

FEES MANUAL (FSCS FUNDING) INSTRUMENT 2007

Powers exercised

- A. The Financial Services Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):
- (1) section 138 (General rule-making power);
 - (2) section 156 (General supplementary powers);
 - (3) section 157 (Guidance);
 - (4) section 213 (The compensation scheme) (including as referred to in section 216(5) (Continuity of long-term insurance policies) and section 217(7) (Insurers in financial difficulties));
 - (5) section 214 (General);
 - (6) section 223 (Management expenses);
 - (7) section 234 (Industry Funding); and
 - (8) paragraph 17 (Fees) of Schedule 1 (The Financial Services Authority).
- B. The rule-making powers listed above are specified for the purpose of section 153(2) (Rule-making instruments) of the Act.

Commencement

- C. This instrument comes into force as follows:
- (1) Part 1 of Annex A; Parts 1, 3 and 5 of Annex B come into force on 6 November 2007;
 - (2) the remainder of this instrument comes into force on 1 April 2008.

Amendments to the Handbook

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

Citation

- F. This instrument may be cited as the Fees Manual (FSCS Funding) Instrument 2007.

By order of the Board
31 October 2007

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text. Where a new definition is being inserted this is described and not shown underlined.

Part 1 [with effect from 6 November 2007]

The existing definition is amended as follows:

<i>annual eligible income</i>	(in COMP FEES the annual income (as described in Part 2 of FEES 4 Annex 1R) for the firm's last financial year <u>ended in the year to 31 December</u> preceding the date for submission of the information under FEES 6.5.13R attributable to the relevant contribution group sub-class ; or if the firm prefers, that amount of that annual income attributable to business conducted with or on behalf of <i>eligible claimants</i> , but only if the firm notifies FSCS of the amount in accordance with FSCS reporting requirements.
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Insert new definitions as follows in the appropriate place:

<i>class</i>	one of the broad classes to which FSCS allocates levies as described in FEES 6.5.7 R.
<i>sub-class</i>	one of the classes of <i>participant firms</i> within a <i>class</i> set out in FEES 6 Annex 3R being sub-classes that carry on business of a similar nature or have other common characteristics, to which <i>compensation costs</i> and <i>specific costs</i> are allocated in accordance with FEES 6.4 and FEES 6.5. <i>Class A</i> (Deposits) is to be treated as being made up of a single <i>sub-class</i> .

Part 2 [With effect from 1 April 2008]

Insert new definition as follows in the appropriate place:

levy limit (in *FEES*) the maximum amount of *compensation costs* that may be allocated to a particular *sub-class* or *class* in one financial year as set out in *FEES* 6 Annex 2R.

The existing definitions are amended as follows

~~*Contribution group* One of the groups of *participant firms* within a *sub-scheme* set out in *FEES* 6.5.7 R being groups that carry on business of a similar nature, to which *compensation costs* and *specific costs* are allocated in accordance with *FEES* 6.4 and *FEES* 6.5.~~

~~*establishment costs levy* a levy, forming part of the *management expenses levy*, to meet the establishment costs, each *participant firm's* share being calculated in accordance with *FEES* 6.4.11 R.~~

management expenses levy a levy imposed by the *FSCS* on *participant firms* to meet the *management expenses* and which is made up of one or more of a base cost levy, and a *specific costs levy* ~~and an *establishment costs levy*~~, each *participant firm's* share being calculated in accordance with *FEES* 6.4.17R.

~~*Sub-scheme* One of the sub-schemes to which *FSCS* allocates liabilities for *compensation costs*, as described in *FEES* 6.5.7 R.~~

Annex B

Amendments to the Fees manual (FEES)

Part 1 [Comes into effect 6 November 2007]

In this part of Annex B all text is new and is not underlined

Insert FEES TP 2 as follows:

- 2 Transitional provisions relating to changes to the FSCS levy arrangements taking effect in 2007/8
 - 2.1 Treatment of balances as at 1 April 2008
 - 2.1.1 R *FSCS* must calculate a levy balance as at 31 March 2008 attributable to each *participant firm* to which this *rule* applies (see *FEES* TP 2.1.19R), in respect of contribution groups in place as at 31 March 2008, in the following way:
 - (1) identifying each of the relevant contribution groups to which a *participant firm* belongs;
 - (2) identifying amounts held to the credit of each such contribution group;
 - (3) identifying amounts held as a debit balance to each such contribution group;
 - (4) calculating the net balance for each contribution group from (2) and (3);
 - (5) calculating, in relation to each relevant contribution group, that *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the contribution group;
 - (6) for each relevant contribution group applying the proportion in (5) to the figure in (4); and
 - (7) the balance for the *participant firm* is calculated by adding together the figure in (6) for each relevant contribution group of which the *participant firm* is a member.

- 2.1.2 R This *rule* relates to a claim or other amount that could be the subject of a *compensation costs levy* or *specific costs levy* and is otherwise eligible for inclusion in a debit balance for a contribution group under *FEES* TP 2.1.1R(3). This *rule* deals with a case where there are insufficient funds standing to the credit of that contribution group's *FSCS* account to meet the claim. Such a claim may only be included in the debit balance in accordance with the requirements about the amounts that can be levied under *compensation costs levies* and *specific costs levies* under *FEES* 6 in the form *FEES* 6 was in force on 31 March 2008.
- 2.1.3 G The credit balance referred to in *FEES* TP 2.1.1R(2) includes:
- (1) funds standing to the credit of the contribution group together with any interest receivable less any tax payable;
 - (2) any amounts lent to another contribution group (together with any interest payable on that amount under *FEES* 6); and
 - (3) any amount levied on or before 31 March 2008 but not received by 31 March 2008;
- (all such amounts being calculated as at 31 March 2008).
- 2.1.4 G (1) The debit balance referred to in *FEES* TP 2.1.1R(3) includes:
- (a) any amounts borrowed by *FSCS* for the purpose of paying amounts for which a *compensation costs levy* may be imposed on the contribution group in question together with any interest payable;
 - (b) any amounts borrowed from another contribution group (together with any interest payable on that amount under *FEES* 6); and
 - (c) amounts that could be the subject of a *compensation costs levy* or *specific costs levy* that *FSCS* has not yet paid;
- (all such amounts being calculated as at 31 March 2008).
- (2) If *FSCS* has decided to pay a claim, has decided the amount it will pay and (where applicable) has agreed the payment with the claimant it is eligible for inclusion under (1)(c). So is a claim for which *FSCS* has sent out a compensation cheque if the cheque has not been cleared by 31 March. A claim that has been made and settled will not be included as it will have already reduced the funds standing to the credit of the relevant contribution group. Claims made but not yet accepted or agreed by 31 March will not be included.

- 2.1.5 G *FEES* TP 2.1.2R has a further limitation on what claims can be included as a debit for a contribution group under *FEES* TP 2.1.1R. They may be included if there are sufficient funds standing to the credit of the contribution group. Any excess can also be included but only up to the levy limit for the relevant contribution group. In calculating the amount that *FSCS* would have been able to levy, *FSCS* will take into account any levies already made in the financial year beginning on 31 March 2007 (and, if relevant, previous years). The caps for these purposes are the ones in force on 31 March 2008.
- 2.1.6 R (1) If a *participant firm's* levy balance calculated under *FEES* TP 2.1.1R(7) is a debit, it is to be added to the first *compensation costs levy* or *management expenses levy* made on or after 1 April 2008 in which the *participant firm* shares.
- (2) If a *participant firm's* levy balance calculated under *FEES* TP 2.1.1R(7) is a credit, it is to be refunded as follows:
- (a) by deduction from any *compensation costs levy* or *management expenses levy* in which the *participant firm* shares included in the invoice that includes the *FSA's* periodical fee referred to in (2)(b);
- (b) (as to any balance) by deduction from any *FSA* periodical fees payable under *FEES* 4.3 in respect of the financial year beginning on 1 April 2008 and the *general levy* payable in respect of the same financial year; and
- (c) (as to any balance) by payment to the *participant firm*.
- 2.1.7 R Any amount that is added to a *participant firm's* levy under *FEES* TP 2.1.6R must not be taken into account for the purpose of calculating whether a *levy limit* of any *sub-class* has been exceeded and how much headroom there is between a *levy limit* and the amount already levied.
- 2.1.8 R If it appears to the *FSCS* that in the exceptional circumstances of a particular case, refunding a *participant firm's* credit balance arising under *FEES* TP 2.1.1R by way of a deduction in accordance with *FEES* TP 2.1.6R would be inequitable, the *FSCS* may refund any part of that amount by payment to the *participant firm*.
- 2.1.9 R *FSCS* may use the money collected from *participant firms* prior to 1 April 2008 in order to pay claims or *management expenses* after 31 March 2008 but only in so far as any such payments are treated as costs to be allocated to *sub-classes* in existence after 31 March 2008 and do not prejudice the calculation in *FEES* TP 2.1.1R.

