>IMD insurance intermediary</i> , an <i>MCD mortgage credit intermediary</i> or a <i>UCITS management company</i> carrying on non-core services under article 6.3 of the <i>UCITS Directive</i> or an <i>incoming EEA AIFM</i> regarding <i>AIFM management functions</i> carried on for an <i>unauthorised AIF</i> or non-core services under article 6.4. <u>Applies in relation to the <i>passported activities</i> of</u>

	cover in relation to its <i>passport</i> activities (see <i>COMP</i> 14 (Participation by EEA Firms)).	<u>a UCITS management company in relation to the management of a UCITS scheme and of an AIFM in relation to the management of an authorised AIF.</u> Otherwise, <i>COMP</i> may apply, but the coverage of the <i>compensation scheme</i> is limited for non-UK activities (see <i>COMP</i> 5).
...		

SUP 16 Annex 18AR (Section J: data required for calculation of fees) is deleted and replaced with the text shown on the following pages. The deleted text is not shown and the new text is not shown underlined.



**Section J: Data required for the calculation of fees**

Part 1

		A	B	C
		FCA	FOS	FSCS
		Annual Income	Relevant Annual Income	Annual Eligible Income
		(£s)	(£s)	(£s)
<b>1</b>	Home Finance Intermediation	FEES 4 Annex 1AR Part 3, fee block A.18	FEES 5 Annex 1R, industry block 16	FEES 6 Annex 3AR Class E2
<b>2</b>	General Insurance Distribution	FEES 4 Annex 1AR Part 3, fee block A.19	FEES 5 Annex 1R, industry block 17	FEES 6 Annex 3AR Class B2
<b>3</b>	Life Distribution and Pensions Intermediation	FEES 4 Annex 1AR Part 3, fee block A.13	Annual income as applied in relation to the equivalent activity groups set out in Part 1 of FEES 4 Annex 1R in respect on industry blocks 8 and 9	FEES 6 Annex 3AR Class C2
<b>4</b>	Investment Intermediation	FEES 4 Annex 1AR, Part 3, fee block A.13	Annual income as applied in relation to the equivalent activity groups set out in Part 1 of FEES 4 Annex 1R in respect of industry blocks 8 and 9	FEES 6 Annex 3AR Class D2

Part 2

**5. Do you carry on a regulated activity relating to the offer or sale to or purchase by or on behalf of clients of one or more enhanced reporting investments?**

[Yes / No]

**6. If the answer to question 5 is yes, please state below**

- how much of your annual income reported in 3A (life and pensions intermediation) or 4A (investment intermediation) in Part 1 of this section derives from business you have carried out in respect of each category of enhanced reporting investments (as applicable), and
- in respect of each category of enhanced reporting investment (as applicable), the number of clients with, for, or in respect of whom you have carried out the business which has generated the annual income:

<b>Enhanced reporting investment</b>	<b>Annual income (per single unit of currency)</b>	<b>No. of clients</b>

Amend the following as shown.

**16**            **Notes for Completion of the Retail Mediation Activities Return ('RMAR')**  
**Annex**  
**18BG**

...

**Section J: Data required for calculation of fees**

Part 1

...

This information is required so that we can calculate the fees payable by *firms* in respect of the *FCA*, *FOS* and the *FSCS*.

<b>Data for fees calculations</b>	<i>Firms</i> will need to report data for the purpose of calculating <i>FCA</i> , <i>FOS</i> and <i>FSCS</i> levies
...	...
FSCS	The relevant information required is the tariff data set out in classes B2, C2, D2 and E2, <i>FEES 6 Annex <del>3R</del> 3AR</i> . Note that <i>firms</i> are required to report tariff data information relating to all business falling within classes B2, C2, D2 and E2, <i>FEES 6 Annex <del>3R</del> 3AR</i> .

*Personal investment firms* and *firms* whose regulated activities are limited to one or more of: *insurance mediation activity*, *home finance mediation activity*, or *retail investment activity*, are required to complete Part 1, section J of the *RMAR*.

Part 2

*Firms* submitting section J are required to identify in Part 2 how much of the annual income reported in 3A (life distribution and pensions intermediation) or 4A (investment intermediation) in Part 1 is earned from carrying on regulated activities relating to the offer or sale to or purchase by or on behalf of clients of enhanced reporting investments, broken down by category of enhanced reporting investments and by number of clients. A category of enhanced reporting investment is a type of investment listed in COBS 9.3.5G(1).

For example, say a firm has earned £5,000 from arranging deals in units in qualified investor schemes on behalf of 26 investors. It has also earned £400 from advising two clients to purchase unlisted shares. Units in qualified investor schemes are a type of non-mainstream pooled investment, while the unlisted shares in this example are non-readily realisable securities. Accordingly, the firm would report:

<b><u>Enhanced reporting investment</u></b>	<b><u>Annual income (per single unit of currency)</u></b>	<b><u>No. of clients</u></b>
<u>Non-mainstream pooled investment</u>	<u>£5000</u>	<u>26</u>
<u>Non-readily realisable securities</u>	<u>£400</u>	<u>2</u>

**Both Parts 1 and 2**

*Firms* which do not yet have data for a full 12 ~~months~~ *months* ending on their *accounting reference date* (for example if they have not traded for a complete ~~financial year~~ *financial year* by the time of the *accounting reference date*) should complete Section J with an ‘annualised’ figure based on the actual income up to their *accounting reference date*. That is, such *firms* should pro-rate the actual figure as if the *firm* had been trading for 12 ~~months~~ *months* up to the *accounting reference date*. So for a *firm* with 2 ~~months~~ *months* of actual income of £5000 as at its *accounting reference date*, the ‘annualised’ figure that the *firm* should report is £30,000.

...

