Association of Mortgage Intermediaries' Response to FCA's Consultation Paper – CP15/14 Regulated fees and levies: rate proposals for 2015/16

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.

Our members are authorised 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.

Overview

We continue to see an increase in the overall cost of regulation for the financial services industry, which we consider to be excessive in the wider economic context. We do not believe that an 8.5% increase is reasonable with inflation at 0% and wages increasing at less than 2%. With many firms still struggling to rebuild their balance sheets, these increased costs will ultimately be passed on to consumers. The industry already indemnifies consumers against poor outcomes by funding both the Financial Ombudsman and Financial Services Compensation Schemes, thereby ensuring that there is a safety net to counter poor outcomes.

The FCA has set out a revised funding requirement of £481.6m. In addition to this the PRA budget for 2015/16 is £257.8m. This gives a combined total funding requirement across the industry of £739.4m. The FSA's final budget for 2010/11 was £454.7m. This means we have seen a real increase of 46% to costs of financial services regulation in just 5 years, and a real increase of 28% to the mortgage sector within that same period (see appendix 1). Such an increase over such a short period of time does not seem justifiable given the economic conditions that most businesses are still operating under. Our member firms consider this to be excessive and unacceptable.

The FCA has proposed a total of £34.3m in respect of the combined mortgage lender and broker fees blocks, A2 and A18 respectively, up from £31.7m last year, up from £24.0m in 2010 and astronomically higher than the £4.0m the Mortgage Code Compliance Board was charging at its demise just 11 years ago. £34.3m is a huge amount of money to regulate the mortgage industry. In any normal company where staff costs account for half of all costs, this would equate to over 170 FCA staff working full-time on our sector. We cannot see how this is delivering efficient regulation. This excludes those operating under the aegis of the PRA.

As well as mortgage intermediaries seeing an 8.5% increase to their fees, the introduction of consumer buy-to-let periodic fees, which will unjustly sit outside the minimum fee structure, will add a further £350 per year. This has a great impact on smaller firms who, together with an 8.4% increase to the minimum fee, will see an increase of over 40% (see appendix 2). We do not believe this is acceptable at a time when firms are being asked to accept continued austerity.

AMI is strongly of the view that the FCA should be tasked with reducing its annual budget or at worst its budget should be capped with any increases limited by the rate of consumer price inflation or less. Having such a cap in place would not just provide greater certainty for regulated firms but it would also help the FCA to be more efficient by encouraging it to prioritise its resources to meet its budget, rather than setting its budget based on its needs. Many broker firms would like to increase their IT budgets and expand their staffing, but cannot given the limitations they face, so they must prioritise their resources accordingly. Yet the FCA sees no such limitation as it proposes to provide salary increases of £16.1m, further investment in IT of £7m and an increase in training, recruitment and travel of £3.4m by levying higher fees on the industry, which will ultimately be borne by the consumer.

Effective cost controls should be a driver to producing good outcomes in line with its core objectives. This would limit regulatory creep and ensure that the focus is clearly on the areas of greatest consumer or systemic risk. Organisations without clear cost controls are rarely cost-effective in the way they operate. The FCA expects such focus and clarity in the firms it regulates and it should be no different. We note from the National Audit Office's 2014 report that in the future it will expect both the FCA and PRA "to demonstrate the value that they are achieving for consumers and the taxpayer" including by clearly linking resource allocation to regulatory effectiveness. We consider that although their statutory duty is to the consumer, as it has to regulate with consensus, it must take into account a limitation on firms' abilities to pay.

Finally, we question the FCA's proposals in the context of its membership of the UK Regulators Network (UKRN). The UKRN consists of the UK's economic regulators including the Civil Aviation Authority, Ofcom, Ofgem, Ofwat and the Office of Rail Regulation. The total operating costs of these other members for 2015/16 is significantly less than FCA's 2015/16 operating costs alone, with a difference of over £140 million. Furthermore, these other regulators have committed to restricting their budget growth in real terms and all have reduced their budgets since 2014/15, except for the FCA.

Each of regulator's CEO has agreed to a UKRN memorandum of understanding which includes:

"Member regulators, led by their CEOs, will collaborate closely to achieve the following objectives, which they will keep under review:[…]

- Efficient regulation: we will make better use of scarce expertise and resources in order to improve outcomes or reduce cost[…]

In order to achieve these objectives, member regulators, led by their CEOs, will do the following:[…]

- Improve efficient delivery of regulation."

We do not consider the FCA to be meeting these objectives, which are completely contradictory to its proposals. We believe that before the FCA can make better use of its resources it first needs to acknowledge that they are limited.

Responses to Questions

Q1: Do you have any comments on the proposed FCA 2015/16 minimum fees and variable periodic fee rates for authorised firms?

We consider the overall level of fees to be excessive and punitive for our member firms. We do not support the unreasonable increase to the minimum fee. It is essential that smaller firms with low income are not priced out of the financial services industry by the over-burdensome impact of FCA funding.