- 2.1.10 R Subject to *FEES* TP 2.1.16R, *FSCS* must calculate any levy after 31 March 2008 on the basis that all credit balances referred to in *FEES* TP 2.1R have been refunded to *participant firms* and all debit balances referred to in *FEES* TP 2.1R have been repaid and all *management expenses levies* made before 1 April 2008 have been spent.
- 2.1.11 R For the purposes of the calculations in *FEES* TP 2.1R, *FSCS* may rely on information *FSCS* relied on in the 2007/8 financial year.
- 2.1.12 R Subject to *FEES* TP 2.1.16R, if a *participant firm* provides, or is deemed to provide, incorrect information which is used for the purposes of *FEES* TP 2.1, then *FSCS* may take account of any resulting material overpayment or underpayment made under *FEES* TP 2.1 notified to it. If *FSCS* does take into account any such overpayment or underpayment it will be dealt with as follows:
- (1) *FSCS* must repay any such overpayment on or before 30 calendar days after the date when it decides to take such overpayment into account; and
 - (2) the *participant firm* must repay such underpayment on or before 30 calendar days after the date when the invoice for it is issued by *FSCS*.
- 2.1.13 R *FSCS* may, in its absolute discretion, refuse requests to recalculate a *firm's* levy balance calculated under *FEES* TP 2.1.1R on the basis of information corrected or re-submitted after 31 March 2009.
- 2.1.14 R Any rebate or refund to a *participant firm* arising out of the recalculation of a *participant firm's* levy balance carried out in accordance with *FEES* TP 2.1.12R is to be allocated to the *sub-class* most closely analogous to the contribution group the *firm* belonged to before 1 April 2008 or, if applicable, in accordance with *FEES* TP 2.1.18R.
- 2.1.15 R Any interest, arising between 31 March 2008 and the date that a credit balance is refunded to a *participant firm* under *FEES* TP 2.1.6R (including any interest attributable to the use of the funds in accordance with *FEES* TP 2.1.9R) is to be held for the benefit of the *sub-class* most closely analogous to the contribution group the *firm* belonged to before 1 April 2008 or, if applicable, in accordance with *FEES* TP 2.1.18R.
- 2.1.16 R *FEES* TP 2.1 does not apply to the extent that it is inconsistent with the provisions of the *compensation transitionals order*.
- 2.1.17 R If a *participant firm* fails to pay an amount due with respect to a debit balance under *FEES* TP 2.1.6R, that default is to be allocated to the *sub-class* most closely analogous to the contribution group the *firm* belonged to before 1 April 2008 for which the debit balance arises, or if applicable, in accordance with *FEES* TP 2.1.18R.

- 2.1.18 R (1) *FEES* TP 2.1.18R deals with a situation in which *FEES* TP 2.1 requires that a rebate, refund, receipt or default be allocated to the *sub-class* most closely analogous to the contribution group a *participant firm* belonged to before 1 April 2008 but where it is not possible to do this because the *participant firm* belonged to more than one relevant contribution group or because the contribution group maps onto more than one *sub-class*.
- (2) That sum will be divided between contribution groups and *sub-classes* in whatever way *FSCS* considers fair and consistent with the purpose of *FEES* TP 2.1.
- 2.1.19 R *FEES* TP 2.1.1R does not apply to a *participant firm* that was not a *participant firm* on 1 April 2007 or that was exempt during *FSCS*'s financial year beginning on that date. Subject to that, *FEES* TP 2.1.1R applies to a *participant firm* as at 31 March 2008 that has subsequently ceased to be a *participant firm*.
- 2.1.20 G The purpose of *FEES* TP 2.1 is to help to ensure that there is a clean break between periods beginning on or after 1 April 2008 and periods before. The aim is to ensure that debit and credit balances for each contribution group as at 31 March 2008 are discharged and any credit balance in relation to a contribution group is returned to *participant firms* in that contribution group as at that date.
- 2.2 Split of business between life and pensions intermediation and investment intermediation
- 2.2.1 R *FEES* TP 2.2 deals with the calculation of the tariff base of *participant firms* in *sub-classes* C2 (Life and Pensions intermediation) and D2 (Investment intermediation) in relation to the *FSCS*'s financial year beginning on 1 April 2008.
- 2.2.2 R If a *participant firm* would have fallen within both *sub-classes* C2 and D2 in the financial year to 31 March 2008 it must provide *FSCS*, by the date requested by *FSCS*, with an estimated breakdown of business carried on in its financial year ended in the year ending 31 December 2007 which would have fallen within *sub-classes* C2 and D2.
- 2.2.3 R The breakdown in *FEES* TP 2.2.2R must show the ratio of business (in terms of income earned) between the two *sub-classes*, expressed as a percentage and rounded up or down to the nearest ten per cent so that the total figure is one hundred per cent. That percentage is then applied to the amount calculated for *sub-classes* C2 and D2.
- 2.2.4 R *Firms* in contribution group A10 in the financial year to 31 March 2008 will be deemed to have an estimated breakdown of business of one hundred per cent in *sub-class* D2 and zero per cent in *sub-class* C2, unless otherwise notified to the *FSCS* by the date for submission in *FEES* 6.5.13 R.

- 2.2.5 R If a *participant firm* does not provide the information required in *FEES* TP 2.2 by the date requested, the *firm* must pay the administrative fee in *FEES* 6.5.16R(1) and *FSCS* must deem the *firm* in question to carry on one hundred per cent of its intermediation business in *sub-class C2* and one hundred per cent in *sub-class D2*.
- 2.2.6 R Information supplied under *FEES* TP 2.2 is treated as part of the information supplied under *FEES* 6.5.13R.
- 2.3 Incorrect information
- 2.3.1 R If a *participant firm* provides, or is deemed to provide, information under *FEES* 6.5.13R(2) which is incorrect then *FSCS* may take account of any material overpayment or underpayment notified to it in calculating the *firm's* share of the next *FSCS* levy in accordance with *FEES* 6.3.22R. Any overpayment or overcharge will not be refunded or reduced in the year of the levy unless it appears to *FSCS* that in the exceptional circumstances of a particular case, the payment of, or retention by *FSCS* of, any such *FSCS* levy would be inequitable.
- 2.3.2 R *FEES* TP 2.3 applies in relation to information supplied for the purpose of the *FSCS's* financial year beginning on 1 April 2008.
- 2.3.3 R *FEES* TP 2.3.1R does not apply in relation to the calculations in *FEES* TP 2.1.
- 2.4 Allocation of recoveries
- 2.4.1 R Any recoveries made by the *FSCS* after 31 March 2008 in relation to *protected claims* 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 *sub-class* in place after 31 March 2008 to which the costs of the *protected claim* would have been allocated had it been compensated after that date, or if relevant, in accordance with *FEES* 6.3.20R.
- 2.4.2 R *FEES* TP 2.4.1R does not apply to the extent that it is inconsistent with the *compensation transitionals order*.
- 2.5 Interpretation
- 2.5.1 R In *FEES* 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 *FEES* 6.5.7R at the time, being groups that carried on business of a similar nature, to which *compensation costs* and *specific costs* were allocated in accordance with *FEES* 6.4 and *FEES* 6.5 in force at the time. Sub-scheme means one of the sub-schemes to which *FSCS* allocated liabilities for *compensation costs* prior to 1 April 2008, as described in *FEES* 6.5.7R at the time.
- 2.5.2 R For the purpose of *FEES* 6.5.13R as it applies with respect to the *FSCS's* financial year beginning on 1 April 2008:

- (1) references in *FEES* 6.5.13R to *sub-classes* must be read as references to *sub-classes* to which *firms* will belong after 31 March 2008; and
 - (2) (where *FEES* TP provides for the tariff base for a *sub-class* to be calculated by reference to a contribution group prior to that date) *FEES* 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.
- 2.5.3 R The amendments made to *FEES* 6.5.13R by the Fees Manual (FSCS Funding) Instrument 2007 only have effect before 1 April 2008 for the purpose of *FSCS's* financial year beginning on 1 April 2008.
- 2.5.4 G *FEES* 6 Annex 2R and *FEES* 6 Annex 3R (*classes, sub-classes* and tariff bases) are brought into force for the purpose of *FEES* TP and *FEES* 6.5.13R in November 2007. However they do not have any other effect until 1 April 2008.
- 2.6 Past defaults
- 2.6.1 G The changes made to the levy *rules* made by the Fees Manual (FSCS Funding) Instrument 2007 apply to any levy made after 31 March 2008. This is so even if:
- (1) the claim against the *firm in default* arose or relates to circumstances arising before that date;
 - (2) the *firm* was *in default* before that date; or
 - (3) the levy relates to arrangements or measures under *COMP* 3.3 made or taken before that date.

Part 2 [Comes into effect 1 April 2008]

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

6.1 Application

6.1.1 R This chapter applies to:

- (1) every *participant firm*;
- (2) the *FSCS*; and
- (3) the *Society*.

6.1.2 G (1) *Firms* which are not *participant firms* (such as certain types of *incoming EEA firms*, service companies and *ICVCs*) are not required to contribute towards the funding of the *compensation scheme*.

(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 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* 6.3.24 R).

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.

General structure

6.1.4 G Section 213(3)(b) of the *Act* requires the *FSA* to make *rules* to enable the *FSCS* to impose levies on *authorised persons* in order to meet its expenses. These expenses include in particular expenses incurred, or expected to be incurred, in paying compensation, borrowing or insuring risks.

6.1.5 G The *FSCS* may impose two types of levy: a *management expenses levy*, and a *compensation costs levy*. ~~In the first three full years of the operation of the compensation scheme, the FSCS may impose an establishment costs levy as part of a management expenses levy.~~ The *FSCS* has discretion as to the timing of the levies imposed.

6.1.6 G In calculating a *compensation costs levy*, the *FSCS* may include anticipated *compensation costs* for defaults expected to be determined in the 12-month period following the date of the levy. The total of all *management expenses levies* attributable to a financial year will be restricted to the amount set out on an annual basis in *FEES* 6 Annex 1R.

- 6.1.7 G In order to allocate a share of the amount to be funded by an individual *participant firm*, the funding arrangements are split into five *sub-schemes classes*: the ~~accepting deposits class~~; the ~~insurance business life and pensions class~~; the ~~designated investment business class~~; the ~~mortgage advice and arranging home finance class~~ and the general insurance ~~mediation class~~. The business carried on by a *participant firm* determines into which *class*, or *classes*, it falls.
- 6.1.8 G Within each *sub-scheme class* there are one or more ~~contribution groups sub-classes~~. These relate to different types of activity carried on by *participant firms* within each *sub-scheme class*. Within a *sub-scheme class*, individual *participant firms* are allocated for funding purposes to one or more ~~contribution groups sub-classes~~, depending on their business activities. This, together with the provisions on the allocation of levies to *sub-classes up to their levy limits*, meets a requirement of section 213(5) of the *Act* that the *FSA*, 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 deposit class is made up of a single sub-class. This means that a reference to a sub-class will, unless the context otherwise requires, include a reference to the deposits class.

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; and
 - (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.

- 6.1.10 G *A management expenses levy under COMP may consist of ~~three~~ two elements. The first is a *base costs levy*, for the base costs of running the *compensation scheme* in a financial year, that is, costs which are not dependent upon the level of activity of the *compensation scheme* and which therefore are not referable to any specific default. Included in this category 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*.*
- 6.1.11 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 depend on the number of claims and types of default, and include the salaries of the staff of the *FSCS* and legal and other professional fees paid in respect of particular defaults. 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 *sub-class* (but below the *levy limit* for that *sub-class* for the year) or the cost of commercial borrowing to allow *FSCS* to pay claims attributable to a particular *sub-class* in advance of the next levy. Where a *levy limit* has been reached and *FSCS* secures borrowing in order to pay claims allocated to another *sub-class* in accordance with the rules on allocation in *FEES* 6.5.2R, the costs of borrowing are attributable to the *sub-class* whose *levy limit* has been reached. The specific costs are allocated to the ~~*contribution group*~~ or ~~*sub-scheme sub-class*~~ *sub-class* which is responsible for those costs under *COMP*, on the basis of the *protected claims* against that *person*. 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) in the 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 ~~*contribution groups*~~ *sub-classes* to which the *FSCS* has allocated specific costs. Each ~~*contribution groups*~~ *sub-class* has a separate "tariff base" for this purpose, set out in *FEES* ~~6~~ 6.5.8R to *FEES* 6.5.11 Annex 3R. *Participant firms* may be exempt from contributing to the *specific costs levy*.
- 6.1.12 G ~~The third element of a *management expenses levy* is the costs of establishing the *FSCS*. The *FSCS* may impose an *establishment costs levy* only until the end of the third full financial year of operation of the *compensation scheme*. The amount that each *participant firm* pays towards the *establishment costs levy* is calculated on the same basis as the *base costs levy*, and all *participant firms* are liable to contribute. [deleted]~~

- 6.1.13 G The *FSA* intends to consult in January each year on the amount which it will set as the limit on the *management expenses* attributable to the forthcoming financial year of the *FSCS*.
- The compensation costs levy
- 6.1.14 G The *compensation costs levy* is made up of the *compensation costs* which the *FSCS* has incurred and has not yet recovered from *participant firms* (less any recoveries it has made using the rights that have been assigned to it), together with those *compensation costs* it expects to incur (including in respect of defaults yet to be declared) over the 12 *months* following the date of the levy.
- 6.1.15 G *Compensation costs* are principally the costs incurred in paying compensation. Costs incurred in securing continuity of long-term insurance in safeguarding *eligible claimants* when insurers are in financial difficulties, and in making payments or giving indemnities under COMP 11.2.3 R are also treated as *compensation costs*. For funding purposes, these costs are allocated by the *FSCS*, and met by *participant firms*, in the same way as *specific costs* – see up to relevant *levy limits* and then in accordance with the allocation provisions in *FEES* 6.5.2R.
- 6.1.16 G If a *participant firm* is a member of more than one ~~*contribution group sub-class*~~, the total *compensation costs levy* and *specific costs levy* for that *firm* will be the aggregate of the individual levies calculated for the firm in respect of each of the ~~*contribution groups sub-classes*~~. Each *sub-class* has a *levy limit* which is the maximum amount of *compensation costs* which may be allocated to a particular *sub-class* in a financial year for the purposes of a levy. Once the costs attributable to a particular *sub-class* have exceeded the *levy limit* the excess costs are allocated to the other *sub-class* in the same *class*, up to the *levy limit* of that other *sub-class*, and thereafter allocated to a 'general retail pool' of all the other *sub-classes* whose *levy limits* have not been reached (with the exception of the home finance providers). The amount of the excess cost to be allocated to each particular *sub-class* in the general retail pool is calculated pro-rata in accordance with the relative size of the *levy limit* of that *sub-class* to the sum of the *levy limits* of the remainder of the *sub-classes* in the general retail pool whose *levy limits* have not been reached. In the case of the deposits *class*, once the costs attributable to that *class* have exceeded the *levy limit* the excess costs are allocated to the general retail pool. The use made by *FSCS* of borrowing facilities to provide liquidity until the next levy does not affect this allocation of costs.
- 6.1.16A G *FSCS* may consider obtaining insurance cover, if available, against the risk that the value of claims *FSCS* pays out exceeds the *levy limits* of, or given levels within, particular *classes* or *sub-classes*. Any costs associated with the insurance would be allocated proportionally to the *classes* or *sub-classes* intended to benefit from that insurance.