	<b>FCA</b> Annual <del>Regulated</del> Income (£s)	<b>FOS</b> Relevant Annual Income (£s)	<b><u>FSCS</u></b> <u>Annual Eligible</u> Income (£s)
Home finance <del>Mediation</del> <u>intermediation</u>	<i>FEES 4 Annex 11AR, 13G</i>	<i>FEES 5 Annex 1R industry block 16</i>	<i><u>FEES 6 Annex 3AR class E2</u></i>
<del>Non-investment insurance</del> <u>General insurance mediation</u>	<i>FEES 4 Annex 11AR, 13G</i>	<i>FEES 5 Annex 1R industry block 17</i>	<i><u>FEES 6 Annex 3AR class B2</u></i>
Life and pensions <del>mediation</del> <u>intermediation</u>	<i>FEES 4 Annex 11AR, 13G</i>	<i>FEES 5 Annex 1R industry block 8, 9</i>	<i><u>FEES 6 Annex 3AR class C2</u></i>
Investment <del>mediation</del> <u>intermediation</u>	<i>FEES 4 Annex 11AR, 13G</i>	<i>FEES 5 Annex 1R industry block 8, 9</i>	<i><u>FEES 6 Annex 3AR class D2</u></i>

...

## Annex D

### Amendments to the Compensation sourcebook (COMP)

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

#### INTRO 1A Foreword

**(This Foreword to the Compensation sourcebook does not form part of COMP.)**

The *Act* requires the *FCA* and the *PRA* to make rules establishing a scheme for compensating consumers in cases where: (i) ~~authorised firms~~ relevant persons are unable, or likely to be unable, to satisfy claims against them; or (ii) persons who have assumed responsibility for liabilities arising from acts or omissions of authorised *firms* (“successors”) are unable, or likely to be unable, to satisfy claims against the successors that are based on those acts or omissions. The body established to operate and administer the compensation scheme is the *Financial Services Compensation Scheme Limited (FSCS)*. The *PRA*’s compensation rules deal with claims for deposits and under contracts of insurance and the *FCA*’s compensation rules deal with other types of claim.

By making rules that allow the *FSCS* to pay compensation to retail consumers and small businesses, and focusing protection on those who need it most, the compensation scheme rules form an important part of the toolkit the *FCA* will use to meet its statutory objectives. ...

*COMP* INTRO 1B (Foreword) is deleted in its entirety. The deleted text is not shown.

#### 1.1 Application, Introduction, and Purpose

...

##### Introduction

...

- 1.1.6 G The ~~appropriate regulator is~~ *FCA* and *PRA* are also required, under section 213 of the *Act* (The compensation scheme), to make *rules* establishing a compensation scheme. ~~These~~ The *FCA*’s rules are set out in the remaining chapters of this sourcebook, and are directed to the *FSCS*, claimants and potential claimants, and *firms*. The *PRA*’s rules dealing with claims for deposits and under contracts of insurance are set out in the *PRA Rulebook*.

...

- 1.1.8 G *COMP* 1 consists of *guidance* which is aimed at giving an overview of how this sourcebook works. The provisions of *COMP* 2 to *COMP* 47 14 cover who is eligible, the amount of compensation and how it might be paid; ~~disclosure requirements for firms that accept deposits and systems and information requirements for firms that accept deposits.~~

...

**1.3 Claimants**

- 1.3.1 G The *FSCS* ~~also~~ provides information to claimants and potential claimants

...

...

- 1.3.3 G Areas of particular interest to claimants (see *COMP* 1.1.3G)

This Table belongs to *COMP* 1.1.3G.

<b>Q1</b>	<b>What do I need to do in order to receive compensation?</b>		
<b>A1</b>	In order to receive compensation:		
	<u>(-1)</u>	<u>If your claim is for a deposit or under a contract of insurance, see the <i>PRA</i>'s Depositor Protection or Policyholder Protection rules;</u>	
	(1)		
	...		
...			

...

*COMP* 1.4 (EEA Firms) is deleted in its entirety. The deleted text is not shown.

**1.4 EEA Firms** [deleted]

**2 The FSCS**

...

## 2.2 Duties of the FSCS

...

### Informing the FSCS

- 2.2.9 G The ~~appropriate regulator FCA~~ will inform the *FSCS* if it detects problems in a *firm* that is likely to give rise to the intervention of the *FSCS*.

~~[Note: article 10(1), part of last sub-paragraph of the *Deposit Guarantee Directive*]~~

### Systems

- 2.2.10 R ~~[Note: article 10(1), part of last sub-paragraph of the *Deposit Guarantee Directive*]~~ [deleted]

...

## 3 The qualifying conditions for compensation

...

### 3.1 Application and Purpose

...

#### Purpose

- 3.1.3 G The purpose of this chapter is to set out in general terms the conditions that must be satisfied before the *FSCS* can make an offer of compensation, ~~or secure continuity of insurance cover, or provide assistance to an *insurance undertaking* to enable it to continue *insurance business*.~~

...

### 3.2 The qualifying conditions for paying compensation

- 3.2.1 R The *FSCS* may pay compensation to an *eligible claimant*, subject to *COMP* 11 (Payment of compensation) if it is satisfied that:

- (1) an *eligible claimant* has made an application for *compensation* (~~but~~ see ~~*COMP* 3.2.1AR~~ or the *FSCS* is treating the *person* as having done so);

...

...

- 3.2.3 G Examples of the circumstances covered by *COMP* 3.2.2R are:

- (1) ...

- (2) when trustees make a *claim* on behalf of beneficiaries (for further provisions relating to *claims* by trustees, see ~~COMP 12.6.1R to COMP 12.6.7R~~ 12A.1.1R to 12A.1.7R);

...

...

Special cases

- 3.2.5 G See COMP 12A (Special cases) for how the FSCS may pay compensation in certain cases.

COMP 3.3 (Insurance) is deleted in its entirety. The deleted text is not shown.

**4 Eligible claimants**

...

**4.2 Who is eligible to benefit from the protection provided by the FSCS?**

- 4.2.1 R ~~Unless COMP 4.2.3R applies, an~~ An *eligible claimant* is any person who at any material time:

...