We consider that there should only be one minimum fee to cover all advice permissions. There should not be a separate minimum fee for consumer credit or consumer buy-to-let.

Q3: Do you have any comments on the proposed Consumer Credit fees for the FCA, ombudsman service and Money Advice service for 2015/16?

We disagree with the FCA's comments in 11.10. AMI fundamentally believes that certain activities should not require mortgage intermediaries to hold a consumer credit permission as intermediaries are already accountable under both the broader FCA principles and specific conduct rules. 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 could be the norm for mortgage brokers. Firms seem to need a consumer credit permission under technicalities which include these indirect transactions, whereas they should be made exempt under other areas of the FCA handbook. 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.

We have no comments on the FOS and MAS rates for consumer credit firms.

Q7: Do you agree with our proposed application fees for CBTL firms?

We understand introducing an application fee for consumer buy-to-let activity and we have no issues with the proposed levels. However, we object strongly to ongoing fees.

Q8: Do you agree with our proposed structure of separate fee-blocks for CBTL lenders and CBTL arrangers/advisers?

We strongly believe that the periodic fee for already authorised firms should be included in their existing mortgage permission and within the existing minimum fee structure.

Consumer buy-to-let mortgages not only make up a small percentage of the market, but also a very small proportion of an intermediary's business. Additional annual fees of £250 rising to £350 (including the ombudsman levy) will be disproportionate to the income received from advising on consumer buy-to-let mortgages for many small and medium sized intermediaries. As such, we believe that the proposed structure is not in line with the FCA's statutory principle that "a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction" (FSMA 2000 c. 8 s. 2(3)(c)).

We believe the FCA should amend the framework so that a firm's mortgage minimum fee would cover their consumer buy-to-let permission, with the turnover on consumer buy-to-let being included in a firm's reportable regulated mortgage activity.

Q9: Do you agree with our proposed structure of separate ombudsman service activity groups for CBTL lenders and CBTL arrangers/advisors?

See above.

Q14: Do you have any comments on the proposed 2015/16 Money Advice Service levy rates for money advice?

We have no comments on the levy rates, which will be lower for A18 and A19 firms. We are pleased that the FCA will maintain a £10 minimum fee.

Appendix 1

Regulatory sector fees

<u>All sectors</u>

FSA Budget 2010/11	**£454.7m**
Rebased by inflation to Feb 2015	£506.4m

2015/16 Proposals

PRA	£257.8m
FCA	£481.6m
Total	**£739.4m**

Real increase of 46%

<u>Mortgage sector</u>

Lenders and Brokers

FSA Budget 2010/11	**£24.0m**
Rebased by inflation to Feb 2015	£26.7m

2015/16 Proposal

FCA only	**£34.3m**

Real increase of 28%

Appendix 2

A small firm with £50k Mortgage and £30k insurance income

Regulatory Fees and Levies: 2005/2006 (final)	
Financial Services Authority Periodic Fee:	£750.00
Financial Services Compensation Scheme Levy:	£20.44
Financial Ombudsman Service Levy:	£100.00
Total Fee	**£870.44**

Regulatory Fees and Levies: 2014/2015 (final)	
Financial Conduct Authority Periodic Fee:	£1,000.00
Money Advice Service Periodic Fee:	£10.00
Financial Services Compensation Scheme Levy:	£413.68
Financial Ombudsman Service Levy:	£190.00
Total Fee	**£1,613.68**

Regulatory Fees and Levies: 2015/2016 (draft)	
Financial Conduct Authority Periodic Fee[1]:	£1,334.00
Money Advice Service Periodic Fee:	£10.00
Financial Services Compensation Scheme Levy:	£688.43
Financial Ombudsman Service Levy[2]:	£190.00
Total Fee	**£2,222.43**

A larger firm with £2m Mortgage and £1m insurance income

Regulatory Fees and Levies: 2005/2006 (final)	
Financial Services Authority Periodic Fee:	£14,018.00
Financial Services Compensation Scheme Levy:	£535.65
Financial Ombudsman Service Levy:	£100.00
Total Fee	**£14,653.65**

Regulatory Fees and Levies: 2014/2015 (final)	
Financial Conduct Authority Periodic Fee:	£35,311.74
Money Advice Service Periodic Fee:	£4,599.50
Financial Services Compensation Scheme Levy:	£14,563.63
Financial Ombudsman Service Levy:	£575.20
Total Fee	**£55,050.07**

Regulatory Fees and Levies: 2015/2016 (draft)	
Financial Conduct Authority Periodic Fee[1]:	£32,879.56
Money Advice Service Periodic Fee:	£2,350.40
Financial Services Compensation Scheme Levy:	£23,890.72
Financial Ombudsman Service Levy[2]:	£557.00
Total Fee	**£59,677.68**

[1] Including CBTL levy
[2] Not including the CBTL levy which will apply from 2016/2017