Association of Mortgage Intermediaries' response to FCA CP16/9 regulated fees and levies: rates proposals 2016/17

This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI). AMI is the trade association representing over 80% of UK mortgage intermediaries.

Intermediaries active in this market act on behalf of the consumer in selecting an appropriate lender and product to meet the individual consumer's mortgage requirements. Our members also provide access to associated protection products. Approximately 70% of all UK mortgage transactions are advised by intermediaries.

Our members are authorised and regulated by the Financial Conduct Authority (FCA) to carry out mortgage and insurance mediation activities. Firms range from sole traders through to national firms and networks, with thousands of advisers.

Response

Mortgage advice is a crucial part of the financial landscape for many. Ensuring it is effective must be a core part of the work of the FCA. However the costs that it thinks the industry must shoulder is worrying.

In 2009 when the bill for regulating intermediaries ticked over £10m most saw this more than doubling in costs since FSA acquired responsibility from the MCCB in 2004 as a milestone. This was nothing compared to the 32% hike in 2010 to fund the work to be undertaken in the Mortgage Market Review. Despite the pain, the industry swallowed hard, paid the fees and worked with the regulator to implement the agreed plans and build better, more compliant firms with significant compliance and risk support that did not exist pre-crisis. Verbally it was inferred by FSA that some of these costs were one-off and project based and would recede once MMR was implemented.

Inflationary increases prevailed until 2015, when we received another significant, inflation busting, increase in costs ascribed to the Mortgage Credit Directive (the FCA seems to forget it used this as the reason for last year's disproportionate increases as well as this) together with a need to build a new shiny competition vehicle within the FCA. It appears the Competition and Markets Authority and their approach is not enough – financial services needs its own special breed of competition economists and lawyers to pick over what remains of the advice industry following all the improvements ushered in by RDR and MMR.

The last two rounds of FCA fees reviews has introduced a further 16% increase in fees on mortgage advisers, for what is the same industry we have always had. A fee block charged £10.9m in 2009, then £15.7m in 2015 will be charged £18.2m in 2016. In this time direct supervision of mortgage advice firms has evaporated so we have no direct access to advice and help. A call centre that routinely provides contradictory or incorrect responses is unhelpful.

The mortgage industry pays £36.8m (A2 and A18 classes) which is 7% of the total AFR. With an estimated total of 3,000 FCA staff this infers that there are 210 FTE individuals working on the mortgage market on a daily basis. The other way of analysing this is to look at how a commercial firm would look at the £36.8m budget and say that 50% of most firms' costs are staff related. This gives a total of £18.4m and as a fully absorbed average cost might be £100k per individual, then there would be 185 FTE engaged in the mortgage sector. We know that this is not the case therefore we ask for a full justification for the amount being levied on the sector.

In addition firms are carrying the yoke of a regulator that has significantly failed to police effectively, meaning the costs being levied through the FSCS continue to escalate. The recent National Audit Office report set out the need for better accountability and co-ordination. It cannot be right that the FCA is allowed to add cost to firms without any accountability for its own failings.

AMI was particularly concerned to note that FCA stated at a recent event that 89% of firms won't see their fees increase, as this statement was incorrect and is trivialising real issues. The smallest firms face the additional costs of consumer buy to let (CBTL) and consumer credit annual fees, both of which are outside the minimum fee and which the FCA chooses to ignore in its communications strategy. This would also mean that the largest 11% of firms (569) will bear all of the £1.2 million increase.

When the £200 annual fee for holding the CBTL permission is added plus the hidden FOS levy, together with £300 minimum annual fee for consumer credit, this makes the new bill for the smallest firms look increasingly expensive. What was £1,000 only two years ago can now be a staggering £1,619 for the same business.

We are concerned that much of these continuing high costs are to fund a competition study in the mortgage market which has little foundation. Most of the issues raised in the recent report could be addressed via business as usual policy, thematic and supervision work. This is a market which following MMR is open, competitive, with a rich variety of products and providers and has the consumer enjoying interest rates that are without precedent. The costs and benefits associated with this work, which are not estimated or addressed in the feedback statement, need to be explained to maintain the FCA transparency principles.

Firms have the millstone of risk and costs around their neck with a regulator that thinks they have an open cheque book.

Questions

Q1: Do you have any comments on the proposed FCA 2016/17 minimum fees and variable periodic fee rates for authorised firms?

The FCA has set out that that they are holding their existing costs "flat", but mortgage brokers and lenders will see their funding requirement rise as the second charge regime is integrated into the existing regime. We are also concerned that the proposed costs have also been calculated without any tariff data from second charge firms. We still await full details from FCA to how this will operate having raised the issue with them.

Most categories will see a 1.6% fall in costs, but mortgages have an increase of 8.7% leading to a net increase of 7.1%. This however masks the fact that £3.1m has been added to the costs of mortgage lenders and brokers to supervise the second charge regime. The total bill for lenders and brokers now stands at £36.8m and AMI is still awaiting a proper explanation on what is costing this much.