Persons not eligible to claim unless COMP 4.3 applies (see COMP 4.2.1R)

- 4.2.2 R This table belongs to COMP 4.2.1R

...	
(9)	<i>Bodies corporate</i> in the same <i>group</i> as the <i>relevant person in default</i> or, in respect of a <i>claim</i> against a <i>successor in default</i> , <i>bodies corporate</i> in the same <del>group</del> <u>group</u> as a <i>successor</i> or the <i>relevant person</i> , as applicable, unless that <i>body corporate</i> is:
	...
(aa)	(if the <i>claim</i> is with respect to a <i>long-term insurance contract</i> ) a trustee of: <del>an occupational pension scheme; or</del>
(ab)	(if the <i>claim</i> is not with respect to a <i>long-term insurance contract</i> ), a trustee of:
	(i) an <i>occupational pension scheme</i> in relation to members' benefits which are <i>money-purchase benefits</i> ; or



		(ii)	(unless (i) applies) an <i>occupational pension scheme</i> of an employer which is not a <i>large company</i> , <i>large partnership</i> or <i>large mutual association</i> ; or
	(b)	...	
...			
(16)	<del>Persons whose claim arises under the Third Parties (Rights against Insurers) Act 1930 [deleted]</del>		
(17)	Where the <i>claim</i> is in relation to <del>a <i>protected contract of insurance</i></del> <del>or <i>protected non-investment insurance mediation</i></del> , <del>body corporate</del> <del>bodies corporate</del> , <i>partnerships</i> , <i>mutual associations</i> and <i>unincorporated associations</i> which are not <i>small businesses</i> .		
...			
(20)	Where the <i>claim</i> is in relation to <i>protected debt management business</i> , any <i>person</i> other than a natural person.		

- 4.2.3 R ~~A person who is a *small business* is an *eligible claimant* in respect of a *relevant general insurance contract* entered into before commencement only if the *person* is a *partnership*. [deleted]~~

...

#### 4.3 Exceptions: Circumstances where a person coming within COMP 4.2.2R may receive compensation

Deposits (and balances in dormant accounts)

...

Liability subject to compulsory insurance

- 4.3.6 R A person who comes within COMP 4.2.2R is eligible to claim compensation in respect of a *liability subject to compulsory insurance* if the *claim* is:

- (1) ~~a *claim* under a *protected contract of insurance*~~; or
- (2) ~~a *claim* in connection with *protected non-investment insurance mediation*~~.

...

Eligibility to claim in specified circumstances

- 4.3.8 R The FSCS may treat a *person* who comes within category (7) or (12) of COMP 4.2.2R as eligible to claim compensation where:

- (1) this is desirable to achieve the efficient performance of any of its functions, including without limitation, ~~to facilitate a transfer of business or any part thereof, to secure the issue of policies by another firm to eligible claimants in substitution for their existing policies, to achieve the efficient payment of compensation, to secure under COMP 3.3.2CR the payment of benefits under a long term insurance contract;~~ and
- (2) treating these *persons* as eligible to claim compensation would, in the opinion of the FSCS, be beneficial to the generality of *eligible claimants* who will be affected by the action in (1).

...

## 5 Protected claims

...

### 5.2 What is a protected claim?

5.2.1 R A *protected claim* is:

- (1) ~~a claim for a protected deposit or a protected dormant account (see COMP 5.3); or [deleted]~~
- (2) ~~a claim under a protected contract of insurance (see COMP 5.4); or [deleted]~~
- (3) ...
- ...
- (5) a claim in connection with *protected non-investment insurance mediation* (see COMP 5.7); or
- (6) a claim in connection with protected debt management business (see COMP 5.8).

...

#### Claims in respect of Law Society members

5.2.3 R Notwithstanding COMP 5.2.1R and paragraph (4) of the definition of participant firm, where the *relevant person* is *in default*:

...

...

COMP 5.3 (Protected deposits and protected dormant accounts) and 5.4 (Protected contracts

of insurance) are deleted in their entirety. The deleted text is not shown.

## 5.5 Protected investment business

5.5.1 R *Protected investment business* is:

...

(6) the intermediation of structured deposits,

provided that the territorial scope condition in *COMP* 5.5.2R is satisfied and, for a *firm* acting as the manager or *depository* of a *fund*, one of the conditions in *COMP* 5.5.3R is satisfied.

...

### Managers and depositaries of funds

5.5.3 R The conditions referred to in *COMP* 5.5.1R for a manager or *depository* of a *fund* are:

- (1) for the activities of *managing an AIF, managing a UCITS* or *establishing, operating or winding up a collective investment scheme*, the *claim* is in respect of an investment in:
  - (a) an *authorised fund*; or
  - (b) any other *fund* which has its registered office or head office in the *UK* or is otherwise domiciled in the *UK* unless it is an *AIF* that is a *body corporate* and not a *collective investment scheme*.
- (2) where a *firm* is acting as *depository* of ~~an *AIF* and in doing so is carrying on the activity of acting as trustee or depository of an *AIF* or safeguarding and administering assets~~ a *fund*, the *claim* is in respect of their activities for:
  - (a) an *authorised AIF fund*; or
  - (b) a *charity AIF* unless it is a *body corporate* that is not a *collective investment scheme*.

...

Insert the following new section *COMP* 5.8 after *COMP* 5.7 (Protected non-investment insurance mediation). The text is not underlined.

## 5.8 Protected debt management business

- 5.8.1 R *Protected debt management business is debt management activity carried out by a CASS debt management firm from an establishment maintained by it in the United Kingdom, but only in so far as the claim relates to a shortfall in client money.*

Amend the following as shown.

## 6 Relevant persons and successors in default

...

### 6.2 Who is a relevant person?

...

