BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | FCA CP17/1**
PRA CP1/17

Financial Services Compensation Scheme – Management Expenses Levy Limit 2017/18

January 2017

Contents

We are asking for comments on this Consultation Paper by 13 February 2017.
You can send them using the form on the FCA website at:
www.fca.org.uk/cp17-01-response-form.

Or in writing to:

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The FCA has developed the policy in this consultation paper in the context of the existing UK and EU regulatory framework. We will keep the proposals under review to assess whether any amendments will be required due to changes in the UK regulatory framework, including as a result of any negotiations following the UK's vote to leave the EU.

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.

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Information provided in response to this consultation, including personal information may be subject to publication or release to other parties or to disclosure, in accordance with access to information regimes under the Freedom of Information Act 2000 or the Data Protection Act 1998 or otherwise as required by law or in discharge of our statutory functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England or the PRA receives a request for disclosure of this information, the Bank of England or the PRA will take your indication(s) into account, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system on emails will not, of itself, be regarded as binding on the Bank of England and the PRA.

This Consultation Paper proposes changes to the PRA Rulebook.

The proposals contained in this CP have been designed in the context of the current UK and EU regulatory framework. The PRA will keep the policy under review to assess whether any changes would be required due to changes in the UK regulatory framework, including those arising once any new arrangements with the European Union take effect.

Abbreviations used in this paper

CBA	cost benefit analysis
CP	Consultation Paper
FCA	Financial Conduct Authority
FEES	Fees manual
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
MELL	management expenses levy limit
PRA	Prudential Regulation Authority
SIPPs	self-invested personal pensions

1. Overview

Introduction

1.1 This Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) consultation paper (CP) sets out the consultation on the management expenses levy limit (MELL) for the Financial Services Compensation Scheme (FSCS). The MELL being consulted on for 2017/18 is £74.54 million.

1.2 The FSCS is the compensation fund of last resort for customers of failed authorised financial services firms across the FCA's and the PRA's regulatory remit. An efficient and effective FSCS helps the FCA meet its consumer protection objective and is, therefore, beneficial to consumers. It also helps the PRA to meet its general objective of promoting the safety and soundness of PRA-authorised firms, and its specific insurance objective of ensuring that policyholders are appropriately protected. This single compensation scheme for failed financial services firms also aids public confidence in the financial services system as a whole.

1.3 The MELL is the maximum amount which the FSCS may levy in a year without further consultation. This covers the projected costs of operating the scheme (£69.24 million), excluding claimants' compensation costs, and an unlevied contingency reserve (£5.3 million).

1.4 The MELL provides the FSCS with adequate resources to process compensation claims resulting from the failure of financial services firms. These functions are conferred on it by Part XV of the Financial Services and Markets Act 2000 (FSMA). The MELL is consulted on annually, jointly by the FCA and the PRA.

1.5 Alongside the payment of compensation the FSCS performs other important functions. These include making recoveries from failed financial institutions during insolvency, helping maintain consumer awareness in particular of deposit protection and the verification of account information provided by firms which enables faster payout to depositors.

1.6 Annex 2 to this CP contains the FCA's and the PRA's analysis of the costs and benefits of the proposed rules (including the impact on mutual societies) as required under FSMA.[1] Annex 3 to this CP contains the FCA's and the PRA's assessment of the compatibility of the proposed rules with their respective statutory objectives, regulatory principles and competition objectives[2] and their duty[3] to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out their policies, services and functions.

Who does this consultation affect?

1.7 This consultation is relevant to all FCA and PRA authorised firms, but contains no material of direct relevance to retail financial services consumers or consumer groups upon which they might need to act.

Is this of interest to consumers?

1.8 An efficient and adequately funded compensation scheme is beneficial to all consumers. As costs may be passed on in the form of higher prices, consumers may indirectly meet a part of the FSCS levies.

Context

1.9 Under FSMA,[4] the FCA and the PRA must set a limit for the total management expenses which the FSCS can levy on financial services firms. The proposed levy limit of £74.54 million would apply from 1 April 2017, the start of the FSCS's financial year, to 31 March 2018.