Incoming EEA firms

- 6.1.17 G *Incoming EEA firms* which obtain cover or 'top up' under the provisions of COMP 14 are *firms* whose *Home State* scheme provides no or limited compensation cover in the event that they are determined to be in default. Under *FEES* 6.6, the *FSCS* is required to consider whether *incoming EEA firms* should receive a discount on the amount that they would otherwise pay as their share of the levy, to take account of the availability of their *Home State* cover. The amount of any discount is recoverable from the other members of the *incoming EEA firm's ~~contribution group~~ sub-class*.

6.2 Exemption

- 6.2.1 R (1) A *participant firm* which does not conduct business that could give rise to a *protected claim* by an *eligible claimant* and has no reasonable likelihood of doing so is exempt from a *specific costs levy*, or a *compensation costs levy*, or both, provided that:
- (a) it has notified the *FSCS* in writing that those conditions apply; and
 - (b) the conditions in fact continue to apply.
- (2) The exemption takes effect from the date on which the notice was received by the *FSCS*, subject to *FEES* 6.2.6 R.
- 6.2.2 R *FEES* 6.2.1R 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 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*.
- 6.2.4 R A *participant firm* which is exempt under *FEES* 6.2.1R must notify the *FSCS* in writing as soon as reasonably practicable if the conditions in *FEES* 6.2.1R no longer apply.
- 6.2.5 G A *participant firm* to which the conditions in *FEES* 6.2.1R 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), it will be treated as a *participant firm* to which *FEES* 6.7.6R applies until the end of the 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) R is that if a *firm* fails to notify *FSCS* of an exemption under *FEES* 6.2.1R by 31 March it will be treated as non-exempt for the whole of the next financial year.

6.3 The FSCS's power to impose levies

General limits on 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:

- (1) in the case of a *management expenses levy*, the level of the *FSCS*'s anticipated expenditure in respect of those expenses in the financial year of the *compensation scheme* in relation to which the levy is imposed; and
- (2) in the case of a *compensation costs levy*, the level of the *FSCS*'s anticipated expenditure in respect of *compensation costs* in the 12 months following the levy.

6.3.2 G The calculation of levies will also take into account previous levies, where funds raised in anticipation of meeting liabilities prove either more or less than the amount actually required.

6.3.3 G The *FSCS* may impose one or more levies in a financial year to meet either its *management expenses* or its *compensation costs*. The *FSCS* may also impose interim levies, as part of its overall levy commitment. This flexibility allows the *FSCS* to phase its financing over the course of a financial year and thus avoid collecting levies from firms before the money is actually needed. The *FSCS* has committed itself in the Memorandum of Understanding with the *FSA* (the text of which can be found on the *FSA* website *www.fsa.gov.uk*) to publish regularly an indicative timetable for its levy procedures.

6.3.4 G The discretion over levying in *COMP* also gives the *FSCS*, if it thinks this appropriate, the ability to use third parties as its agents in raising and collecting the levies.

Limits on compensation costs levies on sub-classes and classes

6.3.5 R ~~The *FSCS* must not require a *participant firm* in the accepting deposits *sub-scheme* to pay a share of a *compensation costs levy* allocated to that *sub-scheme* to the extent that:~~

- ~~(1) the share in question; plus~~
- ~~(2) all previous amounts paid by the *firm* either as its share of levies allocated to that *sub-scheme*, or under the Deposit Protection Scheme (deducting from those amounts any amount refunded under *FEES* 6.3.20 R to *FEES* 6.3.21 R or by the Deposit Protection Scheme);~~

~~amounts to more than 0.3% of the *firm*'s *protected deposits*.~~

The maximum amount of compensation costs for which the FSCS can levy each sub-class and class in any one financial year of the compensation scheme is limited to the amounts set out in the table in FEES 6 Annex 2R.

- 6.3.6 R ~~The FSCS must not require a participant firm in the insurance business sub-scheme to pay a share of a compensation costs levy allocated to that sub-scheme in any financial year of the compensation scheme, to the extent that the share in question, together with all previous amounts paid by the firm as its share of compensation costs levies allocated to that sub-scheme in that financial year, amounts to more than 0.8% of the participant firm's relevant net premium income.~~[deleted]
- 6.3.7 R ~~The maximum amount of compensation costs for which the FSCS can levy the designated investment business sub-scheme in any one financial year of the compensation scheme is limited to £400 million.~~[deleted]
- 6.3.8 R ~~The FSCS must not require a participant firm in the mortgage advice and arranging sub-scheme to pay a share of a compensation costs levy allocated to that sub-scheme in any financial year of the compensation scheme, to the extent that:~~[deleted]
- (1) ~~the share in question; plus~~
 - (2) ~~all previous amounts paid by the firm as its share of compensation costs levies allocated to that sub-scheme in that financial year;~~
- ~~amounts to more than 0.8% of the participant firm's annual eligible income.~~
- 6.3.9 R ~~The FSCS must not require a participant firm in the general insurance mediation sub-scheme to pay a share of a compensation costs levy allocated to that sub-scheme in any financial year of the compensation scheme, to the extent that:~~[deleted]
- (1) ~~the share in question; plus~~
 - (2) ~~all previous amounts paid by the firm as its share of the compensation costs levy allocated to that sub-scheme in that financial year;~~
- ~~amounts to more than 0.8% of the participant firm's annual eligible income.~~
- Levy compensation costs paid in error
- 6.3.10 R The FSCS may include in a compensation costs levy the costs of compensation paid by the FSCS in error, provided that the payment was made in good faith.
- 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 ~~*sub-schemes classes*~~ and relevant ~~*contribution groups sub-classes*~~, in accordance with the allocation established under *FEES* 6.4.6R and *FEES* 6.5.2R.
- 6.3.12 R Any funds received by the *FSCS* by way of levy or otherwise for the purposes of the *compensation scheme* are to be managed as the *FSCS* considers appropriate, and in doing this the *FSCS* must act prudently.
- 6.3.13 R Interest earned by the *FSCS* in the management of funds held to the credit of a ~~*contribution group sub-class*~~ must be credited to that ~~*contribution group sub-class*~~, and must be set off against the *management expenses or compensation costs* allocated to that ~~*contribution group sub-class*~~.
- 6.3.14 R The *FSCS* must keep accounts which show:
- (1) the funds held to the credit of each ~~*sub-scheme class*~~ and relevant ~~*contribution group sub-class*~~; and
 - (2) the liabilities of that ~~*sub-scheme class*~~ and relevant ~~*contribution group sub-class*~~.
- 6.3.15 R The *FSCS* may use the money collected from *firms* within one ~~*sub-scheme class*~~ to pay *compensation costs* in respect of any ~~*contribution group sub-class*~~ within that ~~*sub-scheme class*~~, so long as it ensures that this is done without prejudice to the *participant firms* from whom the money has been collected.
- 6.3.15A G *FEES* 6.3.15R deals with how *FSCS* may use money available to it and does not affect the *rules* on allocation in *FEES* 6.5.2R. Therefore the requirement that the procedure in *FEES* 6.3.15R should not prejudice the *participant firms* does not apply to an allocation under *FEES* 6.5.2R.
- 6.3.16 G *FEES* 6.3.15R means that, for example:
- (1) when crediting interest under *FEES* 6.3.13R, the *FSCS* should regard any money collected from one ~~*contribution group sub-class*~~ which has been used to pay the *compensation costs* of another ~~*contribution group sub-class*~~ within the same ~~*sub-scheme class*~~ as standing to the credit of the first ~~*contribution group sub-class*~~; and
 - (2) the *FSCS* should not raise a levy under *FEES* 6.3.1R on a ~~*contribution group sub-class*~~ solely because, as a result of the *FSCS*'s action under *FEES* 6.3.15R, there appear to be insufficient funds available to the credit of the ~~*contribution group sub-class*~~ to meet its expenses;—and
 - (3) (2) would not be applicable to the extent that the funds used are in respect of costs allocated to the *sub-class* in accordance with the *rules* on allocation in *FEES* 6.5.2 R(1) and (2).