- 6.2.2 G (1) ~~An incoming EEA firm, which is a credit institution, an IMD insurance intermediary, a MiFID investment firm or an MCD mortgage credit intermediary and its appointed representatives are not relevant persons in relation to the firm's passported activities, unless it has top-up cover. (See definition of "participant firm").~~
- (2) ~~An EEA UCITS management company providing collective portfolio management services for a UCITS scheme from a branch in the United Kingdom or under the freedom to provide cross border services, is a relevant person to the extent that it carries on those services.~~
- (3) ~~An EEA UCITS management company carrying on the activities of managing investments (other than collective portfolio management), advising on investments or safeguarding and administering investments, is not a relevant person in relation to those services, unless it has top-up cover.~~
- (4) ~~An incoming EEA AIFM managing an authorised AIF from a branch in the UK or under the freedom to provide cross border services, is a relevant person in respect of that activity.~~
- (5) ~~An incoming EEA AIFM managing an unauthorised AIF is not is a relevant person in respect of that activity unless it has top-up cover.~~
- (6) ~~An incoming EEA AIFM providing the services in article 6(4) of AIFMD is not is a relevant person in relation to those activities, unless it has top-up cover. [deleted]~~

### 6.3 When is a relevant person in default?

- 6.3.1 R A relevant person is in default if:
- (1) (except in relation to an *ICD claim* ~~or *DGD claim*~~) the *FSCS* has determined it to be *in default* under *COMP 6.3.2R*, *COMP 6.3.3R*, *COMP 6.3.4R* ~~or *COMP 6.3.5R*~~; or
  - (2) (in relation to an *ICD claim* ~~or *DGD claim*~~):
    - (a) the ~~*appropriate regulator*~~ *FCA* has determined it to be *in default* under *COMP 6.3.2R*; or
    - (b) a judicial authority has made a ruling that had the effect of suspending the ability of *eligible claimants* to bring *claims* against the *participant firm*, if that is earlier than (a); and

if a relevant person is *in default* in relation to an *ICD claim* ~~or a *DGD claim*~~ it shall be deemed to be *in default* in relation to any other type of *protected claim*.
- 6.3.1A G [Note: article ~~1(3)(i)~~ 2(2) of the *Deposit Guarantee Investor Compensation Directive*]
- 6.3.2 R ~~Subject to *COMP 3.3.3R* to *COMP 3.3.6R* and *COMP 6.3.6R*, the~~ The *FSCS* (or, where *COMP 6.3.1R(2)(a)* applies, the ~~*appropriate regulator*~~ *FCA*) may determine a *relevant person* to be *in default* when it is, in the opinion of the *FSCS* or the ~~*appropriate regulator*~~ *FCA*:
- (1) unable to satisfy *protected claims* against it; or
  - (2) likely to be unable to satisfy *protected claims* against it.
- 6.3.3 R ~~Subject to *COMP 6.3.6R* the~~ The *FSCS* may determine a *relevant person* to be *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim* ~~or *DGD claim*~~), and the *relevant person* is the subject of one or more of the following proceedings in the *United Kingdom* (or of equivalent or similar proceedings in another jurisdiction):
- ...
- 6.3.4 R ~~For *claims* arising in connection with *protected investment business*, *protected home finance mediation* or *protected non-investment insurance mediation*, the~~ The *FSCS* ~~has the additional power to~~ may determine that a *relevant person* ~~is to be~~ is *in default* if it is satisfied that a *protected claim* exists (other than an *ICD claim*), and:
- ...

~~Members in default and the Central Fund of the Society~~

...

**6.3A When is a successor in default?**

...

- 6.3A.4 R ~~For claims arising in connection with protected investment business, protected home finance mediation or protected non investment insurance mediation, the~~ The FSCS has the additional power to may determine that a successor is to be in default if it is satisfied that a protected claim exists (other than an ICD claim against a successor that is an MiFID investment firm), and:

...

**7 Assignment or subrogation of rights**

...

**7.2 How does the assignment of rights work?**

...

~~Provisions relating to other classes of protected claim~~

...

Claims arising under COMP 3.2.4R

- 7.2.7 R ...

**7.3 Automatic subrogation**

- 7.3.1 R ~~The FSCS's powers in this section apply to all claims except those under protected contracts of insurance.~~ [deleted]

...

- 7.3.10 R (1) The FSCS may determine that:

...

- (c) if it is otherwise necessary or desirable in conjunction with the exercise of the FSCS's powers under *COMP 7.3.8R* or *COMP 7.3.9R* ~~or COMP 15.1.9R~~;

...

...

*COMP* 7.5 (Recoveries: protected deposits) is deleted in its entirety. The deleted text is not shown.

## **7.6 ~~Recoveries: claims other than for protected deposits~~ Treatment of recoveries**

7.6.1 R If the *FSCS* makes recoveries in relation to a *claim* ~~that is not for a *protected deposit*~~, it may deduct from any recoveries paid over to the claimant under *COMP* 7.6.2R part or all of its reasonable costs of recovery and distribution (if any).

7.6.2 R Unless compensation was paid under *COMP* 9.2.3R ~~or the *claim* was for a *protected deposit*~~, if a claimant assigns or transfers his rights to the *FSCS* or a claimant's rights and claims are otherwise subrogated to the *FSCS* and the *FSCS* subsequently makes recoveries through those rights or claims, those recoveries must be paid to the claimant:

...

7.6.3 R For the purpose of *COMP* 7.6.2R compensation received by *eligible claimants* in relation to *Lloyd's policies contracts of insurance* written at *Lloyd's* may include payments made from the *Central Fund*.

7.6.4 R ~~Except for a *claim* for a *protected deposit*, the~~ The *FSCS* must endeavour to ensure that a claimant will not suffer disadvantage arising solely from his prompt acceptance of the *FSCS's* offer of compensation or from the subrogation of his rights and claims to the *FSCS* compared with what might have been the position had he delayed his acceptance or had his claims not been subrogated.

...

