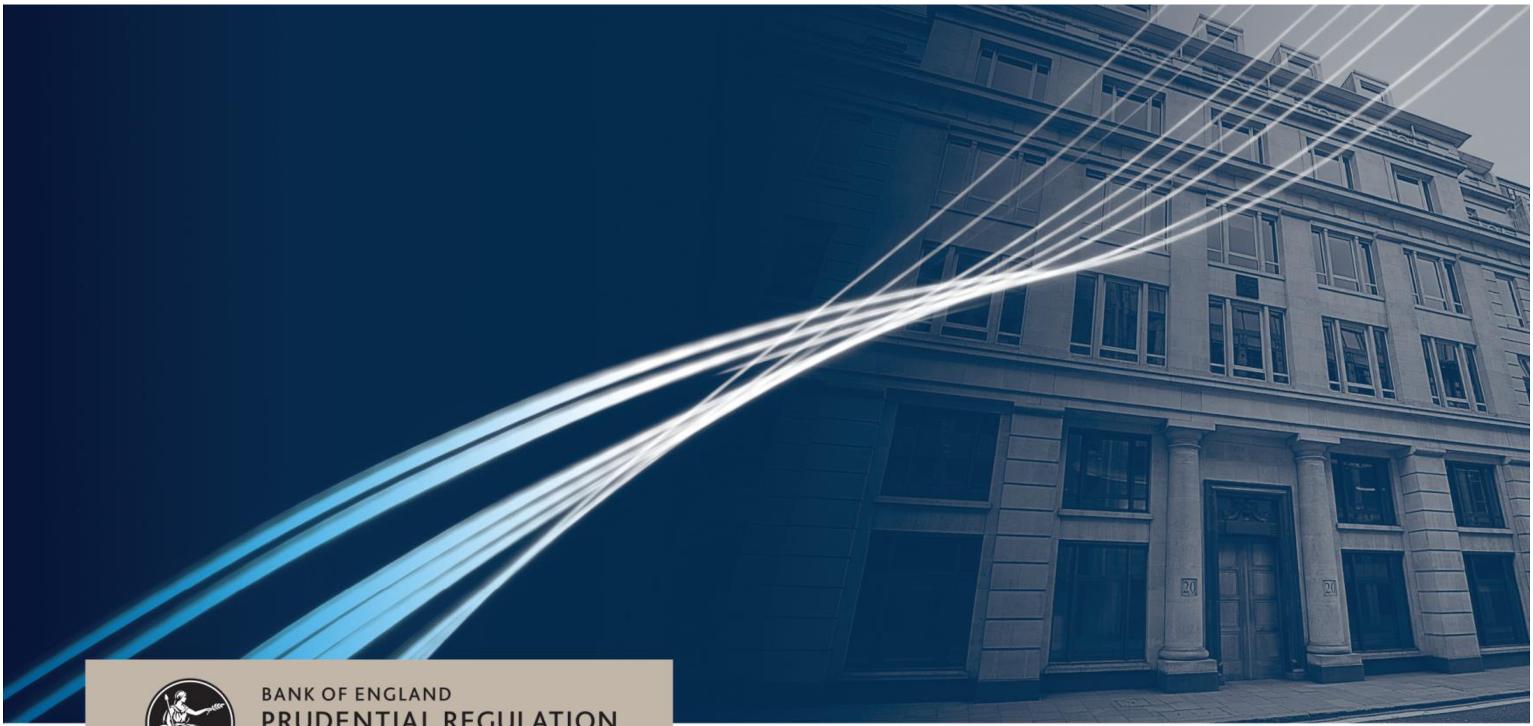

BANK OF ENGLAND
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Consultation Paper | CP7/18

Regulated fees and levies: rates proposals 2018/19

April 2018

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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 the PRA's 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.

Responses are requested by Monday 21 May 2018.

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Contents

1 Overview

1.1 This consultation paper (CP) sets out proposals for the Prudential Regulation Authority's (PRA) fees and levies for 2018/19. The proposals include:

- the fee rates to meet the PRA's 2018/19 Annual Funding Requirement (AFR);
- amendments to the Ring-fencing Implementation Fee (RFIF) rules;
- amendments to the International Financial Reporting Standard (IFRS) 9 Implementation Fee rules;
- an amendment to the Model Maintenance Fee (MMF) rules;
- amendments to the rules for determining fees for non-directive general insurers and for all firms where data to calculate fees has not been reported;
- how the PRA intends to distribute a surplus from the 2017/18 AFR, the Ring-fencing Implementation Fee and the IFRS 9 Implementation Fee; and
- how the PRA intends to distribute the retained penalties for 2017/18.

1.2 This consultation is relevant to all firms that currently pay PRA fees or are expecting to do so within the 2018/19 fee year.[1]

Summary of proposals

1.3 The PRA's AFR for 2018/19 is made up of the budgeted cost of Ongoing Regulatory Activities (ORA) and costs associated with the withdrawal from the European Union by the United Kingdom. Further information on these can be found in Chapter 2. The proposed ORA for 2018/19 is £236.3 million, a decrease of £12.0 million (4.8%) on 2017/18. This figure is provisional and may need to be revised when final estimates for the PRA's pension costs are available. At the time of writing, the anticipated variation in pension cost estimates is expected to be less than £2.0 million. If the final estimate (due by mid-April 2018) exceeds this, an updated CP will be issued. If any responses have been received prior to the issuance of any updated CP, these will be followed up individually to check whether the respondent wishes to revise their response in the light of any updated CP.

Implementation

1.4 The proposed implementation date for the proposals contained in this consultation is 1 July 2018.

Responses and next steps

1.5 This consultation closes on 21 May 2018. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP7_18@bankofengland.co.uk.

1 The 2018/19 fee year began on 1 March 2018 and will end on 28 February 2019.

2 Regulated fees and levies for 2018/19

2.1 This chapter sets out proposals on fee rates to meet the PRA's Total Funding Requirement (TFR) for 2018/19. Information on the PRA's strategy and workplan for the coming year and how it intends to use the funding it receives is set out in the 'PRA Business Plan 2018/19', which has been published alongside this fees consultation.[1]

Total Funding Requirement (TFR)

2.2 The PRA's TFR covers the total fees and levies it proposes to raise from firms and comprises the AFR and 'Other fees and levies' (see Table 2.A). The PRA's TFR for 2018/19, is £273.5 million, down £22.6 million from 2017/18 (£296.1 million).