1.10 The MELL provides the FSCS adequate resources to perform its functions efficiently and economically. This enables the FSCS to provide a responsive and well-understood compensation service for financial services consumers.

1.11 The FSCS will provide more detail about its levies and the activities funded by the MELL in its Plan and Budget which will be available on the FSCS website on 16 January 2017.

1.12 The compensation costs levy (the amount levied to pay claims) is separate to the management expenses levy. The level of the compensation costs levy is determined by the FSCS and is not consulted on.

1.13 Separately and following a public commitment made by the FSA in 2013, the FCA is consulting on how the FSCS is funded for the financial services activities for which the FCA has responsibility.[5]

1 Sections 138I, 138J and 138K of FSMA.
2 Sections 2H and 3B of FSMA.
3 Section 149(1) of the Equality Act 2010.
4 Section 223(1) FSMA.
5 The Consultation Paper was published on 14 December 2016, and can be found here: www.fca.org.uk/publications/consultation-papers/cp16-42-reviewing-funding-financial-services-compensation-scheme

Summary of our proposals

1.14 The proposed MELL for 2017/18 is £74.54 million, consisting of:

- FSCS management expenses of £69.24 million, and
- a contingency reserve of £5.3 million

1.15 The total MELL of £74.54 million is, therefore, the maximum amount that the FSCS may levy in the year without further formal consultation by the FCA and the PRA.

1.16 The proposed rules for the FCA and the PRA to set the MELL for 2017/18 are in Appendices 1 and 2, respectively.

Equality and diversity considerations

1.17 The proposal concerns a rule change that applies to the FSCS, not directly to authorised persons. As such, our analysis suggests that the subject matter of the rule change does not give rise to discrimination or raise any issues in light of the public sector equality duty contained in the Equality Act 2010. However, we would welcome any comments respondents may have on any equality issues they believe arise as a result of these proposals.

Next steps

1.18 Please send us your comments on the proposed MELL by 13 February 2017.

How?

1.19 Please use the online response form on our website or write to us at the address on page 2.

What will we do?

1.20 We will consider your feedback and, subject to approval by the Boards of the FCA and the PRA, we will finalise and publish our rules in a policy statement in March 2017. The finalised rules will take effect on 1 April 2017 and invoices will be sent out from July 2017.

2.
MELL 2017/18

Introduction

2.1 In this chapter we consult on the FSCS MELL for 2017/18. Management expenses are the non-compensation costs that the FSCS incurs – or expects to incur – in connection with delivering its functions.

What is the MELL?

2.2 The FCA and the PRA are obliged under section 223 of FSMA to set the limit of total management expenses that the FSCS can levy in a financial year, the MELL. This covers the costs of operating the scheme and excludes claimants' compensation costs, which are levied separately. Funding is provided through a levy on relevant FCA and PRA authorised firms. The FCA and the PRA jointly consult on the MELL before making respective rules setting the MELL. The FSCS publishes its Plan and Budget, as required by FSMA, in support of the consultation.

2.3 Firms are levied for the costs that relate to their class (specific costs) and a share of the overall running costs of the scheme (base costs):

- Specific costs – costs that relate to a specific funding class and include the costs of assessing claims and making payments
- Base costs – costs that relate to the general running costs of the FSCS (and are not dependent on the level of claims received) and are split 50:50 between the FCA and PRA regulatory fee classes and then allocated amongst the firms in those classes proportionately and by reference to their regulatory fees

Management expenses budget

2.4 The proposed management expenses budget for 2017/18 is £69.24 million. This is the amount that will be levied for 2017/18 to cover the FSCS's on-going operating expenses, IT, outsourcing and claims handling, and legal and other professional services.

2.5 This is an overall increase of £1.847 million (2.74%) from 2016/17, principally driven by increased outsourced claims handling costs due to projected higher volumes of complex claims. Please see the 'Management expenses budget – further detail' section below for detailed analysis of the MELL.

