



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP9/19

Regulated fees and levies: Rates proposals 2019/20

April 2019



BANK OF ENGLAND
PRUDENTIAL REGULATION
AUTHORITY

Consultation Paper | CP9/19

Regulated fees and levies: Rates proposals 2019/20

April 2019

By responding to this consultation, you provide personal data to the Bank of England. This may include your name, contact details (including, if provided, details of the organisation you work for), and opinions or details offered in the response itself.

The response will be assessed to inform our work as a regulator and central bank, both in the public interest and in the exercise of our official authority. We may use your details to contact you to clarify any aspects of your response.

The consultation paper will explain if responses will be shared with other organisations (for example, the Financial Conduct Authority). If this is the case, the other organisation will also review the responses and may also contact you to clarify aspects of your response. We will retain all responses for the period that is relevant to supporting ongoing regulatory policy developments and reviews. However, all personal data will be redacted from the responses within five years of receipt. To find out more about how we deal with your personal data, your rights or to get in touch please visit bankofengland.co.uk/legal/privacy.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure to other parties in accordance with access to information regimes including under the Freedom of Information Act 2000 or data protection legislation, or as otherwise required by law or in discharge of the Bank's functions.

Please indicate if you regard all, or some of, the information you provide as confidential. If the Bank of England receives a request for disclosure of this information, we 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.

Responses are requested by Tuesday 14 May 2019.

Please address any comments or enquiries to:

Alexander Zaremba
Prudential Regulation Authority
20 Moorgate
London
EC2R 6DA

Email: CP9_19@bankofengland.co.uk

Contents

1	Overview	1
2	Regulated fees for 2019/20	2
3	Other changes to fee rules	9
4	Surplus / shortfall for 2018/19 TFR	9
5	Financial penalty scheme and application of retained penalties for 2018/19	11
6	The PRA's statutory obligations	11
	Appendices	15

1 Overview

1.1 This consultation paper (CP) sets out proposals for the Prudential Regulation Authority's (PRA) fees for 2019/20. The proposals would make amendments to the Fees Part of the PRA Rulebook (Appendix 1 and 2), and Supervisory Statement (SS) 3/16 'Fees: PRA approach and application' (Appendix 3). The proposals include:

- the fee rates to meet the PRA's 2019/20 Annual Funding Requirement (AFR);
- replacing the Ring-fencing Implementation Fee (RFIF) with the Ring-fencing Fee (RFF);
- changes to the PRA's fees rules in the event of the UK's withdrawal from the EU without a deal;
- how the PRA intends to recoup a shortfall from the 2018/19 AFR and distribute a surplus from the 2018/19 RFIF; and
- how the PRA intends to distribute the retained penalties for 2018/19.

1.2 This consultation is relevant to all firms that currently pay PRA fees or are expecting to do so within the 2019/20 fee year.¹

Summary of proposals

1.3 The PRA's AFR for 2019/20 is made up of the budgeted cost of Ongoing Regulatory Activities (ORA) and costs associated with the UK's withdrawal from the EU. Further information on these can be found in Chapter 2. The proposed ORA for 2019/20 is £241.3 million, an increase of £6.6 million (2.8%) on 2018/19. This figure is provisional and may need to be revised when final estimates for the PRA's pension costs are available (please see paragraph 2.4 for further detail).

Implementation

1.4 The proposed implementation date for the proposals contained in this consultation is Monday 1 July 2019.

Responses and next steps

1.5 This consultation closes on Tuesday 14 May 2019. The PRA invites feedback on the proposals set out in this consultation. Please address any comments or enquiries to CP9_19@bankofengland.co.uk.

1.6 The proposals set out in this CP have been designed in the context of the current UK and EU regulatory framework. The PRA has assessed that the proposals will be affected in the event that the UK leaves the EU with no implementation period in place.

1.7 All the changes relating to the UK's withdrawal from the EU should be read in conjunction with the near-final PRA transitional direction published in Policy Statement (PS) 5/19 'The Bank

¹ The 2019/20 fee year began on 1 March 2019 and will end on 29 February 2020.

of England's amendments to financial services legislation under the European Union (Withdrawal) Act 2018'.²

1.8 Proposed rules which include the relevant changes relating to the UK's withdrawal from the EU without a deal are set out in Appendix 2.

1.9 The draft SS attached to this CP should be read in conjunction with SS1/19 'Non-binding PRA materials: The PRA's approach after the UK's withdrawal from the EU'.³

1.10 As these changes relate to reporting they should be read in conjunction with SS2/19 'PRA approach to interpreting reporting and disclosure requirements and regulatory transactions forms after the UK's withdrawal from the EU'.

1.11 As these changes relate to EU Guidelines, they should be read in conjunction with the joint Bank and PRA Statement of Policy (SoP) 'Interpretation of EU Guidelines and Recommendations: Bank of England and PRA approach after the UK's withdrawal from the EU'.

2 Regulated fees for 2019/20

2.1 This chapter sets out proposals on fee rates to meet the PRA's Total Funding Requirement (TFR) for 2019/20. Information on the PRA's strategy and workplan for the coming year, which will be funded by the TFR, is set out in the 'PRA Business Plan 2019/20',⁴ published alongside this CP.

Total Funding Requirement (TFR)

2.2 The PRA's TFR covers the total fees it proposes to raise from firms and comprises the AFR and 'Other fees' (see Table 2.A). The PRA's TFR for 2019/20 is £271.3 million, down £0.9 million from 2018/19 (£272.2 million).

² February 2019: <https://www.bankofengland.co.uk/paper/2019/the-boes-amendments-to-financial-services-legislation-under-the-eu-withdrawal-act-2018>.

³ February 2019: <https://www.bankofengland.co.uk/paper/2019/interpretation-of-eu-guidelines-and-recommendations-boe-and-pra-approach-sop>.

⁴ Available at: <https://www.bankofengland.co.uk/prudential-regulation/publication/2019/pr-a-business-plan-2019-20>.