Table 2.A Estimated Total Funding Requirement for 2018/19 and movement from 2017/18

£ million	2018/19	2017/18	Change	Percentage Change
Ongoing Regulatory Activities	236.3	248.3	(12.0)	(5%)
EU withdrawal fee	8.3	5.4	2.9	54%
Transition costs	-	14.7	(14.7)	(100%)
Annual Funding Requirement	244.6	268.3	(23.7)	(9%)
Ring Fencing Implementation Fee	16.4	23.6	(7.2)	(31%)
IFRS 9 Implementation Fee	-	3.6	(3.6)	(100%)
Model Maintenance Fee	6.3	-	6.3	100%
Other fees	6.2	0.6	5.6	870%
Other fees and levies to industry	28.9	27.8	1.1	4%
Total fees and levies to industry	273.5	296.1	(22.6)	(8%)

2018/19 Annual Funding Requirement (AFR) and comparison with 2017/18

2.3 The AFR is the budget required by the PRA to advance its statutory objectives. The PRA's proposed AFR for 2018/19 is £244.6 million. This is £23.7 million lower than the AFR for 2017/18 of £268.3 million, a reduction of 9%, primarily driven by the end of transitions costs relating to the establishment of the PRA. The AFR for 2018/19 is made up of:

- the budget for the ORA, which amounts to £236.3 million; and
- recovery of some of the PRA's costs associated with withdrawal from the European Union by the United Kingdom, amounting to £8.3 million.

The impact of external market conditions as at 28 February 2018 on the PRA's pension costs for 2018/19 has yet to be fully assessed. The figure for the ORA is therefore provisional and may need to be revised when final estimates are available (due by mid-April 2018). The anticipated variation is likely to be less than £2.0 million, an increase or decrease of less

1 Available at: www.bankofengland.co.uk/prudential-regulation/publication/2018/pra-business-plan-2018-19.

than 1%. If the final variation exceeds this, an updated CP will be issued. If any responses have been received prior to the issuance of any updated CP, these will be followed up individually to check whether the respondent wishes to revise their response in the light of any updated CP.

Smaller insurers

2.4 Consistent with the approach laid out in Policy Statement (PS) 28/17[1] all non-Directive life insurers are exempt from PRA periodic fees apart from the minimum fee. An 11% discount to the periodic fee continues to apply to general insurance firms outside the scope of Solvency II, reallocating this cost across other firms in the A3 fee block which are within the scope of Solvency II. The total amount required to fund this discount in 2018/19 is just under £20,000. When spread across the A3 fee block, the impact on individual firms is not significant.

2018/19 Ongoing Regulatory Activities (ORA)

2.5 The PRA's 2018/19 proposed budget for ORA is £236.3 million, compared with £248.3 million for 2017/18. Key factors impacting on the year-on-year decrease of £12.0 million (5%) in the ORA budget are:

- introduction of the MMF, which reduces the ORA by £6.3 million and increases Other Fees and Levies by an equivalent amount; and
- cost saving initiatives and prioritisation planned to optimise resources in order to make resource available for EU withdrawal activity.

2.6 These are partially offset by:

- inflationary cost pressures; and
- increased focus on operational resilience.

EU Withdrawal Fee

2.7 The PRA anticipates recovering some £2.0 million in regulatory transaction fees due to EU withdrawal related work and some £4.0 million in Special Project Fees (SPFs) for restructuring paid by firms which are undertaking large and complex restructurings as a result of EU withdrawal.

2.8 Consistent with the approach taken in 2017/18, the PRA proposes to recover other costs incurred in relation to EU withdrawal through the EU Withdrawal Fee – within the AFR but outside of the ORA. This includes costs associated with:

- developing policy in the light of EU withdrawal;
- preparing for, and responding to, regulatory issues as the United Kingdom's exit from the European Union is negotiated;
- reviewing existing UK law and regulatory rules to help ensure their workability in light of EU withdrawal;
- undertaking policy and legal work to support the task of reproducing directly applicable EU provisions through UK law or regulatory rules;

1 December 2017: www.bankofengland.co.uk/prudential-regulation/publication/2017/pra-fees-and-levies.

- undertaking policy and legal work across the PRA to provide technical advice to HM Treasury to support their negotiation of a future relationship with the European Union;
- undertaking supervisory action and putting in place processes that may be appropriate in light of EU withdrawal;
- carrying out firm interaction, market monitoring and policy preparation with EEA bank and insurance branches and other UK firms planning or undertaking restructurings and / or authorisation processes as a result of EU withdrawal; and
- liaising with the wider Bank, the Financial Conduct Authority (FCA) and other stakeholders as to the implications of EU withdrawal for prudential supervision and the PRA's statutory objectives.

2.9 The total amount it proposes to recover through the EU Withdrawal Fee is therefore £8.3 million.

2.10 It is proposed that these costs are recovered over all fee blocks except the minimum fee block, in proportion to the allocation of fees for the ORA as set out in Table 2.B. Unlike for 2017/18, it is proposed that EEA branches should be within scope of this fee given that some of the allocated EU withdrawal work is directly relevant to these firms.

2.11 As non-Solvency II and non-CRR firms are not expected to be impacted by a significant part of the EU withdrawal activity, the PRA is proposing that a discount of 50% applies to those firms which pay a periodic fee.

Allocation of 2018/19 ORA to fee blocks

2.12 The proposed allocation of ORA across the seven PRA-regulated fee blocks, including the minimum fee block, is set out in Table 2.B. Firms are allocated to PRA fee blocks based on the regulated activities for which they hold permissions, and pay a periodic fee for each fee block into which they fall. The proposed allocation to fee blocks is based on the anticipated work to be performed within each area, which reflects the PRA's focus on the firms that pose greatest risk to the PRA's objectives.

