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## *Association of Mortgage Intermediaries' response to FCA CP22/7 Regulated Fees and Levies: rates proposals for 2022/23*

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This response is submitted on behalf of the Association of Mortgage Intermediaries (AMI) and the Association of Finance Brokers (AFB). AMI is the trade association representing over 80% of UK mortgage intermediaries. AFB sits within AMI and represents second charge (formerly secured loan) brokers.

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. AMI members also provide access to associated protection products. AFB members also provide access to unsecured products.

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

### Response

We ask the FCA to consider our comments made in this section alongside our responses to the consultation question set.

Our main points can be summarised into the following categories:

#### Escalating regulatory costs

Whilst AMI welcomes the phasing of the minimum FCA fee increase over two years instead of one, firms will still see a 52% increase in their minimum fees in 2022/23 with a further 26% increase in 2023/24. It's important the allowance of a phased increase does not detract from the crux of the matter: this remains a significant increase over two years.

For small mortgage intermediary firms operating in a well-functioning mortgage market that have little to no engagement with the FCA, a £2,200 minimum annual fee is likely to represent poor value. Many of the larger mortgage intermediary firms do not have a point of contact within the FCA, following the change to a portfolio structure in 2018/19 and we would say that no member firms are aware of the individuals within their portfolio supervision team (unless they have a supervisory contact via their larger parent company). Mortgage intermediary firms are operating in a market with low levels of customer complaints, low inertia, high levels of competition and therefore question the proportionate return on their increasing FCA fees.

From a firm's perspective, the challenge is not solely how they plan for the minimum fee increase but rather escalating cumulative regulatory costs. The costs include the annual levy on principal firms with ARs and IARs (which the FCA propose to increase further); a reduction in the number of free FOS cases from 25 to 3 (adding £16,500 annual costs compared to 2021/22 should a firm use its full free

case allocation); the large increases in FSCS levies; and increases in PII premiums and excesses and application of policy exclusions. Our member firms will also implement the FCA's Consumer Duty during 2022/23. With the FCA Cost Benefit Analysis estimating one-off costs of £600,000-£1.4m for large firms; £191,000-£648,000 for medium firms and £7,000-£26,000 for small firms this represents a significant financial investment for firms of all sizes.

Member firms are also facing their own pressures with rising inflation and increasing energy and NI costs. Firms do not have the recourse to recoup increased NI costs in the same way the FCA is able to through its Annual Funding Requirement. We would be grateful for the FCA to provide comment on whether it assessed the feasibility of cost savings elsewhere, as part of any analysis undertaken to balance the costs attributed with rising inflation and increased NI employer contributions.

There is the risk that firms, when assessing collective regulatory and wider costs, are forced to make difficult decisions about whether they can absorb the additional expenditure or decide to pass this onto consumers, for example through increased advice fees. This is an unintended consequence that the FCA should be mindful of.

Therefore, whilst the FCA minimum fee increase may not, from a regulator's view, seem material in relation to the wider cost of compliance and operating a business<sup>1</sup>, when viewed collectively alongside other costs it becomes clearer why the minimum FCA fee increase is concerning to our members.

#### Proposed AR/IAR fee increase

We are deeply concerned by the FCA's proposal to increase the annual fee per AR to £286 and per IAR to £86. Only 12 months have passed since the A.22 fee class was introduced and for this proposal to be hidden within the consultation paper, without any context or rationale as to why a circa 15% fee increase is deemed necessary, shows a lack of transparency from the FCA. We strongly disagree with any increase to the AR and IAR fee and this should be maintained at current 2021/22 rates (£250 per AR, £75 per IAR).

#### Cryptoasset scope change cost recovery

We are surprised to note, despite objections from all November 2021 consultation respondents, the proposal to recover cryptoasset scope change project costs from mortgage intermediary firms (they fall into fee class A18 - Home finance providers, advisers and arrangers which is within scope). We strongly disagree with this proposal, as mortgage intermediary firms are not subject to Money Laundering Regulations (MLRs) and, since 2021, are no longer required to submit a REP-CRIM report because the activity of home finance mediation does not fall within the MLRs. To ask mortgage intermediary firms to contribute to costs to supervise cryptoasset firms under MLRs when they themselves are not subject to the same regulations is wholly unfair. We share our thoughts further on this later in our response.

#### FCA Business Plan and Strategy and links to the 2022/23 fees and levies proposals

We welcome the FCA's 2022/23 Business Plan and three year Strategy, as these documents underpin the fees and levies proposals. It is encouraging to see the FCA move to an outcomes and metrics based approach for the first time and we feel this is an improvement on previous iterations of the Business Plan and Strategy. We feel a commitment based approach is appropriate and look forward to the FCA providing feedback on its progress. Success will hinge on how the Plan and Strategy are implemented; the part we feel is missing from the Business Plan and Strategy is the commitment to feedback to industry. Whilst we recognise this is not the subject of the fees consultation and response, it is interlinked and we therefore would be grateful for the FCA to provide comments on how it will hold itself externally accountable to its own metrics and commitments.