## **10 Limits on the amount of compensation payable**

...

### **10.2 Limits on compensation payable**

...

10.2.3 R Table Limits

This table belongs to *COMP* 10.2.1R

Type of claim	Level of cover	Maximum payment
...		
<i>Protected non-investment insurance mediation</i>	(1) where the <i>claim</i> is in respect of a <i>liability subject to compulsory insurance</i> : 100% of <i>claim</i>	Unlimited
	(2) where the <i>claim</i> is in respect of: (a) a <i>relevant omission</i> ; and (b) a <i>professional indemnity insurance contract</i> <u>professional indemnity insurance contract</u> , or would be in respect of a <i>professional indemnity insurance contract</i> <u>professional indemnity insurance contract</u> , if the insurance contract had been effected: 100% of <i>claim</i>	Unlimited
	...	...
<i>Protected debt management business</i>	<u>100% of claim</u>	<u>£50,000</u>

...

~~Continuity of insurance cover~~

...

~~Claims in respect of protected dormant accounts~~

...

**11 Payment of compensation**

...

**11.2 Payment**



...

- 11.2.1A R If the *FSCS* determines that compensation is payable (or any recovery or other amount is payable by the *FSCS* to the claimant), it must pay it to the claimant, or if the *FSCS* so decides, as directed by the claimant, unless *COMP* 11.2.2R ~~applies~~ or *COMP* 11.2.2AR apply.

...

- 11.2.2A R Where a claimant has a *claim* that falls within *COMP* 12A.3.1R, the *FSCS* may pay any compensation to:

- (1) the *participants* and not to the claimant; or
- (2) the *collective investment scheme* and (where different) not to the claimant; or
- (3) any combination of the above.

- 11.2.2B G As a result of *COMP* 12A.3.1R, the *FSCS* must try to ensure that the amount paid is no more than the amount of the loss suffered by the *participant*.

...

#### Form and method of paying compensation

- 11.2.3A R The *FSCS* may pay compensation in any form and by any method (or any combination of them) that it determines is appropriate including, without limitation:

...

- (2) by paying compensation directly into an existing deposit account (or for the benefit of) the claimant, or as otherwise identified by (or on behalf of) the claimant, with an *authorised person* (but before doing so the *FSCS* must take such steps as it considers appropriate to verify the existence of such an account and to give notice to the claimant of its intention to exercise this power); and/or
- (3) ~~(where two or more *persons* have a joint beneficial *claim*) by accepting communications from and/or paying compensation to any one of those *persons* where this is in accordance with the terms and conditions for communications and withdrawals of the *protected deposit*; and/or [deleted]~~

...

...

- 11.2.6 R The *FSCS* may not pay a lesser sum in final settlement under *COMP* 11.2.4R and *COMP* 11.2.5R where the *claim* is a ~~*DGD claim*~~ or an *ICD*

*claim.*

...

## 12 Calculating compensation

...

### 12.2 Quantification: general

...

12.2.2 R ~~COMP 42.2.1R~~ 12.2.1AR is, however, subject to the other provisions of *COMP*, in particular those *rules* that set limits on the amount of compensation payable for various types of *protected claim*. The limits are set out in *COMP* 10.

12.2.3 G Where a liability of a *relevant person* (or, where applicable, a *successor*) to an *eligible claimant* could fall within more than one type of ~~*protected claim*~~ claim protected by the compensation scheme whether under the rules of the *FCA* (see *COMP* 5.2.1R) or of the *PRA*, for example a *claim* in connection with money held by ~~an~~ a *MiFID* investment firm that is also a *credit institution*, the *FSCS* should seek to ensure that the claimant does not receive any further compensation payment from the *FSCS* in cases where the claimant has already received compensation from the *FSCS* in respect of that *claim*.

...

#### Payments to the claimant

12.2.7A R The *FSCS* must take into account any payments to the claimant (including amounts recovered by the *FSCS* on behalf of the claimant) made by the *relevant person* (or, where applicable, a *successor*) or the *FSCS* or any other *person*, including any payment made by the *FSCS* under the *PRA*'s *rules*, if that payment is connected with the *relevant person*'s liability to the claimant in calculating the claimant's overall *claim*.

...

#### Settlement of claims

12.2.10 R (1) ...

(2) This *rule* does not apply with respect to *claims* that are excluded by ~~Article 2 of the *Deposit Guarantee Directive* or by Article~~ article 3 of the *Investor Compensation Directive*.

## 12.3 Quantification date

...

Protected debt management business

- 12.3.9 R For a *claim* made in connection with *protected debt management business*, the *FSCS* must determine a specific date as the *quantification date*, and this date may be either on, before or after the date of determination of default.

**12.4 The compensation calculation**

...

- 12.4.4 R If the claimant has an *ICD claim* against an *incoming EEA firm* which is a *MiFID investment firm* (~~including a *credit institution* which is a *MiFID investment firm*~~) or, where applicable, a *successor* of such a *firm*, the *FSCS* must take account of the liability of the *Home State* compensation scheme in calculating the compensation payable by the *FSCS*.

...

- 12.4.16 R ~~For *claims* arising in connection with *protected contracts of insurance*, the *FSCS* must treat any term in an *insurance undertaking's* constitution or in its *contracts of insurance*, limiting the *undertaking's* liabilities under a *long term insurance contract* to the amount of its assets, as limiting the *undertaking's* liabilities to any claimant to an amount which is not less than the gross assets of the *undertaking*. [deleted]~~

...

Protected debt management business

- 12.4.21  
A R The *FSCS* may pay compensation for any *claim* made in connection with *protected debt management business* only to the extent that the *FSCS* considers that the payment of compensation is essential to provide the claimant with fair compensation.

...

**12.6 Quantification: trustees, operators of pension schemes, persons winding up pension schemes, personal representatives, agents and joint claims**

The provisions of COMP 12.6 are deleted in their entirety. The deleted text is not shown. Insert the following new notes as shown.