2.13 Within each fee block, the costs to be recovered from individual firms are based on the size of their business. The aim is to ensure those firms that could potentially cause the greatest harm to the stability of the UK financial system are the main contributors to the PRA's AFR. As for previous years, cost recovery within the A1 fee block is weighted further towards higher-impact firms.

2.14 Any firm authorised to carry out any of the regulated activities covered by the 'A' fee blocks is also subject to the A0 minimum fee, with the exception of the A6 fee block, which consists of the Society of Lloyd's only and is invoiced on an individual basis. The PRA is proposing to leave the A0 minimum fee unchanged for 2018/19. The minimum fee has been unchanged since the PRA's inception in 2013 shielding firms which only pay the minimum fee from previous increases in the PRA's costs that had been funded by other fee payers.

2.15 Alongside the allocation of the ORA, Table 2.B shows the impact of the MMF, which has been introduced for 2018/19. The MMF is paid by firms with CRR or Solvency II models to cover the PRA's costs associated with reviewing and assessing the models. These costs were previously included in the ORA and paid by all firms within the relevant fee block. The MMF is determined by the size of a firm and the models for which it has been given approval.

Table 2.B Proposed 2018/19 allocation of Ongoing Regulatory Activities and movement from 2017/18 and impact of the model maintenance fee

		2018/19			2017/18			Change	
£ million		**ORA**	**MMF**	**Total**	**ORA**	**MMF**	**Total**	**£m**	**%**
A0	Minimum Fees	0.5	-	0.5	0.5	-	0.5	-	-
A1	Deposit takers	148.4	1.8	150.2	152.9	-	152.9	(2.7)	(2%)
A3	Insurers - general	32.7	2.1	34.8	35.9	-	35.9	(1.1)	(3%)
A4	Insurers - life	41.6	1.6	43.2	44.8	-	44.8	(1.6)	(3%)
A5	Managing agents at Lloyd's	1.4	-	1.4	1.4	-	1.4	(0.1)	(4%)
A6	The Society of Lloyd's	1.8	-	1.8	1.8	-	1.8	(0.1)	(4%)
A10	Firms dealing as principal	9.9	0.8	10.8	10.9	-	10.9	(0.2)	(1%)
Ongoing Regulatory Activities		**236.3**	**6.3**	**242.6**	**248.3**	**-**	**248.3**	**(5.7)**	**(2%)**

Online fees calculator

2.16 The FCA will provide a facility on its website to enable firms to calculate their periodic fees for the forthcoming year based on the proposed PRA consultative rates in the Appendix. The fee calculator for 2018/19 fees and levies is expected to be available to firms from 9 April 2018.

Changes to tariff data used in AFR allocations to fee blocks relative to 2017/18

2.17 Table 2.C sets out the analysis of tariff data used for allocating the PRA's proposed AFR to firms within fee blocks for 2018/19 and a comparison to 2017/18. The changes are due to the movement in the allocation of ORA to fee blocks between the two years as set out in Table 2.B. The impact of this change is lessened where there is an increase in tariff data within the fee blocks and magnified where there is a decrease in tariff data. For example if the combined total Modified Eligible Liabilities for all firms within the A1 fee block increase, the rate charged to each firm per £ million of Modified Eligible Liabilities will decrease, and vice versa.

2.18 Table 2.C additionally sets out the number of firms in each fee block for the purposes of transparency as the proposed fee each firm will pay will be impacted by the number of firms included in the relevant fee blocks.

2.19 As fees for firms in the A3 (general insurers), A4 (life insurers) and A10 (designated investment firms) will be determined by a different methodology in 2018/19 from the previous year, no comparison is shown.

2.20 As annual Solvency II returns for the 2017 financial year are not submitted until 6 May 2018, after this consultation is being published, the indicative fee rates for both A3 and A4 fee block payers in the draft rules in the Appendix are based on year-end data for 2016. As a consequence, the provisional fee rates for the A3 and A4 fee blocks may provide a less useful indication than previously of the final fee rates, which will be based on 2017 data. This will continue to be the case for future fee years, due to Solvency II return reporting deadlines. However, the PRA believes that using the latest data available for basing fees is the fairest approach.

2.21 Note that there is greater uncertainty over the fees rates for life insurers in the A4 fee block because of limitations with data reported by some life insurers and the fact that several large life reinsurance and back-book transactions were undertaken during 2016 which significantly increased the measure of gross written premiums for fees purposes for that year.[1] Final fee rates based on 2017 data are therefore likely to be higher than the draft rates shown in the appendix.

Table 2.C Analysis of tariff data for allocation of fees within fee blocks compared to 2017/18

Fee block	Tariff basis	2018/19 draft number of firms	2017/18 number of firms	Mvt (%)	2018/19 draft tariff data*	2017/18 tariff data	Mvt (%)	Mvt in fee rates from 2017/18 (%)
A0	Minimum Fees	1,368	1,387	(1%)	n.a.	n.a.	n.a.	-
A1	Modified Eligible Liabilities	825	841	(2%)	£3,245bn	£3,111bn	4%	(2%)
A3	Gross Written Premiums	323	330	(2%)	£73bn	n.a.	n.a.	(3%)
	Best Estimate Liabilities				£145bn	n.a.	n.a.	
A4	Gross Written Premiums	179	171	5%	£144bn	n.a.	n.a.	(3%)
	Best Estimate Liabilities				£1,262bn	n.a.	n.a.	
A5	Active Capacity	58	58	-	£27bn	£30bn	(9%)	(4%)
A10	Total Trading Book Assets	8	8	-	£1,897bn	n.a.	n.a.	(1%)
	Financial & Operating Income				£25bn	n.a.	n.a.	
PE1	EU Withdrawal Fee	725	607	19%	n.a.	n.a.	n.a.	54%

* For A3 and A4 fee blocks, 2016 data are shown as 2017 data are not yet available.