Table 2.A: Estimated Total Funding Requirement for 2019/20 and movement from 2018/19

£ million	2019/20	2018/19	Change	Percentage change
Ongoing Regulatory Activities	241.3	234.7	6.6	2.8%
EU Withdrawal Fee	13.9	8.3	5.6	67.2%
Annual Funding Requirement	255.3	243.0	12.2	5.0%
Ring Fencing Implementation Fee/Ring-fencing fee	6.3	16.4	(10.1)	(61.5%)
Model Maintenance Fee	6.2	6.5	(0.3)	(4.6%)
Other fees	3.5	6.2	(2.7)	(56.5%)
Other fees to industry	16.0	29.1	(13.1)	(45.0%)
Total fees to industry	271.3	272.2	(0.9)	(0.3%)

2019/20 Annual Funding Requirement (AFR) and comparison with 2018/19

2.3 The AFR is the budget required by the PRA to advance its statutory objectives. The PRA's proposed AFR for 2019/20 is £255.3 million. This is £12.2 million higher than the AFR for 2018/19 of £243.0 million, an increase of 5%, primarily driven by EU withdrawal costs and lower than anticipated special project and application fees than those assumed in 2018/19. The AFR for 2019/20 is made up of the:

- budget for the ORA, amounting to £241.3 million; and
- recovery of some of the PRA's costs associated with the UK's withdrawal from the EU, amounting to £13.9 million.

2.4 The impact of external market conditions as at Thursday 28 February 2019 on the PRA's pension costs for 2019/20 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 in mid-April 2019). The anticipated variation is likely to be less than £2.0 million, an increase or decrease on the AFR of less than 1%. If the final variation of the pension costs exceeds £2.0 million, 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

2.5 The PRA is proposing to continue to apply a discount of 11% to the periodic fees payable by general insurance firms outside the scope of Solvency II, reallocating this cost across the other firms in the A3 fee block which are within scope of Solvency II. The total amount required to fund the discount in 2019/20 is just over £27,000. When spread across the A3 fee block, the impact on individual firms is not significant.

2.6 All non-Directive life insurers are exempt from PRA periodic fees apart from the minimum fee.

2019/20 Ongoing Regulatory Activities (ORA)

2.7 The PRA's 2019/20 proposed budget for ORA is £241.3 million, compared with £234.7 million for 2018/19. Key factors impacting the year-on-year increase of £6.6 million (3%) in the ORA budget are:

- an increase in project expense (excluding structural reform); and
- initial work on operational resilience, the resolvability framework, and FinTech and regulatory technology.

2.8 These factors are partially offset by the reduction of other fees reflecting the completion of the investment activity for structural reform.

EU Withdrawal Fee

2.9 Against total EU withdrawal related work in 2019/20, the PRA anticipates receiving some £0.7 million in application fees and £2.3 million in Special Project Fees (SPFs) for restructuring as a result of EU withdrawal related work.

2.10 Consistent with the approach taken in 2017/18 and 2018/19, 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:

- monitoring and mitigating the risks arising from EU withdrawal in whatever form it takes;
- ensuring there is a clear legal and regulatory framework to ensure continuity for firms;
- supervisory work associated with EEA passporting firms and other UK firms planning or undertaking restructurings and/or authorisation processes as a result of EU withdrawal; and
- working with EU authorities to develop an appropriate supervisory co-operation framework.

2.11 The total amount the PRA proposes to recover through the EU Withdrawal Fee is £13.9 million.

2.12 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. All PRA-regulated firms, including EEA branches but excluding minimum fee payers and insurance special purpose vehicles, would continue to be in the scope of the EU Withdrawal Fee. Non-Directive firms in the A1 and A3 fee blocks would continue to receive a 50% discount.

Impact of EU withdrawal on PRA fee rules

2.13 For the purposes of drafting this CP on fees for the 2019/20 AFR, the PRA has assumed that when the UK withdraws from the EU, it will do so on the basis of a withdrawal agreement including an implementation period covering the rest of the 2019/20 fee year.

2.14 However, to cover the eventuality that the UK withdraws from the EU without a withdrawal agreement during the 2019/20 fee year, the PRA is also consulting on a limited number of changes to the fees rules. These changes are set out in Appendix 2 and are primarily

intended to provide clarity and ensure that current fees rules and definitions continue to be effective and consistent with the new circumstances.

2.15 In addition, the PRA expects to consult, in due course, on further changes to the fees rules, which would be required to reflect the impact of EU withdrawal on the PRA's supervisory approach in future fee years.⁵ These include removing the discount on periodic fees received by EEA passporting firms in the event passporting arrangements for EEA firms end in the UK, while retaining the discounts for inward passporting firms from Gibraltar. These changes would not be expected to take effect until at least the start of the 2020/21 fee year, giving greater certainty to firms over fee rates for 2019/20, which could otherwise be subject to significant change depending on when EU withdrawal occurred. The PRA would also consult to remove other references in the Fees rules that differentiate the treatment of incoming EEA or Treaty firms.

2.16 The PRA notes that EEA branches which obtain a 'deemed' authorisation through the temporary permissions regime (TPR)⁶ or Supervised Run-off (SRO)⁷ schemes will be treated the same from a fees perspective as other EEA firms which have a 'standard' Financial Services and Markets Act 2000 (FSMA) Part 4A authorisation. The PRA is currently considering whether rule changes would be required in relation to former freedom of service providers operating in the TPR or SRO. Firms in the Contractual Run-off scheme (CRO)⁸ would not be subject to PRA periodic fees as they would be outside the scope of PRA supervision.

Allocation of 2019/20 ORA to fee blocks

2.17 The proposed allocation of the 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.

2.18 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.

2.19 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 2019/20. The minimum fee has been unchanged since the PRA's inception in 2013, shielding firms that only pay the minimum fee from previous increases in the PRA's costs funded by other fee payers.

2.20 Since 2016/17, non-Directive general insurers have received an 11% discount on periodic fees to insulate these firms, including a number of mutual societies, from the full impact of the

⁵ The timing of any future consultation will depend on the final outcome for the United Kingdom's withdrawal from the EU and its timing.

⁶ <https://www.bankofengland.co.uk/eu-withdrawal/temporary-permissions-regime>.

⁷ <https://www.bankofengland.co.uk/eu-withdrawal/financial-services-contracts-regime>.