The FCA seems to again miss the point that a £1bn sector adds 7% to the costs of a £220bn market. We would like to see the justification for these operational and budget changes that were presented to the FCA Board.

Q2: Do you have any comments on the proposed FCA 2016/17 minimum fees and periodic fee rates for fee payers other than authorised firms?

We understand introducing an initial registration fee for consumer buy-to-let activity and we have had no issue with the cost of this, despite the difficulty in reconciling this with the straightforward application process. However we are aware that the FCA recently automatically added a peer-to-peer advising permission for firms, even though many won't use this. Firms have been given the option to remove this permission at no cost. This sensible approach could have and should have been applied in lieu of consumer buy to let registration.

We again challenge the FCA's justification on charging separate fees for CBTL. We strongly believe that the periodic fee for currently authorised firms should be included in the existing minimum fee structure. We cannot see how the FCA can justify charging an ongoing cost for an activity that firms are already carrying out. The cost cannot be attributed to supervision, considering the new model means that in fact less firms will be directly supervised and the expectation is for firms to self-regulate. This should surely mean a reduction in costs. We do not accept that MCD is as an acceptable reason; just because the legislation merely defined this activity as separate does not mean that this should be separately charged. We request an explanation and a specific reason for the ongoing costs.

We disagree with the level of ongoing CBTL costs proposed. We question the proportionality of the £400 lender and £200 broker cost and an explanation of how this has been calculated. Tariff data and number of firms have been provided for other fees but not CBTL. We anticipate the number of intermediary firms registered will inevitably be greater than the number of lenders. As an example, if 1,000 intermediary firms and 50 lenders have registered, based on the current fees intermediaries would be paying 10 times more than lenders, which would be wholly inappropriate. This should be put in the context of the A2 and A18 categories which have always been broadly comparable.

Q3: Do you have any comments on the proposed FCA consumer credit fees for 2016/17 set out in Table 6.2?

We are pleased that HM Treasury recognised the unnecessary requirement for firms to hold a consumer credit permission for activities which are captured as part of their intermediation and as such firms no longer need to hold the permission to broke unregulated buy-to-let agreements. Firms however still need a consumer credit permission under technicalities such as refinancing a buy-to-let to consolidate debt, whereas they should be made exempt under other areas of the FCA handbook. We believe this requirement is an unnecessary technical extension as they are merely facilitating the financing and not advising on the debt consolidation. We are also aware that the FCA supervision team has been challenging whether the existing mortgage exemptions to take advised former CCA activity for debt work cover the practice adequately. Firms are being asked to acquire full CCA permissions for mortgage work. This back-door regulation cannot be appropriate.

In previous discussions with the FCA it has held as a principle that firms shouldn't have to hold permissions they rarely use, however we are now in the situation where this will be the norm for mortgage brokers. AMI fundamentally believes that "consumer credit" activities should not require mortgage intermediaries to hold a separate permission as they are already accountable under both the broader FCA principles and specific conduct rules.

Until the requirement is removed for mortgage brokers to hold a consumer credit permission for activities which are really part of their intermediation, we believe that its fee should sit inside the minimum fee allowance.

Q4: Do you have any comments on the proposed Financial Ombudsman Service consumer credit levies for 2016/17 set out in Table 6.5?

No comment.

Q5: Do you have any comments on the proposed Money Advice Service consumer credit levies for 2016/17 set out in Table 6.6?

We agree with the proposal to keep these levies the same.

Q6: Do you have any comments on the proposed 2016/17 ring-fencing implementation fee?

No comment.

Q7: Do you have any comments on the proposed 2016/17 pensions guidance levy (PGL) rates?

No comment.

Q8: Do you have any comments on the proposed 2016/17 pensions guidance providers' (PGPL) rates?

No comment.

Q9: Do you have any comments on our proposed application fee for credit unions?

No comment.

Q10: Do you have any comments on the concessions we are proposing for fees payable by community finance organisations taking out permissions as home finance providers and administrators?

We agree that if a community finance organisation exceeds 50 mortgages it should pay its fees in line with other FCA authorised firms.

Q11: Do you have any comments on the fees structure we are proposing for operators of multilateral trading facilities?

No comment.

Q12: Do you have any comments on our proposal to remove the restriction on the minimum amount that we may charge firms for late submission of fees data?

No comment.

Q13: Do you have any comments on the proposed method of calculating the tariff rates for firms in each fee block towards the CJ levy and our proposals for how the overall CJ levy should be apportioned?

The policy statement is misleading. There is no narrative on the new CBTL FOS levy and when it is included, in the table on page 51, it states the apportionment is 0%. We are disappointed that the FCA has decided to hide the real fee of £35 in the annex (with its unhelpful orientation) and the final rules.

Q14: Do you have any comments on the proposed 2016/17 Money Advice Service levy rates for money advice?

We have no comments on these rates, as they will be lower for A18 and A19 firms.

Q15: Do you have any comments on the proposed 2016/17 Money Advice levy rates for debt advice?

No comment.