2.6 Forecasting the volume of claims the FSCS will receive is complex. The actual volume may be significantly different to expectations, both in total and between classes. To ensure firms pay a fair proportion of the levy, the FSCS analyses the actual level of expenditure on each class at the end of each financial year. It then adjusts classes' levies for the following financial year to reflect the actual expenditure. Final levy requirements for each class are then confirmed in early April.

Contingency reserve

2.7 The contingency reserve allows the FSCS to levy additional funds at short notice, without the need for further consultation by the FCA and the PRA.

2.8 The proposed contingency reserve for 2017/18 is £5.3 million, unchanged since 2014/15 following a significant reduction from £20 million in 2013/14. It would only be levied if the FSCS faced a significant unforeseen event or events which necessitated additional funding. In line with usual practice, the FSCS would liaise with stakeholders including the FCA, the PRA and trade associations before levying the contingency reserve.

Management expenses budget – further detail

2.9 Table 1 sets out a breakdown of the proposed management expenses budget by line item.

Table 1

	2016/17 Budget £'000	2016/17 Q2 Forecast £'000	2017/18 Budget £'000	Bud 16/17 v Bud 17/18 Variance £'000
Staff costs	18,190	17,073	17,805	385
Contractor costs (non-Change)	870	2,698	750	120
Facilities	2,464	2,527	2,853	(389)
IT	4,138	3,728	3,892	246
Communications	4,789	4,383	4,044	745
Legal & Professional	2,870	3,197	3,057	(187)
External Providers	899	809	899	0
Depreciation	194	194	194	0
Other contingencies	345	274	569	(224)
Subtotal Core Costs	**34,759**	**34,883**	**34,062**	**697**
Outsourced Claims Handling	11,559	15,630	16,113	(4,553)
Independent Insurance Claims Handling Contribution	(1,680)	(1,680)	(1,680)	0
Outsourced Printing & Scanning Services	870	946	876	(6)
Operational Total	**45,508**	**49,779**	**49,370**	**(3,863)**
Strategic Change Portfolio	10,086	10,086	9,000	1,086
Operational & Investment Expense Total	**55,594**	**59,865**	**58,370**	**(2,777)**
Bank Charges	6,000	5,343	5,850	150
PPI Recovery Expense	2,500	1,900	2,100	400
Major Banking failure related expenses	1,500	498	1,000	500
Total Management Expenses (excluding Pension Deficit)	**65,594**	**67,606**	**67,320**	**(1,727)**
Pension Deficit Funding	1,800	1,981	1,920	(120)
Total Management Expenses	**67,394**	**69,587**	**69,240**	**(1,847)**

Core operating costs

2.10 FSCS's core operating costs for 2017/18 will be £34.062 million. This includes:

- £18.555 million for all internal FSCS staff and contractors
- £6.745 million for facilities and IT
- £4.044 million for communications and marketing
- £3.057 million for external legal and professional services for firm failures, ongoing recovery work, and core requirements (e.g. audit)
- £0.899 million for external printing and agreements with outsourced cheque printers, and
- £0.569 million for other contingencies

2.11 Core operating costs have decreased by £0.697 million for 2017/18, in part due to a:

- £0.505 million reduction in staff and contractor costs, including a planned net headcount reduction from 226 to 212 full time equivalents by March 2018, and
- £0.745 million reduction in communications costs, due to lower expenditure on FSCS awareness

2.12 The above reductions are offset by increases of:

- £0.389 million in facilities costs, driven by a rent review and in line with independent advice, and
- £0.187 million in legal and professional costs

2.13 The budget also includes £16.113 million for outsourced claims handling costs, an increase of £4.553 million (39.4%). The volume and type of claims can vary significantly from year to year and the FSCS's outsourcing budget is adjusted to reflect this. The increase in costs is caused by a forecast 60% increase in the volume of complex outsourced claims compared to the 2016/17 budget. The number of claims in relation to advice about transferring from occupational pension schemes into self-invested personal pensions (SIPPs) is forecast to increase by 67% and the number of investment-based claims to increase by 108%.