⁸ <https://www.bankofengland.co.uk/eu-withdrawal/financial-services-contracts-regime>.

growth in costs allocated to the A3 and A4 fee blocks. The PRA proposes leaving the discount unchanged.

2.21 Alongside the allocation of the ORA, Table 2.B shows the impact of the model maintenance fee (MMF), which was introduced in 2018/19. The MMF is paid by firms with Capital Requirements Regulation (575/2013) (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 2019/20 allocation of Ongoing Regulatory Activities, movement from 2018/19 and impact of the model maintenance fee

£ million	2019/20			2018/19			Change	
	ORA	MMF	Total	ORA	MMF	Total	£m	%
A0 Minimum Fees	0.5	-	0.5	0.5	-	0.5	0.0	6.6%
A1 Deposit takers	153.7	1.8	155.5	147.8	1.8	149.5	6.0	4.0%
A3 Insurers - general	32.2	1.9	34.1	32.4	2.1	34.5	(0.4)	(1.4%)
A4 Insurers - life	41.8	1.8	43.6	41.0	1.8	42.9	0.7	1.8%
A5 Managing agents at Lloyd's	1.4	-	1.4	1.4	-	1.4	0.0	3.5%
A6 The Society of Lloyd's	1.8	-	1.8	1.7	-	1.7	0.1	3.1%
A10 Firms dealing as principal	9.8	0.8	10.7	9.9	0.8	10.8	(0.1)	(1.0%)
Ongoing Regulatory Activities	241.3	6.2	247.6	234.7	6.5	241.3	6.3	2.7%

Online fees calculator

2.22 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 Appendix 1. The fee calculator for 2019/20 fees is expected to be available to firms from Wednesday 17 April 2019.

Changes to tariff data used in AFR allocations to fee blocks relative to 2018/19

2.23 Table 2.C sets out the analysis of tariff data used for allocating the PRA's proposed AFR to firms within fee blocks for 2019/20 and a comparison to 2018/19. The changes are partly due to the movement in the allocation of the 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, in the A3 fee block, a number of general insurers restructured or moved their business during the reference year, resulting in a fall in the total reported Gross Written Premiums (GWP) and Best Estimate Liabilities (BEL), increasing the rate charged to each firm per £ million of GWP and BEL.

2.24 Definitional changes to how fees are calculated can also impact tariff data. For the A4 fee block, the definitions of GWP and BEL have changed for the 2019/20 fee year (including the application of a scaling factor for unit-linked business and changes to the weightings between GWP and BEL), which means that the 2019/20 tariff data and fee rates are not directly comparable with data for the 2018/19 fee year. Similarly, for the A10 fee block, the definition of the inputs for calculating fees has changed from 'trading assets' and 'financial and operating income' to 'total assets' and 'total operating income' for the 2019/20 fee year.

2.25 As annual Solvency II returns for the 2018 financial year are not submitted until Thursday 18 April 2019 (after the publication of this CP), the indicative fee rates for both A3 and A4 fee

block payers in the draft rules in Appendix 1 are based on year-end data for 2017. Consequently, 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 2018 data. This will continue to be the case for future fee years, due to Solvency II regulatory returns' reporting deadlines. However, the PRA considers that using the latest data available is the fairest approach.

2.26 Table 2.C 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.

Table 2.C Analysis of tariff data for allocation of fees within fee blocks compared to 2018/19

Fee block	Tariff basis	2019/20 draft number of firms	2018/19 number of firms	Mvt (%)	2019/20 draft tariff data ¹ (billion)	2018/19 tariff data (billion)	Mvt (%)	Mvt in fee rates from 2018/19 (%)
A0	Minimum Fees	1,329	1,356	(2.0%)	n/a	n/a	n/a	n/a
A1	Modified Eligible Liabilities	806	826	(2.4%)	£3,366	£3,255	3.4%	(4.4%)
A3	Gross Written Premiums	317	320	(0.9%)	£61	£70	(12.7%)	(2.0%)
	Best Estimate Liabilities				£118	£143	(17.7%)	(3.3%)
A4 ²	Gross Written Premiums	165	170	(2.9%)	£96	n/a	n/a	n/a
	Best Estimate Liabilities				£1,074	n/a	n/a	n/a
A5	Active Capacity	57	58	(1.7%)	£32	£32	(0.9%)	4.3%
A10 ³	Total Assets	8	8	(0.0%)	£2,082	n/a	n/a	n/a
	Total Operating Income				£16	n/a	n/a	n/a
PE1	EU Withdrawal Fee	711	711	(0.0%)	n/a	n/a	n/a	63.5%

¹ For A3 and A4 fee blocks, 2017 data are shown as 2018 data are not yet available.

² The tariff basis for life insurers in the A4 fee block changed for the 2019/20 fee year, so 2018/19 tariff data are not shown.

³ The tariff basis for designated investment firms in the A10 fee block changed for the 2019/20 fee year, so 2018/19 tariff data are not shown.

Other fees

2.27 'Other fees' include implementation fees, the MMF, SPFs, and regulatory transaction fees. As set out in PS17/17 'Regulated fees and levies: rates proposals 2017/18',⁹ 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 that 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. However, as other fees vary more from one year to another, this is expected to lead to greater volatility in periodic fees. Additional context on the PRA's approach to other fees can be found in SS3/16.¹⁰

2.28 For 2019/20, the PRA expects to raise £16.0 million in other fees, a reduction of £13.1 million on 2018/19. This reflects the completion of the investment activity for structural reform. The PRA proposes to cover the supervision costs of ring-fencing with a new 'Ring-fencing Fee' (RFF).

Ring-fencing Fee (RFF)

2.29 Since the 2016/17 fee year, the PRA has recovered costs associated with structural reform through the Ring Fencing Implementation Fee (RFIF). The PRA's forecasted cost of activity associated with the structural reform project for the 2019/20 fee year is £0.8 million, down £15.6 million from 2018/19 (£16.4 million).

2.30 For the 2019/20 fee year, the PRA is proposing to end the RFIF and replace it with a new fee called the RFF. The RFF will apply to ring-fenced firms and will recover the:

- remainder of the structural reform project costs, covering the period from Friday 1 March 2019 to Sunday 31 March 2019; and
- additional costs associated with supervising ring-fenced firms in 2019/20, currently budgeted at £5.5 million.