[Note: COMP 12.6.1R now appears at COMP 12A.1.1R]

[Note: COMP 12.6.2R now appears at COMP 12A.1.2R]

[Note: COMP 12.6.2AR now appears at COMP 12A.1.3R]

[Note: COMP 12.6.3R now appears at COMP 12A.1.4R]

[Note: COMP 12.6.4R now appears at COMP 12A.1.5R]

[Note: COMP 12.6.5R now appears at COMP 12A.1.6R]

[Note: COMP 12.6.6R now appears at COMP 12A.1.7R]

[Note: COMP 12.6.8R now appears at COMP 12A.2.1R]

[Note: COMP 12.6.9R now appears at COMP 12A.2.2R]

[Note: COMP 12.6.10R now appears at COMP 12A.2.3R]

[Note: COMP 12.6.11R now appears at COMP 12A.4.1R]

[Note: COMP 12.6.12R now appears at COMP 12A.5.1R]

Insert the new chapter COMP 12A after COMP 12 (Calculating compensation). The text is not underlined.

## **12A Special cases**

### **12A.1 Trustees and pension schemes**

12A.1.1 R If a claimant's *claim* includes a *claim* as:

- (1) trustee; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*,

the *FSCS* must treat him in respect of that *claim* as if his *claim* was the *claim* of a different *person*.

[Note: this and other rules in this section derive from provisions previously in *COMP 12.6*]

12A.1.2 R If a claimant has a *claim* as a bare trustee or *nominee company* for one or more beneficiaries, the *FSCS* must treat the beneficiary or beneficiaries as having the *claim*, and not the claimant.

12A.1.3 R If a claimant has a *claim*:

- (1) as the trustee of an *occupational pension scheme* or the trustee or *operator* of, or the *person* carrying on the *regulated activity* of

winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*; and

- (2) for one or more members of a pension scheme (or, where relevant, the beneficiary of any member) whose benefits are, or include, *money-purchase benefits*;

the *FSCS* must treat the member or member scheme (or, where relevant, the beneficiary of any member) as having the *claim*, and not the claimant (insofar as members' benefits are *money-purchase benefits*).

12A.1.4 R If any group of *persons* has a *claim* as:

- (1) trustees; or
- (2) *operators* of, or as *persons* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*,

(or any combination thereof), the *FSCS* must treat them as a single and continuing *person* distinct from the *persons* who may from time to time be the trustees, *operators* or *persons* winding up the relevant pension scheme.

12A.1.5 R Where the same *person* has a *claim* as:

- (1) trustee for different trusts or for different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, different *stakeholder pension schemes* (which are not *occupational pension schemes*) or *personal pension schemes*,

*COMP* applies as if the *claims* relating to each of these trusts or schemes were claims of different *persons*.

12A.1.6 R Where the claimant is a trustee, and some of the beneficiaries of the trust are *persons* who would not be *eligible claimants* if they had a claim themselves, the *FSCS* must adjust the amount of the overall *claim* to eliminate the part of the claim which, in the *FSCS*'s view, is a claim for those beneficiaries.

12A.1.7 R Where any of the provisions of *COMP* 12A.1.1R to *COMP* 12A.1.6R apply, the *FSCS* must try to ensure that any amount paid to:

- (1) the trustee; or
- (2) the *operator* of, or the *person* carrying on the *regulated activity* of winding up, a stakeholder pension scheme (which is not an *occupational pension scheme*) or *personal pension scheme*,

is, in each case:

- (3) for the benefit of members or beneficiaries who would be *eligible claimants* if they had a *claim* themselves; and
- (4) no more than the amount of the loss suffered by those members or beneficiaries.

## 12A.2 Personal representatives, agents and joint claims

- 12A.2.1 R Where a *person* numbers among his *claims* a *claim* as the personal representative of another, the *FSCS* must treat him in respect of that *claim* as if he were standing in the shoes of that other person.

[**Note:** this and other rules in this section derive from provisions previously in *COMP* 12.6]

- 12A.2.2 R If a claimant has a *claim* as agent for one or more *principals*, the *FSCS* must treat the *principal* or *principals* as having the *claim*, not the claimant.
- 12A.2.3 R If two or more *persons* have a joint beneficial *claim*, the *claim* is to be treated as a *claim* of the partnership if they are carrying on business together in partnership. Otherwise each of those *persons* is taken to have a *claim* for his share, and in the absence of satisfactory evidence as to their respective shares, the *FSCS* must regard each *person* as entitled to an equal share.

## 12A.3 Collective investment schemes

- 12A.3.1 R (1) If a claimant has a *claim* in its capacity as a *collective investment scheme*, or anyone who is an operator, depositary, manager or trustee of such a scheme, and the conditions in (2) are met:
- (a) the *FSCS* must treat the *participant* or *participants* as having the *claim*, and not the claimant;
  - (b) *COMP* 12A.1.6R and *COMP* 12A.1.7R apply, reading “trustee” as “*collective investment scheme*, or anyone who is an operator, depositary, manager or trustee of such a scheme”, “trust” as “*collective investment scheme*” and “beneficiary” as “participant”.
- (2) The conditions referred to in (1) are:
- (a) the *claim* is against a *relevant person*:
    - (i) acting in the capacity of *manager* or *depositary* of the *collective investment scheme*; or
    - (ii) in connection with that person’s *managing investments*

or *safeguarding and administering investments*; and

- (b) as a result of the matters in (a), a participant in the *collective investment scheme* has suffered loss but the participant has no *claim* for that loss against that *relevant person*.

## 12A.4 Foreign law

12A.4.1 R In applying *COMP* to *claims* arising out of business done with a *branch* or *establishment* of the *relevant person* outside the *United Kingdom*, the *FSCS* must interpret references to:

- (1) *persons* entitled as personal representatives, trustees, bare trustees or agents, *operators* of *pension schemes* or *persons* carrying on the *regulated activity* of winding up *pension schemes*; or
- (2) *persons* having a joint beneficial *claim* or carrying on business in partnership;

as references to *persons* entitled, under the law of the relevant country or territory, in a capacity appearing to the *FSCS* to correspond as nearly as may be to that capacity.