2.14 Notably, the FSCS is anticipating claims in respect of an increasing number of failed firms, although the majority of recent claims have been attributed to a small number of firms. More straightforward claims, principally in provider classes, are expected to reduce by 40%.

2.15 The financing and major recovery expenses at £8.95 million are £1.05 million (10.5%) lower. These include the cost of the FSCS's borrowing facility and the external legal costs of the FSCS pursuing recoveries from the major banking failures of 2008/09 and for PPI.[6]

6 Recoveries are only pursued if the FSCS is satisfied that it would be cost effective to do so.

Strategic Change Portfolio

2.16 The FSCS's Strategic Change Portfolio budget has reduced by £1.086 million (10.7%) to £9 million.

2.17 Within the £9 million budget, £4.4 million is allocated to regular maintenance and upgrades of existing systems and infrastructure, particularly IT. It is important for the FSCS to maintain its systems so that an efficient and effective compensation service can be provided. Therefore these costs are likely to recur in future years.

2.18 The remaining £4.6 million will be used for specific projects. In 2017/18 these are likely to include:

- Further enhancements to the FSCS's recently-implemented digital service to allow a higher proportion of claims to be made on-line. This relates to the FSCS's service modernisation strategy, previously known as Connect.
- Reviewing and updating the outsourcing strategy.
- Improvements to processing times for non-deposit claims.
- A cross-authority project on electronic rather than cheque payouts to claimants.

2.19 A number of respondents to previous consultations on the MELL have requested further information on the Strategic Change Portfolio. The FSCS has committed to provide further information on the spending within the portfolio in its Plan and Budget, which will be published shortly after 16 January 2017.

2.20 The FSCS has indicated that there may be reprioritisation within the Strategic Change Portfolio during the course of the year. Any revised spending will be attributed to the appropriate FCA or PRA class and accurately allocated at the end of the financial year. The FSCS has committed to explain any changes fully in its 2017/18 annual report and reflect changes in class levies for the next financial year.

2.21 In future MELL CPs, we may also set out the MELL on an activity cost basis. This has been developed by the FSCS to illustrate with greater transparency the major drivers of the FSCS's costs. The 2017/18 Plan and Budget document will be prepared on an activity cost basis.

Budget Allocation

2.22 The FSCS's budgeted expenses of £69.24 million will be made up of £27.87 million in base costs and £41.37 million in specific costs, as shown in Table 2 below.

Table 2

	2016/17			2017/18			Movement		
	FSCS Total Costs £'000	PRA Fee Block Allocation £'000	FCA Fee Block Allocation £'000	FSCS Total Costs £'000	PRA Fee Block Allocation £'000	FCA Fee Block Allocation £'000	FSCS Total Costs	PRA Fee Block Allocation	FCA Fee Block Allocation
Base Costs Total (Split 50:50)	**23,403**	**11,702**	**11,702**	**27,869**	**13,934**	**13,934**	**19%**	**19%**	**19%**
Specific Costs									
Deposits	14,195	14,195	-	11,127	11,127		-22%	-22%	
General Insurance Provision	5,452	5,452	-	4,165	4,165		-24%	-24%	
Life & Pension Provision	102	102	-	5	5		-95%	-95%	
General Insurance Intermediation	9,476	-	9,476	6,479		6,479	-32%		-32%
Life & Pension Intermediation	5,472	-	5,472	7,513		7,513	37%		37%
Investment Provision	141	-	141	11		11	-92%		-92%
Investment Intermediation	8,427	-	8,427	10,710		10,710	27%		27%
Home Finance Intermediation	724	-	724	1,362		1,362	88%		88%
Specific Costs Total	**43,990**	**19,749**	**24,241**	**41,371**	**15,297**	**26,074**	**-6%**	**-23%**	**8%**
Management Expenses Total	**67,394**	**31,451**	**35,942**	**69,240**	**29,231**	**40,009**	**3%**	**-7%**	**11%**

2.23 This table shows the budget allocation between FCA and PRA classes for 2016/17 and 2017/18. The overall split has changed from 53% FCA and 47% PRA in 2016/17 to 58% FCA and 42% PRA in 2017/18.