- 6.3.17 R (1) The *FSCS* may use any money held to the credit of one *sub-scheme class* (the creditor *sub-scheme class*) to pay compensation costs in respect of or allocated to another *sub-scheme class* (the debtor *sub-scheme class*) if the *FSCS* has reasonable grounds to believe that this would be more economical than borrowing funds from a third party or raising a levy.
- (2) Where the *FSCS* acts in accordance with (1), it must ensure that:
- (a) the creditor *sub-scheme class* is reimbursed by the debtor *sub-scheme class* as soon as possible;
 - (b) the debtor *sub-scheme class* pays interest at a rate equivalent to the Bank of England's repo rate from time to time in force; and
 - (c) the amount lent by the creditor *sub-scheme class* to the debtor *sub-scheme class* is taken into account by the *FSCS* when considering whether to impose a compensation costs levy on the creditor *sub-scheme class* under *FEES* 6.3.1R.
- 6.3.18 R (1) ~~The *FSCS* may use any money held to the credit of any class to repay borrowing from a third party incurred to pay establishment costs if in the opinion of the *FSCS* this would be to the benefit of participant firms.~~
- G *FEES* 6.3.17R deals with how *FSCS* may use money available to it and does not affect the rules on allocation in *FEES* 6.5.2R. Therefore *FEES* 6.3.17R(2) (a), (b) and (c) do not apply where the costs otherwise attributable to one debtor class are allocated to the creditor class in accordance with the rules on allocation in *FEES* 6.5.2R.
- (2) ~~Where the *FSCS* acts in accordance with (1), it must ensure that:~~
- (a) ~~future establishment costs levies or are used first to repay all amounts borrowed from the appropriate classes;~~
 - (b) ~~interest is paid to the appropriate classes at a rate equivalent to the Bank of England's repo rate from time to time in force; and~~
 - (c) ~~the amount lent by any class is taken into account by the *FSCS* when considering whether to impose a levy under *FEES* 6.3.1 R.~~
- 6.3.19 R Unless *FEES* 6.3.20R applies, any recoveries made by the *FSCS* in relation to *protected claims* must be credited to the *contribution groups sub-classes* to which the related *compensation costs* were allocated.

6.3.20 R (1) ~~If the FSCS makes recoveries in relation to *protected claims* where the related *compensation costs* were allocated to the accepting deposits *sub-scheme*, or in relation to compensation paid out of a special contribution under the Deposit Protection Scheme, and if the FSCS refunds the recoveries under FEES 6.3.21 R, it must ensure that, as far as possible, the recoveries are refunded to the *firms* that contributed to the relevant *compensation costs levy* or special contribution (whether or not the *firms* are *participant firms* at the time that the recoveries are made).~~

This rule applies where the FSCS makes recoveries in relation to *protected claims* where related *compensation costs* would have been met by a *sub-class* (sub-class A) had the *levy limit* for sub-class A not been reached and have therefore been met by another *sub-class* or *sub-classes*.

(2) This rule applies even though the recovery is made in a subsequent financial year.

(3) Recoveries referred to in (1) must be applied in the following order of priority:

(a) (if the *compensation costs* were allocated to the general retail pool (see FEES 6.5.2R(2)) to the *classes* and *sub-classes* to which the costs were allocated in accordance FEES 6.5.2R(2) in the same proportion as those *classes* and respective *sub-classes* contributed, up to the total amount of that allocation plus interest at a rate equivalent to the Bank of England's repo rate from time to time in force;

(b) (if the *compensation costs* were allocated to the other *sub-class* in the same *class* as sub-class A) to that other *sub-class* up to the total amount of that allocation plus interest at a rate equivalent to the Bank of England's repo rate from time to time in force; and

(c) sub-class A.

6.3.20A G Recoveries under FEES 6.3.20R are net of the costs of recovery.

6.3.21 R If the FSCS has more funds to the credit of a ~~*contribution group sub-class*~~ *sub-class* than the FSCS believes will be required to meet levies on that ~~*contribution group sub-class*~~ *sub-class* for the next 12 months, it may refund the surplus to members or former members of the ~~*contribution group sub-class*~~ *sub-class* on any reasonable basis.

Adjustments to calculation of levy shares

6.3.22 R The FSCS may adjust the calculation of a *participant firm's* share of any levy to take proper account of:

- (1) any excess, not already taken into account, between previous levies of that type imposed in relation to previous periods and the relevant costs actually incurred in that period; or
- (2) *participant firms* that are exempt from the levy under *FEES* 6.2; or
- (3) amounts that the *FSCS* has not been able to recover from *participant firms* as a result of *FEES* 6.3.5R, ~~*FEES* 6.3.6R, *FEES* 6.3.8R or *FEES* 6.3.9R~~; or
- (4) amounts that the *FSCS* has not been able to recover from *participant firms* after having taken reasonable steps; or
- (5) *FEES* 6.4.8R (New *participant firms*), *FEES* 6.5.9R (New *participant firms*), *FEES* 6.3.23R (Remission of levy or additional administrative fee) or *FEES* 6.6 (Incoming EEA firms); or
- (6) anything else that the *FSCS* believes on reasonable grounds should be taken into account.

Remission of levy or additional administrative fee

- 6.3.23 R If a *participant firm's* share of a levy or an additional administrative fee under *FEES* 6.7.4R would be so small that, in the opinion of the *FSCS*, the costs of collection would be disproportionate to the amount payable, the *FSCS* may treat the *participant firm* as if its share of the levy or additional administrative fee amounted to zero.

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 any unexpired portion of an *establishment costs* levy;~~
 - (2) a proportionate share of a *base costs* levy in respect of the *compensation scheme's* costs for the period from 1 January 2004 to the end of the *compensation scheme's* financial year and a share of such levies for all subsequent financial years; and
 - (3) a *specific costs* levy and a *compensation costs* levy in respect of costs arising out of a *relevant person* being *in default*, arrangements made under COMP 3.3.1R or measures taken under COMP 3.3.3R where:
 - (a) the default occurs or the circumstances giving rise to the arrangements being made or the measures being taken, as the case may be, occur; and
 - (b) the *protected contracts of insurance* in connection with which the costs arise were entered into;

on or after 1 January 2004.

- 6.4 Management expenses
- Obligation on participant firm to pay
- 6.4.1 R *A participant firm must pay to the FSCS a share of each management expenses levy.*
- Limit on management expenses
- 6.4.2 R The total of all *management expenses levies* 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*.
- Participant firm's share
- 6.4.3 R *A participant firm's share of a management expenses levy consists of one or more of: (1) a share of a base costs levy; and (2) a share of a specific costs levy; and (3) a share of an establishment costs levy.*
- 6.4.4 R The *FSCS* must ensure that each *participant firm's* share of a *management expenses levy* separately identifies the *firm's* share of the *base costs levy*, and specific costs levy ~~and establishment costs levy~~.
- Base costs levy
- 6.4.5 R Unless *FEES 6.3.22R* applies, 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 of the *compensation scheme*, but has not yet levied;
 - (2) calculating the amount of the *participant firm's* regulatory costs as a proportion of the total *regulatory costs* relating to all *participant firms* for the relevant financial year; and
 - (3) applying the proportion calculated in (2) to the figure in (1).
- Specific costs levy
- 6.4.6 R ~~(1)~~ The *FSCS* must ~~(subject to (2))~~ allocate any *specific costs levy* amongst the ~~*sub-schemes*~~ and relevant ~~*contribution groups sub-classes*~~ *sub-classes* in proportion to the ~~volume~~ amount of relevant costs arising from, or expected to arise from, claims in respect of the different activities represented by those ~~*contribution groups sub-classes*~~.
- ~~(2)~~ The *FSCS* must allocate any part of a *specific costs levy* that relates to ~~IFA pensions review claims in accordance with *FEES 6.5.17 R* (IFA pensions review compensation levies)~~.