Other fees and levies

2.22 'Other fees and levies' include implementation fees, the MMF, SPFs for restructuring, and regulatory transaction fees. As set out in last year's fees and levies consultation paper, while a large majority of PRA funding is raised through the AFR and the PRA expects this to continue, a larger proportion of funding is expected to come from non-AFR sources going forward. This change is intended to ensure that the PRA's costs are more closely borne by the firms which generate those costs. It will also enable the PRA to better align its business as usual activities with its regular income sources (the AFR), and non-business as usual activity with other income sources. Additional context on the PRA's approach to other fees and levies can be found in SS3/16 'Fees: PRA approach and application'.[2]

2.23 For 2018/19, the PRA expects to raise £28.9 million in other fees and levies, an increase of £1.1 million on 2017/18. This reflects the introduction of the MMF and an increase in SPFs

1 See footnote 1, page 7.
2 July 2017: www.bankofengland.co.uk/prudential-regulation/publication/2016/fees-pra-approach-and-application-ss

and regulatory transaction fees associated with EU withdrawal related work partially offset by a proposed reduction in the RFIF and the ending of the IFRS 9 Implementation Fee.

Ring-fencing Implementation Fee (RFIF)

2.24 The proposed RFIF will apply to firms that are ring-fencing their core activities in line with the requirements of the Banking Reform Act ahead of the Government's 1 January 2019 deadline. The fee would recover PRA costs associated with the implementation of ring-fencing. The implementation of the new regime requires a significant amount of work to be undertaken by the PRA through to 2019.

2.25 The PRA's budgeted costs associated with this work in 2018/19 are £16.4 million, compared with £23.6 million in 2017/18. The RFIF has decreased this year as the PRA has reviewed and modified costs attributable to the final implementation period ahead of 1 January 2019. This includes the transition of the project to banking supervision.

2.26 Firms captured by ring-fencing legislation ('in-scope firms') should expect to pay the implementation fee in 2018/19. Draft rules can be found in Appendix 1.

2.27 The PRA's budgeted costs for 2018/19 include the costs of:

- identifying and implementing changes to the PRA's supervisory model that will apply to groups subject to ring-fencing;
- ongoing supervisory review of ring-fencing implementation, including heightened support for this work by risk specialists, policy specialists and other PRA experts;
- ongoing engagement with the banks, skilled persons, legal counsel and the courts in respect of the ring-fencing transfer scheme (including the handling of objections) and effective dates;
- systems changes to provide the capability for the PRA to collect, store and analyse data from groups subject to ring-fencing.

2.28 These activities are specific to the requirements to implement the Banking Reform Act and are not part of the PRA's usual supervisory activity. The RFIF for 2018/19 includes overheads and other costs associated with the project.

2.29 The allocation of the PRA's ring-fencing implementation costs to groups will reflect two equally-weighted factors: i) how core deposits for a particular group compare with the core deposits of all in-scope ring-fencing fees groups; and ii) how total group assets outside a proposed ring-fenced body for a particular group compare with the total group assets outside proposed ring-fenced body subgroups of all in-scope ring-fencing fees groups. Calculations will be based on forecasted (1 January 2019) data requested from banking groups in February 2018. The PRA considers these metrics to be an appropriate proxy for the balance of work the PRA will need to do across these banking groups to implement ring-fencing.

IFRS 9

2.30 In the 2017/18 fee year, the PRA introduced the IFRS 9 Implementation Fee to recover its £3.6 million project costs associated with the implementation of IFRS 9 and FRS 101. The bulk of this project work has now been completed. Given that the forecast spend for this project has fallen to £0.7 million for the 2018/19 financial year, the PRA is proposing to fund this activity through its ORA rather than extend the IFRS 9 Implementation Fee. This is consistent with the funding methodology employed for this work during the 2016/17 financial year.

3 Other changes to fee rules

Clarification to Model Maintenance Fee rules

3.1 PS28/17[1] introduced an annual MMF for UK firms that had been granted a model permission under the CRR or Solvency II, payable from the 2018/19 fees year onwards. The PRA proposes to make a minor amendment to the MMF rules to clarify how group models should be treated.

3.2 Fees 3.23 details the amount of MMF payable is determined by a firm's fees tariff data: for deposit takers this is 'modified eligible liabilities' and for designated investment firms (DIFs) this is 'trading assets'. Section 3.23(8) states that for group models which incorporate more than one PRA-regulated entity, the MMF is determined by reference to aggregated figures for all PRA-regulated entities included within the scope of that group model. However, where a CRR group models includes both banks and DIFs, the fee rules do not say how the different tariff data basis should be aggregated.

3.3 The PRA is proposing to amend the rules to clarify that where a CRR group model includes both banks and DIFs, an aggregate group figure will be calculating using an 'exchange rate' whereby £1 in traded assets (for a DIF) is equivalent to £2.5 of modified eligible liabilities (for a deposit taker). This 'exchange rate' is consistent with the thresholds that determine the fee bands for model fees in Table VIII of the Rules. The PRA considers this a fair way to ensure that firms with group models which apply to both banks and DIFs pay a similar fee to firms with only banks in scope of the model.

Data reporting

3.4 To calculate fees for non-directive firms in the general insurance fee block (A3), the Rules state that a firm's gross written premiums for fees purposes (GWP) is determined by the amount a firm has reported to the PRA under item 11 of form 11 unless a firm is a Swiss general insurer or a friendly society. However, the PRA has identified at least two firms which do not report form 11 and are neither a Swiss general insurer nor a friendly society. To ensure an appropriate fee can be calculated for these firms, the PRA is proposing to amend the rules to enable GWP to be determined using the entry at sheet 1, line 1, column 1 of form 20A for firms which do not report form 11. This is the same data item used to determine GWP for Swiss general insurers.

3.5 In addition, the PRA is proposing to amend the Rulebook so alternative reported data (such as equivalent data items or returns) can be used in the event a firm does not provide a return or data items needed to calculate its fees (as set out in the Rulebook). The need for such a rule has become more important now the PRA is using a range of data returns for determining fees for insurers rather than relying on a dedicated fees return. As well as ensuring the PRA can produce a reasonable fee requirement for all firms, this will limit the need to amend the Rules again if further issues around reporting of specific data items are identified.