2.24 The reasons for this are:

- a £3.068 million reduction for deposit takers driven by an anticipated reduction in the number of claims, lower expenditure on consumer awareness and reduced spending on legal fees relating to the major banking failures
- a £2.997 million reduction for General Insurance Intermediation although considerable uncertainty remains relating to PPI claims volumes. The class benefits from a reduction in expected 'Change' costs and reductions in claims process processing costs, and
- a £4.962 million increase for intermediation classes across Life & Pensions, Investment and Home Finance, in particular due to anticipated increases in the volume of complex claims

Annex 1
List of questions

Q1: **Do you agree with the proposed MELL for 2017/18?**

Q2: **Do you have any comments on the proposed MELL for 2017/18?**

Annex 2
Cost benefit analysis

1. Under s138I(2)(a) and s138J(2)(a) of FSMA, the FCA and the PRA are required to carry out and publish a cost benefit analysis (CBA) when proposing draft rules.

2. Setting the MELL at £74.54 million allows the FSCS to raise funds to cover its management expenses so it can continue to operate and meet its objective of providing a compensation scheme that is efficient, fair, approachable and responsive.

3. The FSCS delivers direct benefits to consumers through the payment of compensation to eligible claimants. While the wider benefits of the FSCS are hard to quantify, the benefit to consumers from FSCS compensation is expected to be £445 million in 2016/17. This reduces consumers' financial loss and increases consumer confidence in authorised financial services firms. This is particularly important for depositors as timely compensation from the FSCS in the event of a deposit taker failure helps ensure consumer confidence in the financial system as a whole.

4. FSCS's compensation costs are offset by the recoveries which FSCS makes from the estates of failed firms or from third parties responsible for the losses. During 2015/16, the FSCS's recoveries for the industry exceeded £331 million, including £294 million from the estates of the major banking failures.

5. The contingency reserve of £5.3 million will give the FSCS some margin to meet costs that exceed its budgeted expenses and need to be funded at short notice. The FCA and the PRA recognise that the FSCS needs to be able to respond quickly and efficiently to firm failures. The FCA and the PRA would act to enable the FSCS to meet its obligations on a timely basis if a firm failure or series of firm failures meant that it was necessary to increase the MELL beyond the proposed total of £74.54 million.

6. The proposed MELL will also enable the FSCS to continue to implement its Strategic Change Portfolio. This will improve the efficiency with which the organisation can offer protection to customers of failed authorised financial services firms in the longer term. The FSCS has forecast £0.4 million of efficiency savings from improved processes, and reduced technology and outsourcing costs, as a result of recent investment within the Strategic Change Portfolio. Within three to four years the FSCS expects annual savings on like-for-like claim volumes to total approximately £5 million as a result of the recent investment.

7. Management expenses are charged to firms and may be passed on to consumers in the form of higher prices. When discharging general rule-making functions, the FCA must, so far as is compatible with acting in a way which advances its consumer protection objective, act in a way which promotes effective competition in the interests of consumers and the PRA is legally required, so far as is reasonably possible, to facilitate effective competition in the markets for services provided by authorised persons in carrying on authorised activities. The MELL is not expected to have any adverse effect on competition as it is applied to firms proportionately.

8. Overall the FCA and the PRA consider that the benefits of the MELL outweigh the direct costs to industry, and potential indirect costs to consumers.

Impact on mutual societies

9. FSCS management expenses are levied on all authorised firms according to the volume of authorised financial services business they conduct. This includes mutual societies. The impact on mutual societies is, therefore, not considered disproportionate to other types of firm.

Annex 3
Compatibility statement

FCA general duties and regulatory principles

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 s1B(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 s1B(5)(a) FSMA to have regard to the regulatory principles in s3B FSMA. The FCA is also required by s138K(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 (s1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

The FCA's objectives and regulatory principles: Compatibility statement

4. The proposal set out in this consultation is primarily intended to advance the FCA's operational objective of consumer protection. The role of the FSCS is, in general, to provide compensation to consumers of financial products when authorised firms are unable, or likely to be unable, to meet their obligations. A compensation scheme provides a safety net, offering protection to consumers, which leads to greater confidence in their dealings with financial services firms, benefiting all firms and leading to a stronger financial system. If the FSCS was unable to process claims because of financial constraints due to an inappropriate MELL this would undermine the protection offered to consumers.