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<sup>1</sup> <https://www.fca.org.uk/publication/fca/handbook-notice-97.pdf> Comments made by FCA under section 3.12

## FCA staffing issues

We are concerned by the continuing exodus of long-standing FCA staff with valuable corporate memory and market knowledge and expertise, at a time when the regulator has ambitious plans in its Strategy and Business Plan and an aim to become a more innovative, adaptive and assertive regulator. Whilst it is positive the FCA is recruiting more staff, it will take time for these staff to develop their skills, market knowledge and expertise to a sufficient enough level to offset the losses associated with the departure of longer tenure employees.

## Questions

### **Q1: Do you have any comments on the proposed FCA variable periodic fee rates for 2022/23 for authorised firms?**

We note the rebased ORA budget has increased by 7.3%, a much sharper increase than in 2021/22 (when the final rebased ORA increased by 4.9%) and much higher than an ORA increase of 2% a year that the FCA had previously committed to. We are concerned by the rising baseline cost of running the FCA, particularly when we consider the extensive plans and commitments made by the FCA in its Strategy and Business Plan. We ask the FCA for assurances that, once the minimum FCA fee has reached £2,200 in 2023/24 there will be no further increases. We call for the FCA to commit to holding its minimum fee at £2,200 for at least the next five years.

It was surprising to read in a recent letter from Sheldon Mills to Michael Gove on multi-occupancy buildings insurance<sup>2</sup> that the FCA has appointed consultants to carry out data analysis. As a regulator that is moving towards becoming data led, we would expect the FCA to have the necessary skills and expertise internally to undertake this work. We question whether the use of consultants in this type of context provides value for money for fee payers.

Section 3.6 of the CP states that the FCA has exempted firms which pay fees both in A.0 and CC.2 from the CC.2 minimum fee. AMI is grateful for this change, as we have long called for a mortgage intermediary firm to not have to pay a separate consumer credit permission where it expects to have no eligible income. This is therefore a fairer charging structure for mortgage intermediary firms and a welcomed positive outcome.

We understand mortgage intermediary firms will be exempt from the CC.2 fee from their 2022/23 fees and levies invoices. However, the FCA fee calculator (based on 2022/23 fees and levies proposals) includes the CC.2 fee at a charge of £750. It also shows FOS fees related to CC.2 (1020). We assume this is because the fee calculator is unable to distinguish between the type of firm inputting details, aside from the fee classes selected. We ask the FCA to consider updating the fees calculator to allow mortgage intermediary firms to select a box that disapplies the full consumer credit permission fee (or a similar filter/process to that effect). Whilst AMI will communicate this exemption with our members, ensuring the calculator is accurate will help avoid cause unnecessary confusion amongst firms and reduce the likelihood of calls through to the FCA Supervision Hub.

We strongly disagree with the proposal to increase the annual fee per AR to £286 and per IAR to £86. Nowhere in the FCA Business Plan and Strategy does it suggest that additional funding will be required above and beyond the current annual charge of £250 per AR and £75 per IAR to support and implement FCA activities in this area. Whilst there is mention of the AR regime work as one of the FCA's

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<sup>2</sup> [Multi-occupancy buildings insurance letter \(fca.org.uk\)](https://www.fca.org.uk/multi-occupancy-buildings-insurance-letter)

commitments and we are aware of the creation of a new FCA AR division, there are no details of planned sector specific FCA supervisory activity that this additional fee will support.

For this to be dropped into the consultation paper on fees and levies without any context is unacceptable and shows a lack of transparency on the FCA's part, particularly as the increased fee applies retrospectively from 1 April 2022. We would have expected the FCA to set the AR/IAR fee at a suitable level in 2021/22 to cover the cost of supervision and monitoring, informed by its proposals for enhanced rules and data submission requirements consulted on within CP21/34. It is unacceptable for the AR/IAR fee to increase only 12 months after the rates were initially set and before the FCA has issued a policy statement following CP21/34.

We are concerned having reviewed FCA board minutes of 23 and 24 March 2022<sup>3</sup> that the FCA board may not have seen sight of the AR and IAR fee increase proposal as it is not mentioned in the minutes. We ask the FCA to provide assurances that the AR and IAR fee increase proposal has been discussed and debated at board level. This would be AMI's expectation given the importance of improving oversight of the Appointed Representatives regime as an FCA commitment.

The AR model is used extensively in the mortgage intermediary sector and a circa 15% increase in costs will have a significant impact on firms operating a network. We urgently ask the FCA to reconsider this proposal and maintain the fee at current 2021/22 levels.