1 See footnote 1, page 7.

4 Surplus / shortfall for 2017/18 AFR

Shortfall on Ongoing Regulatory Activities (ORA) Fee

4.1 The PRA proposes to invoice firms the shortfall between the total amount of fees collected and the actual spend in relation to the 2017/18 financial year. The amount of the ORA shortfall is estimated to be £3.0 million. This is a draft, unaudited figure and therefore will be subject to change, with the final figure to be confirmed when the final policy is published.

4.2 The shortfall compared to the amount levied in 2017/18 has arisen due to:

- provision for costs associated to a regulatory independent review related to the supervision of the Co-operative Bank; and

- costs associated to EU withdrawal which were not included in 2017/18 budgeted levy.

4.3 The shortfall will be allocated to firms in two stages:

- Stage 1 – Allocation to fee blocks. The PRA proposes to allocate the AFR surplus across all fee blocks, with the exception of the A0 minimum fee block, in proportion to the AFR for the 2017/18 fee year; and

- Stage 2 – Allocation to individual firms. Within each fee block the AFR shortfall is allocated with reference to fee block population and tariff data for the 2017/18 fee year, excluding firms that are no longer PRA fee payers.

4.4 Table 4.A sets out the proposed allocation of the ORA shortfall for 2017/18 to fee blocks.

Surplus on EU Withdrawal Fee

4.5 The PRA proposes to refund the difference between fees collected and actual spend in relation to the 2017/18 financial year. The amount of the EU Withdrawal Fee to be refunded to fee payers is estimated to be £3.4 million. This is a draft, unaudited figure and therefore will be subject to change, with the final figure to be confirmed in the PS to be published in June 2017.

4.6 The refund will be allocated to firms proportionate to the EU Withdrawal Fee paid for the 2017/18 fee year.

4.7 Table 4.A includes the proposed allocation of the EU Withdrawal surplus for 2017/18 presented by firm type

Table 4.A Proposed allocation of the 2017/18 Annual Funding Requirement surplus

£ million	ORA	EU W	Total
A1 Deposit Takers	1.9	(2.1)	(0.2)
A3 Insurers - general	0.5	(0.7)	(0.1)
A4 Insurers - life	0.0	(0.4)	(0.4)
A5 Managing agents at Lloyd's	0.0	(0.0)	0.0
A6 The Society of Lloyd's	0.1	(0.0)	0.1
A10 Firms dealing as principal	0.4	(0.2)	0.3
Total estimated shortfall	**3.0**	**(3.4)**	**(0.4)**

Surplus on the Ring-Fencing Implementation Fee

4.8 The PRA proposes to refund the difference between fees collected and actual spend in relation to the 2017/18 financial year. The amount of the RFIF to be refunded to fee payers is estimated to be £3.4 million. This is a draft, unaudited figure and therefore will be subject to change, with the final figure to be confirmed when the final policy is published.

4.9 The refund will be allocated to firms proportionate to the RFIF paid for the 2017/18 fee year. Any firm eligible for a refund will be informed by letter on or before 1 May 2018.

Surplus on the IFRS 9 Implementation Fee

4.10 The PRA proposes to refund the difference between fees collected and actual spend in relation to the 2017/18 financial year. The amount of the IFRS 9 Implementation Fee to be refunded to fee payers is estimated to be £0.6 million. This is a draft, unaudited figure and therefore will be subject to change, with the final figure to be confirmed in the PS.

4.11 The refund will be allocated to firms proportionate to the IFRS 9 Implementation Fee paid for the 2017/18 fee year.

5 Financial penalty scheme and application of retained penalties for 2017/18

5.1 The legislative framework for financial penalties is set out in the Financial Services and Markets Act 2000 (FSMA). Under FSMA, the PRA must:

- pay any fines and other financial penalties received as a result of regulatory enforcement activity to HM Treasury after deducting certain enforcement costs (these costs are referred to as 'retained penalties');
- publish and operate a financial penalty scheme (the 'Financial Penalty Scheme') to ensure that retained penalties are applied for the benefit of PRA-authorised firms; and
- ensure that any firm that has had a penalty imposed does not share in the distribution of retained penalties for the relevant fee year.

5.2 The PRA's Financial Penalty Scheme provides for retained penalties to be refunded as a rebate to the periodic fees payable by firms in the six fee blocks. There is no allocation to the A0 minimum fee or the PT1 Transition Costs fee blocks as they do not bear any share of enforcement costs.

Application of retained penalties for 2017/18

5.3 In 2017/18, enforcement activity by the PRA resulted in fines and penalties of £57,934 which is being retained by the PRA, therefore this amount will be refunded to firms across all the fee blocks excluding those firms that incurred the fines. When the amount is spread across the fee blocks the impact on individual firms is not significant.

6 The PRA's statutory obligations

6.1 In carrying out its policy making functions, the PRA is required to comply with several legal obligations.

6.2 Before making any rules, FSMA[1] requires the PRA to publish a draft of the proposed rules accompanied by:

- a cost benefit analysis;
- an explanation of the PRA's reasons for believing that making the proposed rules is compatible with the PRA's duty to act in a way that advances its general objective,[2] insurance objective[3] (if applicable), and secondary competition objective;[4]
- an explanation of the PRA's reasons for believing that making the proposed rules are compatible with its duty to have regard to the regulatory principles;[5] and
- a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons.[6]

6.3 The Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury.[7]

6.4 The PRA is also required by the Equality Act 2010 to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions.[8]

Cost benefit analysis

6.5 The PRA is exempt from having to carry out a cost benefit analysis on its draft fee rates.[9]

Compatibility with the PRA's objectives

6.6 The PRA considers the proposals to be compatible with the PRA's statutory objectives under FSMA:

- to promote the safety and soundness of PRA-authorised firms;
- in the context of insurance, to contribute to policyholder protection; and
- as a secondary objective to facilitate effective competition in the markets for services provided by PRA-authorised persons in carrying out regulated activities.