5. The FCA considers these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because management expenses are charged to firms and may be passed on to consumers in the form of higher prices. The MELL is not expected to have any adverse effect on competition as it is applied to firms proportionately. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s1F FSMA.

6. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s3B FSMA.

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

7. The FSCS is operationally independent of, but accountable to, the FCA and the PRA, which means that the FCA's and the PRA's resources are not directly involved in carrying out the proposed activities.

8. FCA rules require the FSCS to manage its resources appropriately, prudently and economically.[7] Setting the MELL, after public consultation, encourages good internal management and effective operating procedures.

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

9. The FCA's and the PRA's assessment of the fairness and proportionality of the burden and benefits relating to this proposal can be found in the cost benefit analysis at Annex 2 of this CP

The general principle that consumers should take responsibility for their decisions

10. The FSCS does not absolve consumers from having responsibility for their actions or decisions, but does provide last resort protection in certain cases if a firm is unable, or is likely to be unable, to meet claims against it.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

11. The MELL does not have any adverse effect on firms operating different business models, as it is applied to all relevant firms proportionately.

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

12. This CP clearly sets out the factors that underpin the MELL for 2017/18, and seeks responses to the proposals. In addition, the FSCS will publish its Plan and Budget for 2017/18 on 16 January 2017, setting out in greater detail its spending proposals.

13. 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 s1B(5)(b) FSMA).

14. Setting an FSCS MELL figure has no material significance for the reduction of financial crime objectives.

Expected effect on mutual societies

15. Levies for FSCS management expenses are levied on all authorised firms according to the volume of authorised financial services business they conduct. This includes mutual societies. The impact on mutual societies is, therefore, not considered disproportionate to other types of firm.

7 FEES 6.3.12R, FEES 6.3.17R.

Equality and diversity

16. The FCA is 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.

17. The outcome of the assessment in this case is stated in paragraph 1.17 of the Consultation Paper.

PRA general duties and regulatory principles

18. The PRA must, when discharging its general functions, so far as is reasonably possible, act in a way that advances its general objective - promoting the safety and soundness of PRA-authorised firms.[8]

19. The PRA must carry out that objective primarily by:

- seeking to ensure that the business of PRA-authorised persons is carried on in a way which avoids any adverse effect on the stability of the UK financial system, and
- seeking to minimise the adverse effect that the failure of a PRA-authorised person could be expected to have on the stability of the UK financial system

20. The PRA believes that the proposed rule setting the MELL is compatible with this statutory obligation. The continued operation of the FSCS with a MELL set at an appropriate level helps minimise the adverse effect of the failure of a PRA-authorised person on consumers and so helps promote stability of the UK financial system through increased consumer confidence.

21. The PRA has an additional primary objective for insurance. In addition to promoting insurers' safety and soundness, the PRA has an objective to contribute to securing an appropriate degree of protection for those who are or may become policyholders.[9] The PRA considers the proposed MELL is compatible with this duty because the efficient and effective functioning of the FSCS minimises the effect of insurer failures on eligible policyholders.

22. The PRA must also have regard to the regulatory principles in discharging its general functions and to the need to minimise any adverse effect on competition in the relevant markets that may result from the manner in which the PRA discharges those functions.[10] The PRA believes the proposed MELL is compatible with these principles and does not have any adverse effect on competition in the relevant markets.

8 Section 2B of FSMA.
9 Section 2C of FSMA.
10 Sections 2H(1), 2H(2) and 3B of FSMA.

Compatibility with the regulatory principles – PRA

23. This section comments on how this proposal to set the MELL meets the requirement that the PRA must have regard to the regulatory principles outlined in section 3B of FSMA in discharging their respective general functions.