We fundamentally disagree with firms contributing to the cryptoasset scope change recovery costs. These costs should be borne by the cryptoasset firms operating in the sector. We acknowledge the FCA's point that given the small number of cryptoasset firms (circa 50), the shared cost amongst these participants would be substantial but we feel the small number of firms is not a strong enough justification to widen the costs to other firms that are not involved in the cryptoasset sector.

Firms in other fee classes are impacted in a similar vein by the population of fee payers within their fee class(es), as fluctuations in the number of firms affect the amount of fees payable at an individual firm level. Such a small number of cryptoasset firms to share the cost should be expected and anticipated as it is a new, emerging market. With £8m representing a one-off cost and not a reoccurring expenditure, firms in the cryptoasset market should have to accept this is a consequence of operating in the market and be required to shoulder the cost.

It is also a considerable scope change cost (£8m) when compared to other scope change costs that relate to our sector (Senior managers and certification regime: £4.4m, as an example). Based on this observation, to ask mortgage firms to contribute to scope change recovery costs they are far detached from feels disproportionate.

We therefore strongly oppose the proposal for firms in fee class A.18 to pay towards the recovery of cryptoasset scope change costs. We believe fee class A.18 should be exempt. Mortgage intermediary firms are not subject to MLRs and since 2021, no longer submit a REP-CRIM report as the regulated activity of home finance mediation does not fall within MLRs.

It is unfair for mortgage intermediary firms to be captured by the cryptoasset scope change recovery charge simply because they, under circumstances they cannot control, fall under a category that does include firms subject to MLRs. To compare, fee class A19 (General Insurance mediation) is not within scope yet the activities of a GI broker are similar to a mortgage broker – they are both involved in intermediation. We therefore feel mortgage intermediary firms should be given the same exemption as General Insurance brokers and should not be required to contribute to the cryptoasset scope change cost recovery.

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<sup>3</sup> <https://www.fca.org.uk/publication/minutes/fca-board-minutes-23-24-march-2022.pdf>

We also believe the FCA should issue a formal policy on the recovery of scope change costs. As noted in the consultation paper, the FCA is aware it will face a similar challenge when it recovers the scope change costs associated with regulation of pre-paid funeral plans. The FCA list of funeral providers that have applied for authorisation<sup>4</sup> shows that, as of 29 April 2022, 33 firms have submitted their authorisation application. This is therefore likely to result in a similar situation whereby there is a small population of fee payers. The FCA cannot continue to recover scope change costs in an ad-hoc manner, as this creates uncertainty for existing fee paying firms.

We agree with the proposal to return to 30 day payment terms. The majority of smaller-medium mortgage intermediary firms pay their fees via monthly instalments and therefore a reduction from 90 to 30 days would not impact their cash-flow position.

**Q2: Do you have any comments on the proposed FCA 2022/23 minimum fees and periodic fee rates for fee payers other than authorised firms?**

No comment.

**Q3: Do you have any comments on our proposals for integrating into the new pricing structure the application fees for credit rating agencies (CRAs), trade repositories (TRs), securitisation repositories and third country firms seeking certification as a CRA or recognition as a TR?**

No comment.

**Q4: 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?**

AMI has provided comments directly to FOS as part of our response to its plans and budget 2022/23 consultation, however for the purposes of this response we will provide a summary.

We felt able to support the £10m increase in the FOS levy if the number of free complaints allocated to a principal firm remained at preferably 25, or a minimum 10. It is disappointing to see FOS proceed with plans to reduce the number of free cases so significantly and we are concerned of the wider effects on firms, particularly networks, who may see increased costs.

There is also the effect on industry and consumers. At a time when the Consumer Duty is due to be introduced, the reduction in the number of free cases is a short-sighted approach as it could result in fewer Consumer Duty based complaints reaching FOS (as firms may feel pressured to settle at £750). This has the potential for reduced insight available to industry on how the Consumer Duty is interpreted and applied by FOS. Overall, the more complaints insight available to firms, the more equipped they will be to help deliver good consumer outcomes.

**Q5: Do you have any comments on the 2022/23 rates for the MaPS money guidance levy?**

We agree with the proposals.

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<sup>4</sup> <https://www.fca.org.uk/consumers/funeral-plans/providers-list>

**Q6: Do you have any comments on the proposed 2022/23 rates for the MaPS debt advice levy?**

No comment.

**Q7: Do you have any comments on the proposed 2022/23 rates for MaPS pensions guidance levy?**

No comment.

**Q8: Do you have any comments on the proposed 2022/23 rates for the Devolved Authorities' debt advice levy?**

No comment.

**Q9: Do you have any comments on the proposed 2022/23 illegal money lending (IML) levy rates?**

No comment.