6.7 The PRA considers that the proposed PRA Periodic Fees (2017/2018) and Other Fees Instrument 2016 set out in the Appendix will enable the PRA to fund the regulatory activities

1 Section 138J of FSMA.
2 Section 2B of FSMA.
3 Section 2C of FSMA.
4 Section 2H(1) of FSMA.
5 Sections 2H(2) and 3B of FSMA.
6 Section 138K of FSMA.
7 Section 30B of the Bank of England Act 1998.
8 Section 149.
9 Section 138J(6)(d) FSMA.

required to advance its statutory objectives during 2018/19. The proposed fees levels are not expected to have a material impact on the PRA's secondary competition objective since the cost will be spread proportionately across all PRA-regulated entities and is therefore not expected to act as deterrent for new entrants to the industry or the expansion of smaller firms. By targeting costs more precisely at the – generally larger – firms which are subject to the work, the RFIF and the MMF will help to ensure that smaller firms are protected from PRA costs. The PRA's approach to project and transaction fees will help to ensure that larger firms which generate additional costs for the PRA pay for these costs rather than passing them on to all firms through the AFR. For these reasons, the PRA considers the proposals to be compatible with the requirements on the PRA to act in a way that advances its objectives.[1]

Regulatory principles

6.8 In making its rules and establishing its practices and procedures, the PRA must have regard to the regulatory principles. This involves assessing which, if any, of the regulatory principles apply to its proposals and ensuring that they are aligned. The PRA considers the proposals in this CP to be compatible with the PRA's duties under the regulatory principles in section 3B of FSMA and in the Regulators' Code,[2] in particular:

- a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits which are expected to result from the imposition of that burden or restriction – the PRA allocates fees in a proportionate way through the use of fee blocks that take into account the size and nature of our regulated community;

- the desirability where appropriate of each regulator exercising its functions in a way that recognises differences in the nature of, and objectives of, businesses carried on by different persons - by giving separate consideration to the interests of minimum fee payers and firms not affected by certain PRA activities; and

- the regulators should exercise their functions as transparently as possible – by clearly setting out the basis on which the proposed fees are calculated and providing advance notice of the proposed changes to its fees and charges.

Impact on mutuals

6.9 Within each fee block, the proposed costs to be recovered from individual firms are based on the size of their business. In addition to this the PRA applies a discount of 11% to the periodic fees payable by non-Directive general insurance firms, many of which are mutuals. All life insurance non-Directive firms are excluded from periodic fees. Therefore, the PRA does not expect the impact of these proposed fee rates on mutual societies to be significantly different from their impact on other types of authorised persons.[3]

HM Treasury recommendation letter

6.10 HM Treasury has made recommendations to the Prudential Regulation Committee about aspects of the Government's economic policy to which the Committee should have regard when considering how to advance the objectives of the PRA and apply the regulatory principles as set out in FSMA.[4]

1 Section 138J(2) FSMA.
2 www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf.
3 See s.138K FSMA.
4 www.gov.uk/government/publications/recommendations-for-the-prudential-regulation-committee-spring-budget-2017.

6.11 The aspects of the Government's economic policy most relevant to the proposals in this CP are:

(i) Competition

(ii) Growth

(iii) Competitiveness

(iv) Innovation

6.12 Diversity and transparency have been considered in the 'compatibility with the PRA's objectives' and 'regulatory principles' sections above. Where consideration has been given to the aspects that extend beyond the PRA's objectives and the regulatory principles, these are set out below.

Competition

6.13 The PRA allocates fees in a proportionate way through the use of fee blocks and thresholds that take into account the size and nature of its regulated community. Through the use of model application and maintenance/change fees, the PRA also seeks to ensure a balance, with its fees being appropriately targeted while not representing a barrier to the adoption and use of models by smaller firms.

Growth

6.14 The PRA acknowledges the importance of the financial services sector contributing to sustainable economic growth. By ensuring the proposals take into account the size and nature of firms, the PRA fees and levies will not act as a barrier to the growth of the financial services sector.

Competitiveness

6.15 The PRA is mindful of the international nature of some financial services. A transparent and proportionate fee regime helps to support the stability and competitiveness of the UK's financial markets.

Innovation

6.16 The proposals contained within this consultation ensure burdens are proportionate, taking into account the differences in nature of the different business models employed by firms.

Equality and diversity

6.17 The PRA has had due regard to equality and diversity issues that may arise from the proposals in this consultation and has concluded that the proposals do not give rise to any discrimination issues.

Appendix: Draft periodic fees (2018/19) and Other fees instrument 2018

PRA RULEBOOK: PRA PERIODIC FEES (2018/19) AND OTHER FEES INSTRUMENT 2018

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 137G (The PRA's general rules);
(2) section 137T (General supplementary powers); and
(3) paragraph 31 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZB (The Prudential Regulation Authority) of the Act.

B. The rule-making powers referred to above are specified for the purpose of section 138G(2) (Rule-making instruments) 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 the proposed rules and had regard to representations made.

PRA Rulebook: PRA Periodic Fees (2018/19) and Other Fees Instrument 2018

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: PRA Periodic Fees (2018/19) and Other Fees Instrument 2018.

By order of the Prudential Regulation Committee

[DATE]

Annex

Amendments to the Fees Part

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

1 DEFINITIONS

…

1.2 In this Part, the following definitions shall apply:

…

fee block

means *firms* conducting broadly similar regulated activities grouped together for the purposes of calculating and collecting fees as follows:

A0 - the *minimum fee block*

A1 – the *deposit acceptors fee block*

A3 – the *general insurance fee block*

A4 – the *life insurance fee block*

A5 – the *Lloyd's managing agents fee block*

A6 - the *Society of Lloyd's fee block*

A10 – the *designated firms dealing as principal fee block*

~~PT1 – the transition costs fee block~~

…

~~*FRS 101*~~

~~means Financial Reporting Standard 101 issued by the Financial Reporting Council~~

…

gross written premium for fees purposes

means:

(1) for *UK Solvency II firms* in the *general insurance fee block* (A3), the total of items entered under row codes R0110, R0120 and R0130, as expressed in column code C0200 where this column is completed for those row codes, of the *annual quantitative reporting template* S.05.01.01, as reported to the *PRA*;