24. The regulatory principles most relevant to this proposal are:

- the need to use the resources of each regulator in the most efficient and economical way
  - the FSCS is operationally independent of, but accountable to, the PRA, which means that the PRA's resources are not directly involved in carrying out the proposed activities, and
  - the PRA rules require the FSCS to use its resources in the most efficient and economical way when carrying out its functions. Setting the MELL, after public consultation, encourages good internal management and effective operating procedures
- a burden or restriction should be proportionate to the benefits
  - the PRA's assessment of the fairness and proportionality of the burden and benefits relating to this proposal can be found in the cost benefit analysis at Annex 2 of this CP

Equality and diversity

25. In making rules and establishing practices and procedures, the PRA may not act in an unlawfully discriminatory manner. The PRA is required, under the Equality Act 2010, to have due regard to the need to eliminate discrimination and promote equality of opportunity in carrying out its policies, services and functions. To meet this requirement, the PRA has performed an assessment of the policy proposals and does not consider that the proposals give rise to equality and diversity implications.

Appendix 1
Draft FCA Handbook text

FINANCIAL SERVICES COMPENSATION SCHEME (MANAGEMENT EXPENSES LEVY LIMIT 2017/2018) INSTRUMENT 2017

Powers exercised

A. The Financial Conduct Authority makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 (“the Act”):

(1) section 137T (General supplementary powers);
(2) section 213 (The compensation scheme);
(3) section 214 (General); and
(4) section 223 (Management expenses).

B. The rule-making powers listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 April 2017.

Amendments to the Handbook

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

Citation

E. This instrument may be cited as the Financial Services Compensation Scheme (Management Expenses Levy Limit 2017/2018) Instrument 2017.

By order of the Board
[*date*]

Annex

Amendments to the Fees manual (FEES)

In this Annex, underlining indicates new text.

6 Annex 1R Financial Services Compensation Scheme – Management Expenses Levy Limit

This table belongs to FEES 6.4.2R	
Period	Limit on total of all management expenses levies attributable to that period (£)
…	
1 April 2016 to 31 March 2017	£72,694,000
<u>1 April 2017 to 31 March 2018</u>	<u>£74,540,000</u>

Appendix 2
Draft PRA Rulebook text

PRA RULEBOOK: NON AUTHORISED PERSONS: FSCS MANAGEMENT EXPENSES LEVY LIMIT AND BASE COSTS INSTRUMENT 2017

Powers exercised

A. The Prudential Regulation Authority ("PRA") 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 137T (General supplementary powers);
(2) section 213 (The compensation scheme);
(3) section 214 (General); and
(4) section 223 (Management expenses).

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instrument) of the Act.

Pre-conditions to making

C. In accordance with section 138J of the Act (Consultation by the PRA), the PRA consulted the Financial Conduct Authority. After consulting, the PRA published a draft of proposed rules and had regard to representations made.

PRA Rulebook: Non Authorised Persons: FSCS Management Expenses Levy Limit and Base Costs Instrument 2017

D. The PRA makes the rules in the Annex to this instrument.

Commencement

E. This instrument comes into force on [**DATE**].

Citation

F. This instrument may be cited as the PRA Rulebook: Non Authorised Persons: FSCS Management Expenses Levy Limit and Base Costs Instrument 2017.

By order of the Board of the Prudential Regulation Authority
[DATE]

Annex

Amendments to the FSCS Management Expenses Levy Limit and Base Costs Part

In this Annex new text is underlined and deleted text is struck through.

2 LIMIT ON MANAGEMENT EXPENSES LEVIES

2.1 The total of all *management expenses levies* attributable to the period ~~1 April 2016 to 31 March 2017~~ 1 April 2017 to 31 March 2018 of the *deposit guarantee scheme*, the *dormant account scheme* or the *policyholder protection scheme* may not exceed ~~£72,694,000~~ £74,540,000 less whatever *management expenses levies* the *FSCS* has imposed in accordance with *FCA compensation scheme rules* attributable to that period.

BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

FCA
FINANCIAL CONDUCT AUTHORITY

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