2.31 The PRA's activities will focus on ensuring the ring-fences that have been established are effective in practice, and remain so. Ring-fencing has broadened the range of regulatory requirements and increased the intensity of supervision for the groups in scope. Part of this work incorporates a review of the proprietary trading by banks and designated investment firms in scope, to consider if this activity increases the risks to their safety and soundness and whether the PRA's powers are sufficient to tackle such risks. Having a dedicated RFF will help to ensure the costs of this work are borne only by ring-fencing firms.

2.32 The PRA proposes to allocate the RFF in proportion to the relative size of modified eligible liabilities (MELs) for the entities in the ring-fenced sub-groups.¹¹ The use of MELs is consistent with the approach used for allocating periodic fees for deposit takers and should be broadly proportional to the relative amount of work done by the PRA on each entity. It would

⁹ July 2017: www.bankofengland.co.uk/prudential-regulation/publication/2017/regulated-fees-and-levies-rates-proposals-2017-18.

¹⁰ July 2017: www.bankofengland.co.uk/prudential-regulation/publication/2016/fees-pra-approach-and-application-ss.

¹¹ This proposed methodology for the RFF is different to the one used for the RFIF, which was based on core deposits of in scope ring fenced sub-groups and group assets outside the ring fenced body sub-group.

use data from regulatory returns rather than projections submitted by means of additional reporting, which was required for the RFIF.

2.33 Each entity within the ring-fenced bank would be invoiced individually. The PRA would retain the ability to spread the fee across firms in a ring-fenced group or sub-group, or to designate another entity within the group as the sole payer.

3 Other changes to fee rules

Fee weightings

3.1 Periodic fees for general and life insurers in the A3 and A4 fee blocks are based on weightings that are not set out in the PRA Rulebook. The PRA proposes to include the weightings for the A3 and A4 fee block in the Fees rules to improve transparency and make fees easier for firms to understand (see Appendix 1).

3.2 The periodic fees for designated investment firms in the A10 fee block are also based on weightings that are not detailed in the Fees rules. The PRA proposes to add the fee weightings for the A10 fee block to the Fees Rules (see Appendix 1) for the same reasons.

Society of Lloyd's

3.3 Currently, the Society of Lloyd's has its own fee block (A6) which recovers PRA costs associated with supervising the Society. The PRA proposes to change this definition for fees purposes to include any of the Society of Lloyd's subsidiary entities that carry out regulated activity. This is to ensure that these entities do not also fall into a second fee block and pay fees twice. The PRA proposes to amend the rule on firms falling into more than one fee block to clarify that the A6 fee block should not be combined with any other fee block.

Updates to SS3/16

3.4 The PRA proposes to update SS3/16 to detail the factors it will consider before levying a new SPF, including adding and updating material previously contained in the recently withdrawn PS5/13 'Special project fees' (see Appendix 3).¹² The PRA also proposes to make several other amendments to SS3/16 including: updating references to how costs are allocated to implementation fees; clarifying the fees payable by firms applying for a Variation of Part 4A permission; clarifying the PRA's approach to fees surpluses/deficits; and making minor changes to grammar.

4 Surplus / shortfall for 2018/19 TFR

4.1 In the PRA's 2018/19 fee year, there was a shortfall of £3.0 million between the total fees collected and the actual spend. 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. This shortfall consists of a:

- £4.3 million shortfall on the AFR made up of a £0.1 million surplus for the ORA and a £4.4 million shortfall for the EU Withdrawal Fee; and

¹² October 2013: <https://www.bankofengland.co.uk/prudential-regulation/publication/2013/special-project-fees>.

- £1.3 million surplus for the RFIF.

Shortfall on AFR

4.2 The small surplus on the ORA reflects an over-collection of fees from the A1 fee block due to an incorrect treatment of the EEA fee discount. This over-collection will be reallocated to firms in the A1 fee block. Net of this over-collection, there was a shortfall on the ORA of £2.9 million reflecting an increase in EU-withdrawal related work by the PRA not covered by the EU Withdrawal Fee. This shortfall will be allocated to firms in two stages:

- Stage 1 – Allocation to fee blocks. The PRA proposes to allocate the AFR shortfall across all fee blocks, with the exception of the A0 minimum fee block, in proportion to the AFR for the 2018/19 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 2018/19 fee year, excluding firms that are no longer PRA fee payers.

4.3 The shortfall in the EU Withdrawal Fee reflected significantly lower than budgeted income raised through EU withdrawal-related special project and application fees during the year. This shortfall will be allocated to firms proportionate to the EU Withdrawal Fee paid for the 2018/19 fee year.

4.4 Table 4.A includes the proposed allocation of the AFR shortfall, split by the PRA and the EU Withdrawal Fee, for 2018/19 presented by firm type.

Table 4.A Proposed allocation of the 2018/19 Annual Funding Requirement shortfall

£ million	ORA	EU W	Total
A1 Deposit takers	1.2	(2.8)	(1.6)
A3 Insurers – general	(0.4)	(0.6)	(1.2)
A4 Insurers – life	(0.5)	(0.8)	(1.0)
A5 Managing agents at Lloyd's	(0.0)	(0.0)	(0.0)
A6 The Society of Lloyd's	(0.0)	(0.0)	(0.1)
A10 Firms dealing as principal	(0.1)	(0.2)	(0.3)
Total estimated shortfall	0.1	(4.4)	(4.3)

Surplus on Ring-fencing Implementation Fee (RFIF)

4.5 The amount of the RFIF to be refunded to fee payers is estimated to be £1.3 million, reflecting a difference between fees collected and actual spend in relation to the 2018/19 financial year. The refund will be allocated to ring-fencing firms proportionate to the RFIF paid for the 2018/19 fee year.

5 Financial penalty scheme and application of retained penalties for 2018/19

5.1 The legislative framework for financial penalties is set out in the 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-authorized 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 2018/19

5.3 In 2018/19, enforcement activity by the PRA resulted in fines and penalties of £358,876 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, FSMA¹³ 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,¹⁴ insurance objective¹⁵ (if applicable), and secondary competition objective;¹⁶

¹³ Section 138J of FSMA.