(2) for *non-directive firms* in the *general insurance fee block* (A3), a *firm's* gross premium written as reported to the *PRA* under item 11 of form 11, or where this is not reported because the *firm* is a *Swiss general insurer* or holds a relevant *waiver*, the entry at sheet 1, line 1, column 1, of form 20A, or where the *firm* is a *friendly society*, the income and expenditure account entry for gross premium written or contributions as income receivable, as appropriate under the Friendly Societies (Accounts and Related Provisions) Regulation 1994 (SI 1994/1983); and

…

~~*IFRS9 implementation fee(s)*~~

~~means the fee or fees in 3.21~~

…

ring fencing fees group

means a banking group, or part of a banking group, which (i) has submitted forecasts to the *PRA* indicating that, from 1 January 2019, it will not meet the *core deposit* level condition in Article 12 of the *FSMA* (Ring-fenced Bodies and Core Activities) Order 2014 and (ii) has been notified by the *PRA* between 1 May 20~~16~~17 and 1 May 20~~17~~18 that a fee relating to the implementation of ring-fencing will be payable by one or more members of its *group*

3 PERIODIC FEES

…

3.3 *Periodic fees* payable by *firms* in any *fee year* will be the sum of the following (so far as applicable to them):

(1) a minimum *periodic fee* at the rate specified in Table IA of the *Periodic Fees Schedule*;

(2) [deleted];

(3) *periodic fees* at the rate specified in Table IIIA, subject to any modifications in *Table IV* and *Table V*, of the *Periodic Fees Schedule* calculated as follows:

(a) applying the *tariff bases* and *valuation points* set out in *3.4* to the *tariff data* which they have supplied to the *PRA* or its *collection agent*;

(b) where applicable, grouping *tariff data* into the *tariff bands* shown in Column 3 of Table IIIA of the *Periodic Fees Schedule*; and

(c) applying the appropriate *tariff rate* as shown in Column 4 of Table IIIA of the *Periodic Fees Schedule*;

the fee being the total of sums payable in respect of all *tariff bands*;

(4) an *EU withdrawal costs allocation* calculated in accordance with *Table VI*, subject to any modifications in *Table IV* and *Table V*, of the *Periodic Fees Schedule*;

(5) the *ring-fencing implementation fee*; and

(6) ~~the *IFRS 9 implementation fee* calculated in accordance with *Table VII*, subject to any modifications in *Table IV*, of the *Periodic Fees Schedule*; and~~[deleted]

(7) a model maintenance fee calculated in accordance with Table VIII of the Periodic Fees Schedule.

…

3.4 (6) For all *firms*, if the data source specified in the applicable *tariff base* is not available to the *PRA* for any reason and the same data is available to the *PRA* from an alternative source, the *PRA* may use that alternative source to calculate the *periodic fees* applicable to any *firm* under *3.3(3)*.

…

3.5 ~~(3) *fee-payers* subject to the *IFRS 9 implementation fee* are as specified in 3.21.~~

…

3.11 (c) the *EU withdrawal costs* allocation in Table VI ~~and the *IFRS implementation fee* in Table VII are~~ is modified in accordance with Table IV of the Periodic Fees Schedule.

…

Ring fencing implementation fee

…

3.18 (4) The proportion referred to in 3.18 (3) was determined by the *PRA* for the ~~2017/18~~ 2018/19 *fee year* in accordance with the following formula (all figures rounded to the nearest whole number):

…

~~*IFRS 9 implementation fee*~~

3.21 ~~In the *fee year* commencing on 1 March 2017 and subsequent *fee years*:~~

~~(1) The *PRA* will charge an *IFRS 9 implementation fee* to recover the annual cost to the *PRA*, as determined by the *PRA*, of implementing the *IFRS* 9 accounting standard for *firms* in the *deposit acceptors fee block* and *designated firms dealing as principal fee block*.~~

~~(2) All *firms* within the *deposit acceptors fee block* and *designated firms dealing as principal fee block* other than *non-EEA branches* and *firms* paying only the minimum *periodic fee* which prepared their most recent set of annual accounts for the *firm's* financial year ending on or before 31 March 2017 in accordance with *IFRS* or *FRS 101* are subject to the *IFRS 9 implementation fee*.~~

~~(3) The *IFRS 9 implementation fee* is calculated in accordance with *Table VII* of the *Periodic Fees Schedule*.~~

~~(4) Fee payers must comply with directions from the *PRA* or its *collection agent* as to payment of *IFRS 9 implementation fees* arising from any variance between the *PRA's* budgeted costs under 3.21(1) and its actual costs once final, audited figures are available in relation to any *fee year*. A~~

~~surplus of fee income against the *PRA's* actual costs may result in a credit to *firms* making payment and a shortfall may necessitate a call for additional fees.~~[deleted]

…

Model maintenance fee

…

3.23 (8) For models incorporating more than one *UK firm*, the *model maintenance fee* shall be determined by reference to aggregated figures for all *UK firms* included within the scope of that model, and shall usually be payable by the *firm* which pays the largest *periodic fee* under *3.3*(3) or otherwise by such *firms* and in such proportions as the *PRA* directs. To facilitate the aggregation calculation where a model incorporates one or more *CRD credit institutions* and one or more *designated investment firms* within its scope, for each *designated investment firm* which is also a *UK firm*, *trading assets* shall be rounded to the nearest £1million, and each £1million of *trading assets* shall be deemed equivalent to £0.4million in *modified eligible liabilities*. Total *modified eligible liabilities* shall then be added together for all *UK firms* within scope of the model.

…

PERIODIC FEES SCHEDULE – FEE RATES AND EEA/TREATY FIRM MODIFICATIONS FOR THE PERIOD FROM ~~1 MARCH 2016 TO 28 FEBRUARY 2017~~1 MARCH 2018 TO 28 FEBRUARY 2019

This schedule sets out the *periodic fees* payable by *firm*s under Chapter 3.