- 6.4.7 R The *FSCS* must calculate a *participant firm's* share of a *specific costs levy* (subject to *FEES* 6.3.22R (Adjustments to calculation of levy shares) ~~and~~ *FEES* 6.5.17 R (IFA pensions review compensation levies)) by:
- (1) identifying each of the ~~*sub-scheme*~~ and relevant *sub-classes* ~~*contribution groups*~~ within those ~~*sub-schemes*~~ 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*~~ ~~or~~ ~~*establishment costs*~~ which the *FSCS* has incurred, or expects to incur, in the relevant financial year of the *compensation scheme*, allocated to the ~~*contribution groups*~~ *sub-classes* identified in (1), but not yet levied;
 - (3) calculating, in relation to each relevant ~~*contribution group*~~ *sub-class*, the *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the ~~*contribution group*~~ *sub-class*, using the statement of business most recently supplied under *FEES* 6.5.13R;
 - (4) applying the proportion calculated in (3) to the figure in (2); and
 - (5) if more than one ~~*sub-scheme class*~~ or ~~*contribution group sub-class*~~ is relevant, adding together the figure in (4) for each ~~*contribution group sub-class*~~.

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.
- 6.4.9 G ~~New *participant firms* will normally have relevant tariff bases of nil as at 31 December in the financial year preceding that in which they join, so that they will not be required to pay a share of a *specific costs levy* (or a *compensation costs levy* because of *FEES* 6.5.6R). *FEES* 6.4.8R means that the *FSCS* does not have to estimate the tariff base of a new *participant firm*. [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* ~~and the *establishment costs levy*~~ through the modified fee provisions of *FEES* 4.2.6R, no *rule* is necessary in *COMP* for discounts on the *base costs levy* ~~or the *establishment costs levy*~~.

~~Establishment costs levy~~

- 6.4.11 R ~~The *FSCS* must calculate a *participant firm's* share of an *establishment costs levy* on the same basis as a *base costs levy* under *FEES* 6.4.5 R. [deleted]~~

6.4.12 R ~~The FSCS may not impose an *establishment costs levy* after the end of the third full financial year of operation of the *compensation scheme*. [deleted]~~

- 6.5 Compensation costs
- 6.5.1 R The *compensation costs levy* is made up of *compensation costs* incurred by the *FSCS*, together with any *compensation costs* which can reasonably be anticipated as arising in the 12 months following the levy date and which in each case have not already been subject to a levy.
- 6.5.2 R ~~(1)~~ The *FSCS* must ~~(subject to (2))~~ allocate any *compensation costs levy* to the ~~individual sub-scheme and relevant sub-classes~~ contribution groups in proportion to the ~~volume~~ amount of *compensation costs* arising from, or expected to arise from, claims in respect of the different activities represented by those ~~contribution groups~~ sub-classes up to the *levy limit* of each relevant *sub-class* and thereafter in the following order:
- (1) any excess must be allocated to the other sub-class in the same class up to the levy limit of that other sub-class (except in the deposit class, for which there is only one sub-class); and
- (2) any excess above the levy limit of the class must be allocated to each other sub-class, other than the home finance provision sub-class E1, whose levy limit has not been reached (the 'general retail pool'), in proportion to the relative sizes of the levy limits of those remaining sub-classes in the general retail pool.
- ~~(2) The FSCS must allocate any part of a compensation costs levy that relates to IFA pensions review claims in accordance with FEES 6.5.17 R (IFA pensions review compensation levies).~~
- 6.5.2A G The use made by FSCS of borrowing facilities to provide liquidity until the next levy does not affect the allocation of costs incurred or anticipated.
- 6.5.2B G The calculation of the relative sizes of the levy limits for the purpose of FEES 6.5.2R(2) (including any allocations caused by the exhaustion of a receiving sub-class) is based on the original levy limit for the sub-classes (as set out in FEES 6 Annex 2R) and not the remaining capacity in each sub-class.
- 6.5.2C G When FSCS allocates excess compensation costs levies otherwise attributable to a class which has reached its levy limit, in accordance with FEES 6.5.2R(2), a sub-class to which any excess has been allocated (the 'receiving sub-class') may, as a result of that allocation, itself reach its levy limit. In that case, the effect of FEES 6.5.2R is that any resulting excess levy beyond the levy limit of the receiving sub-class is to be allocated amongst the remaining sub-classes whose levy limits have not been reached, to the exclusion of the receiving sub-class. This process is repeated until the compensation costs levy has been met in full or the general retail pool has been exhausted.

- 6.5.3 R If a *participant firm* which is *in default* has carried on a *regulated activity* other than in accordance with a *permission*, the *FSCS* must allocate any *compensation costs* or *specific costs* arising out of that activity to the relevant ~~*contribution group sub-class*~~ *sub-class* which covers that activity or if a *levy limit* of the relevant *sub-class* or *class* has been exceeded, *FSCS* must allocate any *compensation costs levy* on the same basis as set out in *FEES 6.5.2R*.
- 6.5.4 R If the relevant *person* in default is an *appointed representative* or, where applicable, a *tied agent*, the *FSCS* must allocate any *compensation costs* or *specific costs* arising out of a *regulated activity* for which his *principal* has not accepted responsibility to the relevant ~~*contribution group sub-class*~~ *sub-class* for that activity or if a *levy limit* of the relevant *sub-class* or *class* has been exceeded, *FSCS* must allocate any *compensation costs levy* on the same basis as set out in *FEES 6.5.2R*.
- 6.5.5 R (1) A *participant firm* must pay to the *FSCS* a share of each *compensation costs levy* unless either the *firm* is exempt under *FEES 6.2* (Exemption) or the *FSCS* has chosen to exercise its discretion under *FEES 6.3.23R* in respect of that *firm*.
- (2) If a *levy* relates solely to costs allocated in excess of a particular *levy limit* (1) does not apply to a *participant firm* member of the *sub-class* or *class* whose *levy limit* has been exceeded.

Compensation costs levy

- 6.5.6 R ~~The *FSCS* must calculate a *participant firm's* share of a *compensation costs levy* (subject to *FEES 6.5.17 R* (IFA pensions review compensation levies)) on the same basis as a *specific costs levy* under *FEES 6.4.6 R*, *FEES 6.4.7 R* and *FEES 6.4.8 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 *sub-classes* to which each *participant firm* belongs, using the statement of business most recently supplied under *FEES 6.5.13R*;
- (2) identifying the *compensation costs* falling within *FEES 6.5.1R* allocated, in accordance with *FEES 6.5.2R*, to the *sub-classes* identified in (1);
- (3) calculating, in relation to each relevant *sub-class*, the *participant firm's* tariff base as a proportion of the total tariff base of all *participant firms* in the *sub-class*, using the statement of business most recently supplied under *FEES 6.5.13R*;
- (4) applying the proportion calculated in (3) to the figure in (2); and

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

Sub-classes and tariff bases for compensation cost levies and specific costs levies

6.5.7 R When calculating a *participant firm's* share of a *compensation costs levy* or *specific costs levy* allocated to each sub-class the *FSCS* must use the sub-classes and tariff bases as set out in the table in *FEES 6 Annex 3R*.

- (1) ~~the accepting deposits sub-scheme or the insurance business sub-scheme, the FSCS must use the contribution groups and tariff bases as set out in the table in FEES 6.5.8 R;~~
- (2) ~~the investment business sub-scheme, the FSCS must (unless (3) applies) use as the contribution groups and tariff bases the correspondingly numbered activity groups and tariff bases set out in part 1 and part 2 of FEES 4 Ann 1 which are identified in FEES 6.5.9 R;~~
- (3) ~~the investment business sub-scheme, where any part of the levy relates to IFA pensions review claims, the FSCS must comply with FEES 6.5.17 R (IFA pensions review compensation levies);~~
- (4) ~~the mortgage advice and arranging sub-scheme, the FSCS must use the contribution group and tariff base set out in the table in FEES 6.5.10 R;~~
- (5) ~~the general insurance mediation sub-scheme, the FSCS must use the contribution group and tariff base set out in the table in FEES 6.5.11 R.~~

6.5.8 R ~~Table: Contribution Groups for the Accepting Deposits Sub-scheme and the Insurance Business Sub-scheme for the Financial Services Compensation Scheme (see FEES 6.5.7R (1))~~

G Guidance on parts of FEES 6 Annex 3R can be found in FEES 6 Annex 4G.