¹⁴ Section 2B of FSMA.

¹⁵ Section 2C of FSMA.

¹⁶ Section 2H(1) of FSMA.

- 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;¹⁷ and
- a statement as to whether the impact of the proposed rules will be significantly different to mutuals than to other persons.¹⁸

6.3 The Prudential Regulation Committee (PRC) should have regard to aspects of the Government's economic policy as recommended by HM Treasury.¹⁹

6.4 The PRA is also required by the Equality Act 2010²⁰ to have due regard to the need to eliminate discrimination and to promote equality of opportunity in carrying out its policies, services and functions.

Cost benefit analysis

6.5 The PRA is exempt from having to carry out a cost benefit analysis on its draft fee rates.²¹

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 (2019/2020) and Other Fees Instrument 2019 set out in Appendix 1 will enable the PRA to fund the regulatory activities required to advance its statutory objectives during 2019/20. The proposed fees levels are expected to advance the PRA's secondary competition objective because fees for ongoing regulatory activities are allocated in a proportionate manner across all PRA-regulated firm while fees for specific projects and transactions are targeted only on those, predominantly larger, firms which generate these specific regulatory activities. 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.²²

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

¹⁷ Sections 2H(2) and 3B of FSMA.

¹⁸ Section 138K of FSMA.

¹⁹ Section 30B of the Bank of England Act 1998.

²⁰ Section 149.

²¹ Section 138J(6)(d) FSMA.

²² Section 138J(2) FSMA.

this CP to be compatible with the PRA's duties under the regulatory principles in section 3B of FSMA and in the Regulators' Code,²³ in particular:

- a burden or restriction which is imposed on a person, should be proportionate to the benefits which are expected to result from the imposition of that burden – 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. The minimum fee has been held as unchanged and should benefit many mutuals. 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.²⁴

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.²⁵

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

²³ www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf.

²⁴ See s.138K FSMA.

²⁵ www.gov.uk/government/publications/recommendations-for-the-prudential-regulation-committee-spring-budget-2017.

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 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.

Appendices

1	Draft periodic fees (2019/20) and Other fees instrument 2019	16
2	Draft periodic fees (2019/20) and Other fees (EU withdrawal) instrument 2019	24
3	Draft amendments to SS3/16 'Fees: PRA approach and application'	29

Appendix 1: Draft periodic fees (2019/20) and Other fees instrument 2019

PRA RULEBOOK: PRA PERIODIC FEES (2019/20) AND OTHER FEES INSTRUMENT 2019

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);
 - (3) section 166 (Reports by skilled persons) and
 - (4) 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 (2019/20) and Other Fees Instrument 2019

- 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 (2019/20) and Other Fees Instrument 2019.

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 APPLICATION AND DEFINITIONS

...

1.2 In this Part, the following definitions shall apply:

...

~~international financial reporting standards or IFRS~~

~~means the international accounting standards issued by the International Accounting Standards Board, whether as adopted in the EU under Regulation 1606/2002 or otherwise.~~

...

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~~ does 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 2017 and 1 May 2018 that a fee relating to the implementation of ring-fencing will be payable by one or more members of its group~~ does not fall within the exemptions set out in Article 11 of the FSMA (Ring-fenced Bodies and Core Activities) Order 2014.

...

ring-fencing

means the *UK ring-fencing* regime as provided for in the Financial Services (Banking Reform) Act 2013, including statutory instruments and *PRA* rules ~~made or to be made~~ pursuant thereto.

~~*ring-fencing implementation fee(s)*~~

~~means the fee or fees in 3.18.~~

ring-fencing fee(s)

means the fee or fees in 3.18A.

...

Society of Lloyd's fee block

means the *fee block* of which the *Society* ~~is the sole member~~ and its subsidiaries are members.

...

3 PERIODIC FEES

...

3.2 The amount payable depends upon the *fee block* to which the *firm* has been allocated. *Firms* falling into more than one *fee block* pay *periodic fees* in relation to each, other than *firms* falling within the A6 *Society of Lloyd's fee block* and any other *fee block*, which pay *periodic fees* in relation to the A6 *fee block* only.

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

...

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

...

3.4 The tariff bases and valuation points referred to in 3.3 (3)(a) are:

...

(2) for *firms* in the *general insurance fee block* (A3) the *firm's gross written premium for fees purposes* and its *best estimate liabilities for fees purposes* for the *firm's* financial year which ends in the calendar year to 31 December prior to commencement of the *fee year*, unless the *firm* is a UK ISPV, in which case the *tariff base* is not relevant and a flat fee shown in Table IIIA of the *Periodic Fees Schedule* is payable, noting that:

(a) this *tariff base* (A3) does not include *gross written premium for fees purposes* and *best estimate liabilities for fees purposes* on which a *composite firm* reports data relevant for the *life insurance fee block* (A4).

(b) where any figure used in the calculation of this *tariff base* (A3) is a negative number, it shall instead be deemed to be zero.

(c) in the calculation of the *periodic fee* due under 3.3(3) for this *fee block* (A3), the following weightings shall apply:

(i) 90% of the *periodic fee* shall be determined from *gross written premium for fees purposes*; and

(ii) 10% of the *periodic fee* shall be determined from *best estimate liabilities for fees purposes*.

(3) for *firms* in the *life insurance fee block* (A4):

(a) for *UK Solvency II firms*, including *composite firms* which are also *UK Solvency II firms* to the extent that they are required to report data used for this tariff base (A4), the *firm's gross written premium for fees purposes* and its *best estimate liabilities for fees purposes*, for the *firm's* financial year which ends in the calendar year to 31 December prior to commencement of the *fee year*;

(b) for *non-directive firms*, including *non-directive firms* which are also *composite firms* to the extent that they come within the *life insurance fee block*, the *tariff base* is not relevant to the level of fees due and only the minimum fee as specified in Table IA of the Periodic Fees Schedule is payable.

(c) Where any figure used in the calculation of this *tariff base* (A4) is a negative number, it shall instead be deemed to be zero.