TABLE IA - MINIMUM PERIODIC FEES RATES

Fee payer	Fee payable (£)
Credit unions with *MELs* under £2.0 million:	
With modified eligible liabilities of 0 – 0.5 million	**80.00**
With modified eligible liabilities greater than 0.5 million and less than 2.0 million	**270.00**
Non-directive friendly societies which either: (1) fall within the A3, but **not** the A4*, fee block* and have, in relation to their A3 activities, ~~*gross premium income*~~*gross written premium for fees purposes* of 0-£0.5million and ~~*gross technical*~~ *liabilities* *best estimate liabilities for fees purposes* of 0-£1.0million; or (2) fall within the A4, but **not** the A3, *fee block* and have, in relation to their A4 activities, ~~*adjusted gross premium income*~~*gross written premium for fees purposes* of 0-£1.0million and *best estimate liabilities for fees purposes* ~~hold~~ of 0-£1.0 million ~~of *mathematical reserves for fees purposes*~~; or (3) fall within both the A3 and A4 *fee blocks* and meet condition (1) above in relation to	**215.00**

their A3 activities and condition (2) above in relation to their A4 activities.	
All other firms	**500.00**

TABLE IIIA – PERIODIC FEE RATES APPLICABLE TO PRA FEE BLOCKS OTHER THAN THE MINIMUM ~~AND TRANSITION COSTS~~ FEE BLOCKS FOR THE FEE YEAR ~~2017-18~~2018-19

Column 1 ***Fee block***	**Column 2** ***Tariff base***	**Column 3** ***Tariff bands***	**Column 4** ***Tariff rates***
A1 deposit acceptors fee block	***modified eligible liabilities***	Band width (£million of *MELs)*	Fee payable per million or part million of *MELs*(£)
		>10 - 140	~~33.97~~31.46
		>140 - 630	~~33.97~~31.46
		>630 - 1,580	~~33.97~~31.46
		>1,580 - 13,400	~~42.46~~39.33
		>13,400	~~56.05~~ 51.91
A3 general insurers fee block ~~*gross premium income + gross technical liabilities*~~ *gross written premium for fees purposes + best estimate liabilities for fees purposes*	~~***gross premium income (GPI)***~~***gross written premium for fees purposes***	Band width (£million of ~~*GPI*~~*gross written premium for fees purposes*)	Fee payable per million of ~~*GPI*~~*gross written premium for fees purposes* (£)
		>0.5	~~580.70~~469.90
	~~***gross technical liabilities (GTL)***~~***best estimate liabilities for fees purposes***	Band Width (£ million of ~~*GTL*~~*best estimate liabilities for fees purposes*)	Fee payable per million of ~~*GTL*~~*best estimate liabilities for fees purposes* (£)
		>1	~~32.63~~27.79

		For UK *ISPVs* the *tariff rates* are not relevant and a flat fee of £430.00 is payable in respect of each *fee year*.	
A4 Life insurers fee block *~~adjusted gross annual income (AGPI) +mathematical reserves~~* *gross written premium for fees purposes + best estimate liabilities for fees purposes*	***~~adjusted gross annual premium income (AGPI)~~ gross written premium for fees purposes***	Band width (£million of ~~AGPI~~*gross written premium for fees purposes*)	Fee payable per million of *~~AGPI~~gross written premium for fees purposes* (£)
		>1	~~567.64~~217.58
	~~mathematical reserves~~ best estimate liabilities for fees purposes	Band width (£million of *~~mathematical reserves for fees purposes~~best estimate liabilities for fees purposes*)	Fee payable per million ~~or part million~~ of *~~mathematical reserves for fees purposes~~best estimate liabilities for fees purposes* (£)
		>1	~~11.95~~8.24
A5 managing agents at Lloyd's	***active capacity***	Band width (£million of active capacity)	Fee payable per million of *active capacity* (£)
		>50	~~53.17~~50.90
A6 Society of Lloyd's	**flat fee**	**N/A**	**General periodic fee (£)** ~~1,827,317.70~~1,760,945.00
A10 Firms dealing as principal fee block *Trading assets + financial and*	**~~fee per trader~~ *trading assets***	**~~Fee (£ per trader)~~**Band width (£million of *trading assets*)	~~6,154.22~~Fee payable per million or part million of *trading assets* (£)
		N/A	2.62

operating income	***financial and operating income***	Band width (£million of *financial and operating income*)	Fee payable per million or part million of *financial and operating income* (£)
		N/A	201.20

TABLE IV – MODIFICATIONS TO PERIODIC FEES FOR INCOMING EEA FIRMS AND INCOMING TREATY FIRMS WITH BRANCHES IN THE UK

Fee payer	Discount applied to *periodic fees*
A1 deposit acceptors fee block	50%
A3 general insurers fee block	90%
A4 life insurers fee block	90%
~~**PT1 transition costs fee block**~~	~~100%~~
***Incoming EEA firms* and *incoming Treaty firms* offering *cross border services* only**	100%
~~***EU withdrawal costs fee block***~~	~~100%~~
~~***IFRS 9 implementation fee***~~	~~100%~~

TABLE V – MODIFICATIONS TO PERIODIC FEES FOR NON-DIRECTIVE FIRMS IN THE A1~~,~~ AND A3 ~~AND A4~~ FEE BLOCKS

Fee payer	Discount applied to *periodic fees* in Table IIIA	Discount applied to *EU withdrawal costs fee block*
A1 deposit acceptors fee block	0%	50%
A3 general insurers fee block	11%	50%
~~**A4 life insurers fee block**~~	~~11%~~	~~50%~~

Table VI – EU WITHDRAWAL COSTS ALLOCATION

Fee payer	Tariff base for allocations to firms
All *firms*, except those paying only the minimum fee and *insurance special purpose vehicles*	Total *periodic fees*, excluding minimum fees, payable by the *firm* multiplied by **~~0.0223~~0.03502**

~~**Table VII – IFRS 9 IMPLEMENTATION FEE**~~

~~Non-trading book assets for fees purposes~~	~~Fee payable (in pence) per £1million or part million of non-trading book assets for fees purposes~~
~~Zero~~	~~0~~
~~Greater than zero and up to £199,500million~~	~~42.5~~
~~Greater than £199,500million~~	~~98.6~~