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STATUTORY INSTRUMENTS

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**2019 No. 632**

**The Financial Services and Markets Act 2000  
(Amendment) (EU Exit) Regulations 2019**

**PART 8**

**Regulators' fees**

**Meaning of “qualifying functions” in this Part**

**206.**—(1) For the purposes of this Part, the “qualifying functions” of the Bank of England, or of the Financial Conduct Authority or the Prudential Regulation Authority, are—

- (a) its functions under or as a result of a qualifying provision that is specified, or of a description specified, for the purposes of this paragraph by the Treasury by order, and
- (b) its functions under or as a result of regulations made under section 8 of the European Union (Withdrawal) Act 2018.

(2) In paragraph (1)(a) “qualifying provision” has the meaning given by section 425C of the Act (as substituted by these Regulations).

(3) An order under paragraph (1) may—

- (a) contain such incidental, supplemental, consequential and transitional provision as the person making it considers appropriate, and
- (b) make different provision for different cases.

(4) Power to make an order under paragraph (1) is exercisable by statutory instrument.

(5) A statutory instrument containing an order under paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

**Fees: Bank of England**

**207.**—(1) The Bank of England may, in connection with the discharge of any of its qualifying functions, require recognised clearing houses, third country central counterparties, recognised CSDs or settlement internalisers to pay fees to the Bank.

(2) The power of the Bank to set fees includes power to set fees for the purpose of meeting expenses incurred by it or the Financial Conduct Authority—

- (a) in preparation for the exercise by the Bank of its qualifying functions, or
- (b) for the purpose of facilitating the exercise by the Bank of those functions or otherwise in connection with their exercise by it.

(3) It is irrelevant when the expenses were incurred.

(4) Any fee which is owed to the Bank under this regulation may be recovered as a debt due to the Bank.

(5) In this regulation—

“CSD regulation” has the meaning given by section 417 of the Act,  
 “recognised clearing house”, “recognised CSD” and “third country central counterparty” have the meaning given by section 285 of the Act, and  
 “settlement internaliser” has the meaning given by Article 2(1)(11) of the CSD regulation.

### **Fees: Financial Conduct Authority**

**208.**—(1) The Financial Conduct Authority (“the FCA”) may make rules providing for the payment to it of such fees, in connection with the discharge of any of its qualifying functions, as it considers will (taking account of its expected income from fees and charges provided for by any provision of the Act other than sections 137SA, 137SB and 333T(1)) enable it—

- (a) to meet expenses incurred in carrying out the functions conferred on it by or under the Act(2), other than its excepted functions, or for any incidental purpose,
- (b) to repay the principal of, and pay any interest on, any relevant borrowing and to meet relevant commencement expenses, and
- (c) to maintain adequate reserves.

(2) It is irrelevant when the expenses mentioned in paragraph (1)(a) were incurred.

(3) The “excepted functions” of the FCA are—

- (a) its functions under sections 137SA and 137SB of the Act, and
- (b) its functions under section 333T of the Act so far as relating to the collection of payments.

(4) In paragraph (1)(b) “relevant borrowing” and “relevant commencement expenses” have the meaning given by paragraph 23(3) and (5) of Schedule 1ZA to the Act(3).

(5) In fixing the amount of any fee which is to be payable to the FCA, no account is to be taken of any sums which the FCA receives, or expects to receive, by way of penalties imposed by it under the Act.

(6) Any fee which is owed to the FCA under any provision made under this regulation may be recovered as a debt due to the FCA.

(7) Chapter 2 of Part 9A of the Act(4) (rules: procedural provisions etc) applies in relation to rules under this regulation as it applies in relation to rules under paragraph 23 of Schedule 1ZA to the Act.

(8) The requirements of sections 138I and 138K of the Act(5) in so far as they apply to a proposal to make rules under this regulation may be satisfied by things done (wholly or in part) before the date on which this regulation comes into force.

### **Fees: Prudential Regulation Authority**

**209.**—(1) The Prudential Regulation Authority (“the PRA”) may make rules providing for the payment to it of such fees, in connection with the discharge of any of its qualifying functions, as

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- (1) Sections 137SA and 137SB was inserted by sections 13 and 14 of the Financial Guidance and Claims Act 2018 (c.10). Section 333T was inserted by section 29 of the Bank of England and Financial Services Act 2016 (c.14).
  - (2) The reference to the FCA’s functions conferred by or under the Act is to be read in accordance with section 1A(6) of the Act (see section 3T(a) of the Act). Sections 1A and 3T were inserted by section 6 of the Financial Services Act 2012 and section 1A(6) was amended by S.I. 2013/1773, S.I. 2018/1115, these Regulations and paragraph 6 of Schedule 3 to the Financial Guidance and Claims Act 2018.
  - (3) Schedule 1ZA was inserted by section 6 of, and Schedule 3 to, the Financial Services Act 2012 (c.21). Paragraph 23(3) and (5) of Schedule 1ZA are to be read in accordance with paragraph 1 of Schedule 1ZA and section 1A(6) of the Act.
  - (4) Part 9A was inserted by the Financial Services Act 2012 (c.21).
  - (5) Section 138I was amended by paragraph 8 of Schedule 3 to the Pension Schemes Act 2015, sections 29 and 33 of the Bank of England and Financial Services Act 2016 and paragraph 14 of Schedule 3 to the Financial Guidance and Claims Act 2018. Section 138K was amended by paragraphs 68 and 69 of Part 2 of Schedule 4 to the Co-operative and Community Benefit Societies Act 2014.

it considers will (taking account of its expected income from fees and charges provided for by any provision of the Act) enable it—

- (a) to meet expenses incurred in carrying out the functions conferred on it by or under the Act(6) or for any incidental purpose,
  - (b) to repay the principal of, and pay any interest on, any relevant borrowing and to meet relevant commencement expenses, and
  - (c) to maintain adequate reserves.
- (2) It is irrelevant when the expenses mentioned in paragraph (1)(a) were incurred.
- (3) In paragraph (1)(b) “relevant borrowing” and “relevant commencement expenses” have the meaning given by paragraph 31(3) and (5) of Schedule 1ZB to the Act(7).
- (4) In fixing the amount of any fee which is to be payable to the PRA, no account is to be taken of any sums which the PRA receives, or expects to receive, by way of penalties imposed by it under the Act.
- (5) Any fee which is owed to the PRA under any provision made under this regulation may be recovered as a debt due to the PRA.
- (6) Chapter 2 of Part 9A of the Act (rules: procedural provisions etc) applies in relation to rules under this regulation as it applies in relation to rules under paragraph 31 of Schedule 1ZB to the Act.
- (7) The requirements of sections 138J and 138K of the Act(8) in so far as they apply to a proposal to make rules under this regulation may be satisfied by things done (wholly or in part) before the date on which this regulation comes into force.

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(6) The reference to the PRA’s functions conferred by or under the Act is to be read in accordance with section 2AB(3) of the Act (see section 3T(a) of the Act). Sections 2AB and 3T were inserted by section 6 of the Financial Services Act 2012, and section 2AB(3) is amended by [S.I. 2018/1115](#) and these Regulations.

(7) Schedule 1ZB was inserted by section 6 of, and Schedule 3 to, the Financial Services Act 2012. Paragraph 31(3) and (5) of Schedule 1ZB are to be read in accordance with paragraph 1 of Schedule 1ZB and section 2AB(3) of the Act.

(8) Section 138J was amended by paragraph 15 of Schedule 3 to the Financial Guidance and Claims Act 2018.