(d) in the calculation of the *periodic fee* due under 3.3(3) for this *fee block* (A4), the following weightings shall apply:

(i) 60% of the *periodic fee* shall be determined from *gross written premium for fees purposes*; and

(ii) 40% of the *periodic fee* shall be determined from *best estimate liabilities for fees purposes*.

...

(5) for *firms* in the *designated firms dealing as principal fee block* (A10), *total assets for fees purposes* as at 31 December preceding commencement of the *fee year* and the *firm's total operating income for fees purposes* for the four quarters ending on or before 31 December preceding commencement of the *fee year*. In the calculation of the *periodic fee* due under 3.3(3) for this *fee block* (A10), the following weightings shall apply:

(a) 50% of the *periodic fee* shall be determined from *total assets for fees purposes*; and

(b) 50% of the *periodic fee* shall be determined from *total operating income for fees purposes*.

...

...

Ring-fencing implementation fee

3.18 ~~In the *fee year* commencing on 1 March 2017 and subsequent *fee years*: [deleted]~~

~~(1) The *PRA* will charge a *ring-fencing implementation fee* to recover the annual cost to the *PRA*, as determined by the *PRA*, of implementing *ring-fencing*~~

~~(2) All *firms* within *ring-fencing fees groups* are subject to *ring-fencing implementation fees*. The *PRA* may require that a single *firm* pays all *ring-fencing implementation fees* due to the *PRA* by the group.~~

(3) In each *fee year* the *PRA* will allocate to each *ring-fencing fees group* the proportion referred to in 3.18 (4) of the cost referred to in 3.18 (1). An amount reflecting this proportion will be the total fee payable by the group.

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

$[(X + Y) \div 2] \% \text{ where}$

$X = [\text{core deposits (ring-fencing fees group)} \div \text{core deposits (all ring-fencing fees groups)}] \times$

100 and

$Y = [\text{assets outside expected RFB sub-group (ring-fencing fees group)} \div \text{assets outside expected RFB sub-groups (all ring-fencing fees groups)}] \times 100$

(5) Fee payers must comply with directions from the *PRA* or its collection agent as to payment of *ring-fencing implementation fees* arising from any variance between the *PRA's* budgeted costs under 3.18 (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 the *firms* making payment and a shortfall may necessitate a call for additional fees.

(6) Where an application for a new authorisation or variation of *Part 4A permission* is made in the context of *ring-fencing*, no regulatory transaction fee will be payable under 4.5 or 4.7 if a *ring-fencing implementation fee* is payable under 3.18 whether by the applicant or another *fee payer*.

Ring-fencing fee

3.18A (1) The *PRA* will charge a *ring-fencing fee* to recover the annual cost to the *PRA*, as determined by the *PRA*, of fulfilling its functions in relation to *ring-fencing*.

(2) All firms within ring-fencing fees groups are subject to ring-fencing fees, based on the total modified eligible liabilities of the ring-fenced bodies within the group, and payable in accordance with Table VII of the Periodic Fees Schedule. The PRA may require that a single firm pays all ring-fencing fees due to the PRA by the group.

(3) Fee payers must comply with directions from the PRA or its collection agent as to payment of ring-fencing fees arising from any variance between the PRA's budgeted costs under 3.18A (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 the firms making payment and a shortfall may necessitate a call for additional fees.

...

...

TABLE IIIA – PERIODIC FEE RATES APPLICABLE TO PRA FEE BLOCKS OTHER THAN THE MINIMUM FEE BLOCK FOR THE FEE YEAR ~~2018-19~~ 2019-20

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 <i>MELs</i>)	Fee payable per million or part million of <i>MELs</i> (£)
		>10 - 140	31.87 31.45
		>140 - 630	31.87 31.45
		>630 - 1,580	31.87 31.45
		>1,580 - 13,400	39.84 39.31
		>13,400	52.59 51.89
A3 general insurers fee block	gross written premium for fees purposes	Band width (£million of <i>gross written premium for fees purposes</i>)	Fee payable per million of <i>gross written premium for fees purposes</i> (£)
		>0.5	494.81 543.90
	best estimate liabilities for fees purposes	Band Width (£ million of <i>best estimate liabilities for fees purposes</i>)	Fee payable per million of <i>best estimate liabilities for fees purposes</i> (£)
		>1	29.07 33.25
		For UK ISPVs the <i>tariff rates</i> are not relevant and a flat fee of £430.00 is payable in respect of each <i>fee year</i> .	
	A4 Life insurers fee block	gross written premium for fees purposes	Band width (£million of <i>gross written premium for fees purposes</i>)
>1			255.17 274.90
best estimate liabilities for fees purposes		Band width (£million of <i>best estimate liabilities for fees purposes</i>)	Fee payable per million of <i>best estimate liabilities for fees purposes</i> (£)
		>1	7.86 15.81
A5 managing agents at Lloyd's	active capacity	Band width (£million of <i>active capacity</i>)	Fee payable per million of <i>active capacity</i> (£)
		>50	46.24 48.24

A6 Society of Lloyd's	flat fee	N/A	General periodic fee (£) 1,748,266.95-1,802,787.50
A10 Firms dealing as principal fee block <i>Trading assets total assets for fees purposes, + financial and operating income total operating income for fees purposes</i>	<u>trading assets total assets for fees purposes</u>	Band width (£million of <i>trading assets total assets for fees purposes</i>)	Fee payable per million or part million of <i>trading assets total assets for fees purposes</i> (£)
		N/A	2.63 <u>2.37</u>
	<u>financial and operating income total operating income for fees purposes</u>	Band width (£million of <i>financial and operating income total operating income for fees purposes</i>)	Fee payable per million or part million of <i>financial and operating income total operating income for fees purposes</i> (£)
		N/A	201.46 <u>307.05</u>

...

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 under 3.3(3), excluding minimum fees, payable by the firm multiplied by 0.03540 <u>0.057871</u>

...

TABLE VII – RING-FENCING FEE

Fee payer	Tariff base for allocations to firms
All firms within ring-fencing fees groups	Total periodic fees under 3.3(3) payable by the ring-fenced bodies within the ring-fencing fees group, multiplied by 0.093544

...

4 REGULATORY TRANSACTION FEES

...

Skilled persons

...