SUB-SCHEME	CONTRIBUTION GROUP (references to A1, A2 etc are to the FSA fee Blocks)	LEGAL BASIS FOR ACTIVITY (references to articles are to articles of the <i>Regulated Activities Order</i>)	TARIFF BASE
Accepting deposits	A1—deposit takers	<i>Accepting deposits</i> (article 5)	<i>Protected deposits</i> (see <i>FEES 6.5.15 R</i>)

Insurance business	A3—Insurance activities—General insurance	<i>Effecting contracts of insurance and/or carrying out contracts of insurance (article 10) that are general insurance contracts</i>	<i>Relevant net premium income</i>
Insurance business	A4—insurance activities—Life Insurance	<i>Effecting contracts of insurance and/or carrying out contracts of insurance (article 10) that are long-term insurance contracts</i>	<i>Relevant net premium income</i>

New participant firms

- 6.5.9 R Table: The contribution groups and tariff bases for the investment business sub-scheme (see *FEES 6.5.7R (2)*). (The contribution groups, legal bases for activity and tariff bases are the same as the correspondingly numbered activity groups and tariff bases set out in part 1 and part 2 of *FEES 4 Ann 1R*).

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 compensation costs levy made in that year.

SUB-SCHEME	CONTRIBUTION GROUP (references to A7 etc are to the activity groups in part 1 of <i>FEES 4 Ann 1R</i>)	LEGAL BASIS FOR ACTIVITY (this is merely a summary of the basis in part 1 of <i>FEES 4 Ann 1R</i> ; references to articles are to articles of the <i>Regulated Activities Order</i>)	TARIFF BASE (this is merely a summary of the base in part 2 of <i>FEES 4 Ann 1R</i>)
Designated	A7—fund	<i>Managing</i>	Funds under

investment business	managers	<i>investments</i> (article 37)	management
Designated investment business	A9—managers of an <i>AUT</i> , <i>ACDs</i> and depositaries and <i>operators</i> of <i>personal pension schemes</i> or <i>stakeholder pension schemes</i>	Any of the following: (a) establishing, operating or winding up a collective investment scheme; (b) acting as a trustee of an authorised unit trust scheme; (c) acting as a depositary, or sole director of an open-ended investment company (article 51); (d) <i>establishing, operating or winding up a personal pension scheme or a stakeholder pension scheme.</i>	Gross income
Designated investment business	A10—dealing as principal	<i>Dealing in investments as principal</i> (article 14).	Number of traders
Designated investment business	A12—advisory brokers (excluding corporate finance advisers)—holding either <i>client money</i> or assets	Any of the following: (a) <i>dealing in investments as agent</i> (article 21); (b) <i>arranging (bringing about) deals in investments</i> (article 25(1)); (c) <i>making arrangements with a view to transactions in</i>	Number of <i>approved persons</i>

		<i>investments (article 25(2)); with permission to: (i) advise on investments (article 53); (ii) hold client money; and (iii) safeguarding and administering investments (article 40)</i>	
Designated investment business	A13—advisory brokers (excluding corporate finance adviser) not holding either <i>client money</i>	Any of the following: (a) <i>dealing in investments as agent</i> (article 21); (b) <i>arranging (bringing about) deals in investments (article 25(1)); (c) making arrangements with a view to transactions in investments (article 25(2)); with permission to advise on investments (article 53); but not to (i) hold client money; and (ii) safeguard and administer investments (article 40).</i>	Number of <i>approved persons</i>
Designated investment business	A14—corporate finance advisory firms	<i>Permission includes a requirement that the firm must not conduct designated investment</i>	Number of <i>approved persons</i>

		business other than corporate finance business	
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Exclusion of new and exempt participant firms

6.5.10 R ~~Table: the contribution groups and tariff bases for the mortgage advisers and arrangers (see FEES 6.5.7R (4)) [deleted]~~

SUB-SCHEME	CONTRIBUTION GROUP (references to A1, A2 etc are to the FSA fee Blocks)	LEGAL BASIS FOR ACTIVITY (references to articles are to articles of the <i>Regulated Activities Order</i>)	TARIFF BASE
Mortgage advice and arranging	A18—Mortgage lenders, advisers and arrangers	Any of the following: (a) arranging (bringing about) regulated mortgage contracts; (b) making arrangements with a view to regulated mortgage contracts; (c) advising on regulated mortgage contracts; (d) agreeing to carry on a regulated activity which is within any of the above; and (e) the activities of a mortgage lender which would be arranging but for article 28A of the <i>Regulated Activities Order</i>	<i>annual eligible income</i>

		(Arranging contracts to which the arranger is a party):	
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6.5.11 R ~~Table: the contribution groups and tariff bases for the general insurance intermediaries (see FEES 6.5.7R (5)) [deleted]~~

SUB-SCHEME	CONTRIBUTION GROUP (references to A1, A2 etc are to the FSA fee Blocks)	LEGAL BASIS FOR ACTIVITY (references to articles are to articles of the <i>Regulated Activities Order</i>)	TARIFF BASE
General insurance	A.19 General	Any of the following in relation to a <i>non-investment insurance contract</i> : (a) <i>dealing in investments as agent</i> ; (b) <i>arranging (bringing about) deals in investments</i> ; (c) <i>making arrangements with a view to transactions in investments</i> ; (d) <i>assisting in the administration and performance of a contract of insurance</i> ; (e) <i>advising on investments</i> ; and (f) <i>agreeing to carry on a regulated activity which is within any of the</i>	<i>annual-eligible income</i>

		above	
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- 6.5.12 G A *participant firm* may belong to more than one ~~sub-scheme class~~, and more than one ~~contribution-group sub-class~~ within the same ~~sub-scheme class~~.

Part 3 [Changes to 6.5.13R to come into effect on 6 November 2007]

In this part of Annex B underlining denotes new text and striking through denotes deleted text.

- 6.5.13 R (1) Unless exempt under *FEES* 6.2.1R, 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 *FSA*) with a statement of:
- (+) (a) the ~~contribution-groups sub-classes~~ to which it belongs; and
 - (2) (b) the total amount of business (measured in accordance with the appropriate tariff base or tariff bases) which it conducted, in respect of the *firm's* last financial year ended in the year to 31 December preceding the relevant year, or if appropriate to the tariff base, as at 31 December of the previous year immediately preceding the relevant year in relation to each of those ~~sub-classes contribution-groups~~.
- (2) In this rule the relevant year means the year in which the month of February referred to in (1) falls.
- (3) This rule does not apply in relation to the home finance provision sub-class E1.

Part 4 [Comes into effect 1 April 2008]

In this part of Annex B underlining denotes new text and striking through denotes deleted text.

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

- 6.5.15 R Where a *participant firm* can identify that a *protected deposit* was made by a *person* who is not an *eligible claimant*, it may exclude the amount of that deposit from the tariff base, provided that it notifies the *FSCS* of the amount of the deposit so excluded and provides the *FSCS* with such information about the deposit as the *FSCS* may reasonably require.
- 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 2 Part 1 or *FEES* 5.4.1R for the same 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, on the basis of the information provided to the *FSA* 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.