[**Note:** this rule derives from a provision previously in *COMP* 12.6]

## 12A.5 Claims arising under COMP 3.2.4R

12A.5.1 R If a *firm* has a *claim* under *COMP* 3.2.4R, the *FSCS* must treat each *customer* of the *firm* as having the *claim* for the purposes of calculating compensation within *COMP* 12.

[**Note:** this rule derives from a provision previously in *COMP* 12.6]

Amend the following as shown.

## 14 Participation by EEA Firms

### 14.1 Application and Purpose

Application

...

14.1.2 R This chapter also applies to an *incoming EEA firm* which is a ~~*credit institution, or an MiFID investment firm (or both)*~~, an *IMD insurance intermediary*, a *UCITS management company*, an *MCD mortgage credit*

*intermediary or an AIFM.*

Purpose

- 14.1.3 G This chapter provides supplementary *rules and guidance*, and contains a broad summary, in guidance, of *FSCS* cover, for an *incoming EEA firm* which is ~~a credit institution~~, an *IMD insurance intermediary*, ~~an~~ a *MiFID investment firm*, a *UCITS management company*, an *MCD mortgage credit intermediary* or an *AIFM*. It reflects in part the implementation of the ~~Deposit Guarantee Directive~~, *Investor Compensation Directive*, and *UCITS Directive*. ~~This sourcebook applies in the usual way to an incoming EEA firm which is exercising EEA rights under the Insurance Directives. Such a firm is not affected by the Deposit Guarantee Directive, the Investor Compensation Directive or the UCITS Directive.~~
- 14.1.4 G (1) An *incoming EEA firm* which is ~~a credit institution~~, an *IMD insurance intermediary*, an *MCD mortgage credit intermediary* or ~~an~~ a *MiFID investment firm* is not a *participant firm* in relation to its *passport activities* unless it “tops-up” into the *compensation scheme*. This reflects section 213(10) of the *Act* (The *compensation scheme*) and regulation 2 of the *Electing Participants Regulations* (Persons not to be regarded as relevant persons). If an *incoming EEA firm* also carries on *non-passported activities* for which the *compensation scheme* provides cover, it will be a *participant firm* in relation to those activities and will be covered by the *compensation scheme* for those activities in the usual way.
- (2) Whether an *incoming EEA firm* which is an *EEA UCITS management company* is a *participant firm* in relation to its *passport activities* depends on the nature of its activities. In so far as it carries on the activities of *managing investments* (other than *collective portfolio management*), *advising on investments* or *safeguarding and administering investments*, it is not a *participant firm* unless it “tops-up” into the *compensation scheme* and it may only obtain top-up cover if it carries on those activities from a branch in the United Kingdom. To the extent that such a *firm* provides *collective portfolio management services* for a *UCITS scheme* from a *branch* in the *United Kingdom* or under the freedom to provide *cross border services*, it is a *participant firm* in respect of those services.
- ...
- 14.1.5 G In relation to an *incoming EEA firm’s passport activities*, its *Home State compensation scheme* must provide *compensation cover* in respect of business within the scope of the ~~Deposit Guarantee Directive~~, *Investor Compensation Directive*, article 6(3) of the *UCITS Directive* and article 6(4) of *AIFMD*, whether that business is carried on from a *UK branch* or on a *cross border services* basis. *Insurance mediation activity relating to non-investment insurance contracts* is not within the scope of the ~~Deposit Guarantee Directive and the Investor Compensation Directive~~.



...

## 14.2 Obtaining top-up cover

...

14.2.3 G A notice under *COMP* 14.2.1R should include details confirming that the *incoming EEA firm* falls within a prescribed category. In summary:

(1) the *firm* must be:

(a) ~~a credit institution;~~ or [deleted]

...

...

...

## 14.3 Co-operation between the FSCS and Home State compensation schemes

14.3.1 R Where an *incoming EEA firm* obtains *top-up cover* under *COMP* 14.2, the *FSCS* must co-operate with that *firm's Home State* compensation scheme. In particular, the *FSCS* must seek to establish with that *firm's Home State* compensation scheme appropriate procedures for the payment of compensation to claimants, following the principles set out in ~~Annex II of the Deposit Guarantee Directive~~ or Annex II of the *Investor Compensation Directive*, as appropriate.

~~[Note: article 4(5) of the *Deposit Guarantee Directive*]~~

## 14.4 Ending top-up cover

FSCS terminating top-up cover

...

14.4.2 R If an *incoming EEA firm* which has *top-up cover* fails to observe any of the *rules* in this sourcebook which apply to *participant firms*, the *FSCS* must notify the ~~appropriate regulator~~ FCA and the *incoming EEA firm's Home State regulator*.

...

*COMP* 15 (Protected deposits: Payments from other schemes) and *COMP* 16 (Disclosure requirements for firms that accept deposits) are deleted in their entirety. The deleted text is not shown.

Amend the following as shown.

## TP 1 Transitional Provisions

### TP 1.1 Transitional Provisions Table

(1)	(2)	(3)	(4)	(5)	(6)
	Material to which the transitional provision applies		Transitional Provision	Transitional provision: dates in force	Handbook Provisions coming into force
...					
40	<u>Amendments introduced by the Financial Services Compensation Scheme (Funding and Scope) Instrument 2017</u>	R	<u>The changes referred to in column (2) do not apply in relation to a claim against a relevant person, or against a successor, that was in default before 1 April 2018.</u>	<u>From 1 April 2018 indefinitely</u>	<u>1 April 2018</u>

...