- 4.17 The due date for payment by the firm will be within ~~is~~ 30 days of from the date of each invoice from the PRA to the firm.

...

5 SPECIAL PROJECT FEE FOR RESTRUCTURING

...

Due date for payment and ongoing obligation in relation to *SPFs*

- 5.8 The *due date for payment* of an *SPF* for restructuring is 30 days from the date of ~~the~~ each invoice from the PRA to the firm.

...

Appendix 2: Draft periodic fees (2019/20) and Other fees (EU withdrawal) instrument 2019

PRA RULEBOOK: PRA PERIODIC FEES (2019/20) AND OTHER FEES (EU WITHDRAWAL) INSTRUMENT 2019

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”):
- (5) section 137G (The PRA’s general rules);
 - (6) section 137T (General supplementary powers);
 - (7) paragraph 31 (Fees) of Part 3 (Penalties and Fees) of Schedule 1ZB (The Prudential Regulation Authority) of the Act; and
 - (8) Regulation 209 of the Financial Services and Markets Act 2000 (Amendment) (EU Exit) Regulations 2019.
- 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 (2019/20) and Other Fees (EU withdrawal) Instrument 2019

- 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 (2019/20) and Other Fees (EU Withdrawal) Instrument 2019.

By order of the Prudential Regulation Committee

[DATE] 2019

Annex

Amendments to the Fees Part

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

1 APPLICATION AND DEFINITIONS

...

1.3 In this Part, the following definitions shall apply:

...

cross border services

means:

- (1) for former incoming EEA firm or a former incoming Treaty firm, services provided within the UK prior to exit day under the freedom to provide services and subsequently under any legislative provision which replaces it;
- (2) for Gibraltar-based firms, services provided under an entitlement conferred by the Financial Services and Markets Act 2000 (Gibraltar) Order 2001 in the United Kingdom without using a physical presence there to offer or provide those services.

...

first fee year

means the fee year during which a firm becomes authorised or receives an extended Part 4A permission in relation to PRA-regulated activity, but for the purposes of the 2019-20 fee year this does not include firms which are former incoming EEA firms or former incoming Treaty firms and where the same legal entity receives new or extended Part 4A permission in relation to PRA-regulated activity during the course of that fee year.

former freedom of services provider

means firms which, immediately prior to exit day, relied on an EEA or Treaty right to provide services in the United Kingdom without using a physical presence there to offer or provide those services, and which immediately after exit day, are authorised by the PRA as a result of the EEA Passport Rights (Amendment, etc and Transitional Provisions) (EU Exit) Regulations 2018 in relation to those services, and continue not to use a physical presence in the United Kingdom to offer or provide them.

...

Gibraltar-based firms

has the meaning in the Financial Services and Markets Act (Gibraltar) Order 2001

...

former incoming EEA firm

means a person who immediately before *exit day* was authorised to carry on a regulated activity by virtue of section 31(1)(b) of *FSMA*.

former incoming Treaty firm

means a person who immediately before *exit day* was authorised to carry on a regulated activity by virtue of section 31(1)(c) of *FSMA*.

...

~~non-EEA branches~~

~~means United Kingdom branches of firms which are incorporated outside the EEA~~

...

passport activity

means

- (1) for former incoming EEA firms and former incoming Treaty firms, an activity carried on by under an EEA right or Treaty right, prior to *exit day*, and subsequently under any legislative provision which replaces it;
- (2) for Gibraltar-based firms, an activity carried out under an entitlement conferred by the Financial Services and Markets Act 2000 (Gibraltar) Order 2001.

...

third country branch

means United Kingdom branches of firms which are incorporated elsewhere in the world, excluding Gibraltar.

...

~~Treaty firm~~

~~means, as defined in paragraph 1 of Schedule 4 of *FSMA*, a person whose head office is situated in an EEA state other than the United Kingdom and which is recognised by the law of that state as its national~~

3 PERIODIC FEES

- 3.6 The following requirements apply to all *firms* whose activities give rise to *periodic fees*, other than *firms* which pay only a flat rate of fee:

...

(3) for an *incoming EEA firm* or an *incoming Treaty firm* in the *deposit acceptors fee block*, the information required for the *tariff base* is in relation to the *regulated activities* of the *firm* carried on in the *United Kingdom*, other than those provided on a *cross-border services basis*; [deleted]

(3A) for *third country branches, former freedom of service providers and Gibraltar-based firms*, the information required for the *tariff base* is in relation to *PRA regulated activities* of the *firm* carried on from offices in the *United Kingdom*.

...

3.11 The following modifications to *periodic fees* will apply:

(1) In relation to *former incoming EEA firms* and *former incoming Treaty firms*:

(a) the modifications in 3.7 apply only in relation to the relevant regulated activities of the *firm* which are *EEA passported activities* or activities of a *former incoming Treaty firm* exercising rights under Schedule 4 of FSMA. [deleted]

...

(d) *Firms* having the status of *former incoming EEA firms* and *former incoming Treaty firms* immediately after *exit day* shall retain this status for the purposes of this rule (3.11(1)) throughout the 2019-20 *fee year*.

(1A) In relation to *Gibraltar-based firms*, the modifications in 3.7 apply only in relation to the relevant regulated activities of the *firm* carried on from offices in the *United Kingdom*.

...

Periodic Fees Schedule – Fee Rates and Modifications for Gibraltar-based Firms and former incoming EEA/Treaty Firms modifications for the Period from 1 March 2019 to 29 February 2020

TABLE IV – MODIFICATIONS TO PERIODIC FEES FOR GIBRALTAR-BASED FIRMS, FORMER INCOMING EEA FIRMS AND FORMER INCOMING TREATY FIRMS WITH BRANCHES IN THE UK

Fee payer	Discount applied to <i>periodic fees</i>
A1 deposit acceptors fee block	50%
A3 general insurers fee block	90%
A4 life insurers fee block	90%
[deleted]	[deleted]
<i>Former incoming EEA firms and, former incoming Treaty firms and Gibraltar-based firms offering cross border services only</i>	100%
[deleted]	[deleted]

4 REGULATORY TRANSACTION FEES

4.1 This chapter does not apply to ~~EEA firms wishing to exercise an EEA right. Gibraltar-based firms~~ exercising entitlements under the Financial Services and Markets Act 2000 (Gibraltar) Order 2001.