~~IFA pensions review compensation levies~~

- 6.5.17 R ~~The *FSCS* must allocate any part of a *specific costs levy* or *compensation costs levy* that relates to *IFA pensions review claims*: [deleted]~~
- ~~(1) to *participant firms* which were liable to pay the *PIA* pensions review compensation costs levy in 2001/2002; and~~
 - ~~(2) in the same percentage share as that levy (adjusted to distribute the share of any previous contributor, which is not a *participant firm*, among remaining *participant firms* in accordance with their percentage shares).~~

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Part 5 [Comes into effect on 6 November 2007]

Insert three new annexes as follows

In this part of Annex B all text is new and is not underlined

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	Sub-class	Levy Limit (£ million)
Deposit		
	Deposit	1,840
Life and Pensions		
	Life and Pensions Provision	690
	Life and Pensions Intermediation	100
General insurance		
	General Insurance Provision	775
	General Insurance Intermediation	195
Investment		
	Fund management	270
	Investment Intermediation	100
Home Finance		
	Home Finance Provision	70
	Home Finance Intermediation	60

Class A	Deposit
Legal basis for activity in class A	<i>accepting deposits.</i> BUT does not include any fee payer who either effects or carries out <i>contracts of insurance.</i>
Tariff base	<i>Protected deposits</i> as at 31 December

Class B	General Insurance
Sub-class B1	General Insurance Provision
Legal basis for activity in sub-class B1	<ul style="list-style-type: none"> • <i>effecting contracts of insurance; and/or</i> • <i>carrying out contracts of insurance;</i> <p>that are <i>general insurance contracts</i>.</p>
Sub-class B2	General Insurance Intermediation
Legal basis for activity in sub-class B2	<p>Any of the following in respect of <i>general insurance contracts</i>:</p> <ul style="list-style-type: none"> • <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>
Tariff base	<p>Sub-class B1: <i>Relevant net premium income.</i></p> <p>Sub-class B2: <i>annual eligible income</i> where the annual income is calculated in accordance with that for fee-block A19 in part 2 of <i>FEES 4 Annex 1R</i>.</p>

Class C	Life and Pensions
Sub-class C1	Life and Pensions Provision
Legal basis for activity in sub-class C1	<ul style="list-style-type: none"> • <i>effecting contracts of insurance; and/or</i> • <i>carrying out contracts of insurance;</i> <p>that are <i>long term insurance contracts (including pure protection contracts)</i>.</p>
Sub-class C2	Life and Pensions Intermediation
Legal basis for activity in sub-class C2	<p>Any of the following:</p> <ul style="list-style-type: none"> • <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>giving basic advice on a stakeholder product.</i> • <i>agreeing to carry on a regulated activity which is within any of the above;</i> <p>in relation to any of the following:</p> <ul style="list-style-type: none"> • <i>long term insurance contracts (including pure protection contracts);</i> • <i>rights under a stakeholder pension scheme or a personal pension scheme.</i>
Tariff base	<p>Sub-class C1: <i>Relevant net premium income</i></p> <p>Sub-class C2: Number of <i>approved persons</i> as at 31 December, calculated on the same basis as corresponding tariff base provisions for fee blocks A12, 13, and A14 in <i>FEES 4 Annex 1 R</i> (even if the <i>firm's approved persons</i> are not counted for the purposes of those fee blocks), and multiplied by the <i>firm's</i> estimated proportion of business falling within <i>sub-class C2</i> provided or deemed as provided in accordance with <i>FEES 6</i>.</p>

Class D	Investment
Sub-class D1	Fund Management
Legal basis for activity in sub-class D1	<p>Any of the following:</p> <ul style="list-style-type: none"> • <i>managing investments;</i> • <i>establishing, operating or winding up a regulated collective investment scheme;</i> • <i>establishing, operating or winding up an unregulated collective investment scheme;</i> • <i>acting as trustee of an authorised unit trust scheme;</i> • <i>acting as the depositary or sole director of an open-ended investment company;</i> • <i>establishing, operating or winding up a stakeholder pension scheme;</i> • <i>establishing, operating or winding up a personal pension scheme;</i> • <i>agreeing to carry on a regulated activity which is within any of the above.</i>
Sub-class D2	Investment Intermediation
Legal basis for activity in sub-class D2	<p>Any of the following activities in relation to <i>designated investment business</i></p> <ul style="list-style-type: none"> • <i>dealing in investments as principal;</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>advising on investments;</i> • <i>giving basic advice on a stakeholder product;</i> • <i>safeguarding and administering of assets;</i> • <i>arranging safeguarding and administering of assets;</i> • <i>operating a multilateral trading facility;</i>

	<ul style="list-style-type: none"> • <i>agreeing to carry on a regulated activity</i> which is within any of the above; <p>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>.</p>
Tariff base	<p>Sub-class D1: gross income. Gross income in respect of activities falling into fee block A9 must be calculated in accordance with the tariff base provisions for that fee block. In any case the calculation excludes any value attributable to activities which are simultaneously activities in <i>sub-class</i> D2 to the extent included there.</p> <p>Sub-class D2: Number of <i>approved persons</i> or, for <i>firms</i> in contribution group A10 as at 31 March 2008, number of traders, as at 31 December, calculated on the same basis as corresponding tariff base provisions for fee blocks A12, A13, A10 and A14 in <i>FEES</i> 4 Annex 1R, and multiplied by the <i>firm's</i> estimated proportion of business falling within <i>sub-class</i> D2 (except fee block A10) provided or deemed as provided in accordance with <i>FEES</i> 6. To avoid double-counting, when calculating the number of traders <i>FSCS</i> must deduct the number of <i>approved persons</i> who are also traders attributed to the <i>firm</i> for the purposes of <i>FSA</i> fee block A12, A13 or A14.</p>

Class E	Home Finance
Sub-class E1	Home Finance Provision
Legal basis for activity in sub-class E1	Any of the activities below: <ul style="list-style-type: none"> • <i>entering into a home finance transaction;</i> • <i>administering a home finance transaction;</i> • <i>agreeing to carry on a regulated activity</i> which is within any of the above.
Sub-class E2	Home Finance Intermediation
Legal basis for activity in sub-class E2	Any of the following activities: <ul style="list-style-type: none"> • <i>arranging (bringing about) a home finance transaction;</i> • <i>making arrangements with a view to a home finance transaction;</i> • <i>advising on home finance transactions;</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 party); • <i>agreeing to carry on a regulated activity</i> which is within any of the above.
Tariff base	Sub-class E1: FSA periodic fees Sub-class: E2: <i>annual eligible income</i> where the annual income is calculated in accordance with fee-block A18 in part 2 of <i>FEES 4 Annex 1R</i>

Notes	
(1)	Any reference in this annex to a <i>specified investment</i> includes a reference to <i>rights to or interests in investments</i> in that <i>specified investment</i> .
(2)	This paragraph deals with a tariff base calculation for a <i>sub-class</i> based on the calculations for corresponding specified fee blocks where this is not possible because there are no corresponding fee blocks. In this case the calculation is based on whichever of the specified fee blocks <i>FSCS</i> may reasonably choose.

6 Annex 4G Guidance on the calculation of tariff bases
This table belongs to FEES 6.5.8G

Calculation of gross income for firms who carry out discretionary fund management and are in sub-class D1

- 1.1 G The calculation of gross income for the purpose of *sub-class* D1 should be based on the calculation of fees under fee block A9. Gross income for the activity of *managing investments* is the sum of the following:
- (1) the amount of the annual charge on all assets in portfolios which the *firm* 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 *firm* 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 *firm* 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 *firm* manages on a discretionary basis in that same accounting period, including commission and interest received.
- 1.2 G Gross income should exclude:
- (1) income received or receivable from assets managed on a non-discretionary basis, being assets that the *firm* 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 *sub-class* D2 (the investment intermediation *sub-class*);
 - (2) income that the *firm* has rebated to customers or passed onto other *firms* (for instance where there is a commission chain).
- 1.3 G A *firm* 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 *personal pension scheme* or *collective investment scheme*).

Corresponding fee blocks

- 2.1 G An example of a case covered by Note 2 in *FEES 6 Annex 3R* (Financial Services Compensation Scheme – classes and sub-classes) is as follows. The tariff base for *sub-class C2* (Life and Pensions Intermediation) is based on *approved persons*, calculated on the same basis as the corresponding tariff base provisions for fee blocks A12, 13, and A14. However *firms* carrying on business originally falling within fee block A19 (e.g. in relation to *pure protection contracts*) can also fall into *sub-class C2*. The note means that *FSCS* may choose whether the calculation is based on the tariff base applicable to A12, A13, or A14.