## Sch 2 Notification requirements

### Sch 2.1G

1.	The aim of the guidance in the following table is to give the reader a quick overall view of the relevant requirements for notification and reporting. In all cases, other than those concerning <del>Chapters 13, Chapter 14 and 17</del> and the Transitional Provisions, the notification rules in <i>COMP</i> apply only to the <del>FSCS</del> <u>FSCS</u> (the scheme manager).
...	

### Sch 2.2G

Handbook reference	Matter to be notified	Contents of notification	Trigger event	Time allowed
<i>COMP</i> 2.2.5G	Annual Report	Not specified in <del>COMP</del> <u>COMP</u> – see Memorandum of Understanding	End of Financial Year	Not specified in <del>COMP</del> <u>COMP</u> (see MoU)

		(MoU) between each regulator <del>the FCA and FSCS</del> <u>the FSCS</u>		
...				
<i>FEES</i> <del>6.2.1R</del> <u>6.2.1AR</u>	Right to exemption for specific costs and compensation costs levy	Notice that firm does not conduct business that could give rise to a claim on the <del>FSCS</del> <u>FSCS</u> and has no reasonable likelihood of doing so	If it does not, or if it ceases to, conduct business with persons eligible to claim on <del>FSCS</del> <u>the FSCS</u> , unless it has already given such notice.	None specified although exemption generally only takes effect from the date of receipt of notice by <del>FSCS</del> <u>the FSCS</u>
...				
<i>FEES</i> 6.5.13R	Levy base for participant firm	The contribution groups to which the participant firm belongs. The total amount of business (measured in accordance with the appropriate tariff bases, which it conducted as at 31 December of the previous year)	The end of the calendar year (the occasion of 31 December every year beginning with 31 December 2001)	By end February <u>or</u> <u>the date requested by the FCA where the firm becomes a participant firm part way through the financial year</u>
...				
<i>COMP</i> TP 29R(2) and <i>COMP</i> 17.2.7R	<del>Election or revocation of election that the electronic SCV rules do not apply.</del>	<del>See Matter to be notified</del>	<del>See Matter to be notified</del>	<b>Immediately</b>
<i>COMP</i> 17.2.7R(1)	<del>Election that the electronic SCV rules do</del>	<del>See Matter to be notified</del>	<del>See Matter to be notified</del>	<b>Immediately</b>

	not apply.			
<i>COMP</i> 17.2.7R(1A)	Revocation of election that the <i>electronic SCV rules</i> do not apply.	See Matter to be notified	See Matter to be notified	Immediately
<i>COMP</i> 17.2.7R(2)	The <i>firm</i> has operated 5,000 or more accounts held by <i>eligible claimants</i> for two consecutive years, having previously operated less than 5,000	See Matter to be notified	See Matter to be notified	Immediately
<i>COMP</i> 17.3.1R	A <i>firm</i> must provide the <i>PRA</i> with an <i>SCV implementation report</i> and <i>SCV report</i>	See <i>COMP</i> 17.3.6R(1) or <i>COMP</i> 17.3.6R(2) as applicable and <i>COMP</i> 17.3.9R(1) or <i>COMP</i> 17.3.9R(2) as applicable.	Receipt of <i>permission to accept deposits</i> or <i>obtaining top-up cover</i> as applicable	Three months
<i>COMP</i> 17.3.2R	A <i>firm</i> must provide the <i>PRA</i> with an <i>SCV implementation report</i> and <i>SCV report</i>	See <i>COMP</i> 17.3.6R(1) or <i>COMP</i> 17.3.6R(2) as applicable and <i>COMP</i> 17.3.9R(1) or <i>COMP</i> 17.3.9R(2) as applicable.	A material change in the <i>firm's SCV system</i>	Three months
<i>COMP</i> 17.3.4R	A <i>firm</i> must provide the <i>PRA</i> with an <i>SCV report</i>	<i>COMP</i> 17.3.9R(1) or <i>COMP</i> 17.3.9R(2) as applicable.	Every four years (starting on 31 December 2010 or the date of receiving <i>permission to accept deposits</i> or in the case of an <i>incoming EEA</i>	See Trigger event

			<i>firm</i> the date of obtaining <i>top up cover</i> , whichever is later)	
<i>COMP</i> TP 30R(2) and <i>COMP</i> 17.2.7R	Election or revocation of election that the <i>electronic SCV rules</i> do not apply	See Matter to be notified	See Matter to be notified	Immediately

...

**Sch 5 Rights of action for damages**

...

Sch 5.2G

...

<b>Chapter/ Appendix</b>	<b>Section/Annex</b>	<b>Paragraph</b>	<b>For private person?</b>	<b>Removed</b>	<b>For other person ?</b>
<i>COMP</i> 1	5	8	No	Yes – <i>COMP</i> 1.5.11G <u>1.5.12R</u>	No
...					

## Annex E

### Amendments to the Consumer Credit sourcebook (CONC)

In this Annex, underlining indicates new text.

## 3 Financial promotions and communications with customers

...

### 3.9 Financial promotions and communications: debt counsellors and debt adjusters

...

Contents of financial promotions and communications

3.9.3 R *A firm* must ensure that a *financial promotion* or a communication with a *customer* (to the extent a previous communication to the same *customer* has not included the following information) includes:

...

(16) an explanation that compensation might be available from the compensation scheme if there is a shortfall in client money held by the firm for that customer.

...

## 8 Debt advice

...

### 8.1 Application

...

8.1.3A R CONC 8.3.1R(14) does not apply to a firm with respect to providing credit information services.

...

### 8.3 Pre contract information and advice requirements

8.3.1 R *A firm* must (except where the contract is a *credit agreement* to which the *disclosure regulations* apply) provide sufficient information, in a *durable medium*, when the *customer* first enquires about the *firm's* services, about the following matters to enable the *customer* to make a reasonable decision:

...

- (14) an explanation that compensation might be available from the compensation scheme if there is a shortfall in client money held by the firm for that customer.

...

...