...

4.5 (6) Where a new authorisation under 4.5 or an exercise of ~~Treaty rights~~ entitlements by a Gibraltar-based firm under in line with 4.6A relates to more than one PRA regulated activity, a single fee, being the highest applicable regulatory transaction fee, is payable.

Exercise of Treaty rights

4.6 ~~Regulatory transaction fees are payable as follows by incoming Treaty firms seeking to exercise a Treaty right in order to qualify for authorisation under Schedule 4 FSMA in respect of PRA regulated activities for which it does not have EEA passporting rights and which are not restricted to providing cross border services:~~

(1) unless 4.6(2) applies:

(a) 50% of the amount payable under 4.5 if the permitted activities are being undertaken through the firm's branch in the ~~United Kingdom; or~~

(b) 25% of the amount payable under 4.5 if the permitted activities are being undertaken by providing ~~cross border services~~ in the ~~United Kingdom.~~

(2) ~~No regulatory transaction fees are payable if HM Treasury has issued a certificate under paragraph 3(4) of Schedule 4 of FSMA confirming that equivalent protection is provided under the law of an EEA state other than the United Kingdom. [deleted]~~

Gibraltar-based firms seeking top-up permissions

4.6A Regulatory transaction fees are payable as follows by Gibraltar-based firms seeking to carry out PRA regulated activities for which they do not have an entitlement under the Financial Services and Markets Act 2000 (Gibraltar) Order 2001:

(1) 50% of the amount payable under 4.5 if the permitted activities are being undertaken through the firm's branch in the United Kingdom; or

(2) 25% of the amount payable under 4.5 if the permitted activities are being undertaken by providing cross border services in the United Kingdom.

Appendix 3: Draft amendments to SS3/16 ‘Fees: PRA approach and application’

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

...

3 Periodic fees (Fees 3)

...

3.3 The AFR is allocated across ‘fee blocks’,^(x) which are groupings of firms conducting broadly similar regulated activities. Firms pay a fee for each fee block into which they fall, the amount of fee being linked to the volume of activity undertaken by each firm within the fee block.

...

3.5 As well as the AFR and the model maintenance fee, the PRA may introduce ‘cost allocations’ ~~implementation fees~~, subject to consultation. ~~‘Cost allocations’ implementation fees~~ are used to cover the costs of significant pieces of work that apply to a specific group of firms that fall into more than one of the existing fee blocks or a sub-set of firms within a fee block. Where the PRA proposes to introduce a new ‘cost allocation’ ~~implementation fee~~ or change an existing ‘cost allocation’ it will consult. An example of a ‘cost allocation’ ~~an implementation fee~~ is the ring-fencing ~~implementation fee~~.^(x)

...

3.7 Rules relating to periodic fees can be found in Fees 3 and the Periodic Fees Schedule annexed to that ~~Part chapter~~. The Periodic Fees Schedule is updated each year to reflect the PRA’s budgeted AFR and the fee rates consultation.

....

3.9 The PRA may return a surplus to firms or require further payment to fund a deficit. The PRA reserves its right to retain a surplus or to fund a deficit temporarily from borrowing.

4 Regulatory transaction fees (Fees 4)

...

4.2 Fees 4 includes information on the fees that firms pay when applying to become PRA-
authorised (defined as ‘new authorisations’ in ~~Chapter 4~~ Fees 4).

...

(x) PRA fee blocks are currently: 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 – designated firms dealing as principal fee block, ~~PT1 – the transition costs fee block.~~

(x) Fees 3.18.

4.8 Where a firm's application extends its Part 4A permission to include additional regulatory activities means that it moves into a new fee block for the purposes of periodic fees, the applicable fee is 50% of the relevant highest fee which would have been payable by that firm had it been applying for a new firm authorisation for the fee block and should be paid on submission of the application. The firm will also be expected to pay periodic fees for this additional regulatory activity based on its projected business, with the amount of the fee calculated under the methodology outlined in Fees 3.7. This additional periodic fee will be requested by invoice and is usually raised the month after the firm becomes authorised with payment requested within 30 days of the date of the invoice.

Other regulatory transaction fees

4.10 At the time of publication, the other regulatory transaction fees in Chapter 4 of this SS are fees:

- fees for Gibraltar-based and incoming European Economic Area (EEA) firms seeking permissions in relation to PRA regulated activities for which they do not have automatic ~~passport~~ passporting passporting activity rights;
- fees payable by a transferor seeking consent for an insurance business transfer scheme under Part VII of Financial Services and Markets Act 2000 (FSMA);
- fees for Capital Requirements Regulation (CRR) firms (banks, building societies and certain investment firms) seeking permission to use specified internal approaches to assessing risk;
- fees for Solvency II firms (firms subject to the Solvency II directive) seeking permission to use internal models; and
- fees payable in some circumstances where the PRA has commissioned a skilled person's investigation or report.

5 Special Project Fee for restructuring (Fees 5)

5.1 ~~Chapter 5 of Fees 5~~ sets out the rules for SPFs, which PRA-authorised firms may have to pay in addition to any other fees.

...

Factors the PRA will consider before levying a new SPF

5.8 Paragraphs 5.9 to 5.12 set out factors which the PRA will consider when deciding whether or not to introduce a new SPF. These factors are not intended to be exhaustive and should not be read as a list of criteria of which a set number must be satisfied before the PRA will introduce an SPF.

5.9 The PRA may use an SPF to recover some or all of the costs it incurs in undertaking regulatory activity:

- which results from a request from or decision by a fee payer (or group of fee payers) leading to the PRA undertaking specific regulatory activity on its (or their) behalf; or

- where the regulatory activity would primarily relate to one fee payer (or group of fee payers) rather than all fee payers in a particular fee block.

5.10 The PRA may use an SPF as a way of allocating its costs directly at those firms making significant calls on its resources.

5.11 Among other matters, the PRA will have regard to the likely duration of a project when considering whether to charge for the costs relating to that project by introducing an SPF or through fees for ORA.

5.12 When considering whether to use an SPF to recover costs, the PRA will act in accordance with its statutory duties and objectives.