



Association of Mortgage Intermediaries' response to Regulatory fees and levies: policy proposals for 2023/24 (CP22/23)

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.

Introduction

We are grateful the FCA has proposed to maintain application, Appointed Representative (AR) and minimum fees at 2022/23 levels. This is important given current economic challenges and uncertainties around demand in the housing market and levels of consumer spending. It also helps mortgage intermediary firms of all sizes to have greater certainty and control over their regulatory costs.

Whilst appreciative and supportive of the FCA's desire not to increase the Ongoing Regulatory Activities (ORA) budget by the full increase in inflation, we are concerned that fee payers are yet to realise the benefits of a data driven regulator. It is our expectation that the FCA's ORA should reduce – and not increase – over time, to reflect the efficiencies gained through a more technological approach to the regulation and supervision of firms.

In addition, there are elements of the consultation that we disagree with and have challenged as part of our response. These centre around:

- The unfair practice of recovering FCA project costs across the entire fee payer population. We disagree with the FCA's assertion that newly authorised sectors should effectively be shielded from the total costs to operate as regulated firms.
- The importance of the FCA considering feedback from CP22/27 (Introducing a financial promotions gateway) before deciding an appropriate application fee. We feel the current proposal of a £5,000 fee is too high, particularly in the absence of a more complete FCA cost analysis.
- The need to exempt mortgage intermediary firms from the Illegal Money Lending Levy charge, as our member firms should not be seen as linked to this activity.

Questions

Q1: Do you have any comments on our approach to the 2023/24 consultation on FCA fee-rates?

Fees and levies

We welcome the FCA's expectation that it won't have to increase the ORA budget by the full increase in inflation. We agree the proposal to use the December 2022 CPI as a fixed measure is a sensible approach. However, it's important for the FCA to assess where it can manage its costs before committing to a fully inflation led increase.

As a data led organisation, we expect the FCA's costs to reduce. Whilst we appreciate cost savings may not be immediate, the FCA's Transformation Programme (which we understand includes the maximisation of technology and the use of data) has been underway for a couple of years, however firms are yet to see a reflection in the FCA's cost base and a subsequent reduction in their relevant fee classes. We would appreciate comment from the FCA on when it expects cost savings realised through technology and data efficiencies to translate through to a reduction in fees and levies.

This year also sees the introduction of the FCA's Consumer Duty policy. This increases 'self-regulation' by putting an onus on firms to monitor and evidence customer outcomes, as well as increased due diligence between firms. Furthermore, it aims to raise standards across retail financial services with a clearer set of rules and guidance that the FCA can hold firms accountable to more easily. We are interested in the FCA's view as to whether it anticipates supervision costs will fall (post-Consumer Duty implementation) as a result of the requirements and how this will be reflected in future FCA budgets.

We are grateful the FCA is considering freezing minimum and flat-rate fees to provide support to firms that pay minimum fees only. We support this proposal, as it gives firms, particularly smaller firms, more certainty over budgeting for 2023/24 fees which is helpful given the current economic environment and uncertainty over impact on the housing market.

Likewise, we are supportive of the FCA's proposal to maintain application fees and AR flat rate charges at 2022/23 levels. These proposals would also help provide mortgage intermediary firms with greater certainty of regulatory costs, particularly firms that operate as a network where even a small increase to the AR fee can lead to a considerable increase in costs due to the total numbers of ARs. We remain concerned that there is a single fee rate for all ARs, irrespective of scale, risk or scope of activity.

Finally, last year the FCA merged Consumer Credit (CC) fees into the 'A' fee-block; a move welcomed by AMI as we had long argued that mortgage intermediary firms should not have to pay for a permission for which most derive no income. However, we are aware that 2022/23 fees and levy invoices for intermediary firms included an Illegal Money Lending Levy charge which we believe is incorrect. We understand this levy applies if you have a CC01 or CC02 consumer credit permission. Given the CC02 fee has been integrated into the A.0 fee class we would not expect this additional levy to apply to mortgage intermediary firms. We kindly ask the FCA to review ahead of issuing the fees and levies consultation paper in April.

FCA project costs recovery

Last year the FCA recovered project costs associated with bringing cryptoasset firms under supervision of Money Laundering Regulations across a number of fee classes and, following AMI's objection, mortgage intermediary firms were removed from scope in the final proposals. The FCA previously acknowledged within CP22/7 (Regulated fees and levies 2022/23) that it would face a similar dilemma this year, with funeral plan providers falling under FCA regulation from July 2022 and the likelihood of another small pool of fee payers.

We feel it is imperative for the FCA to publish formal policy on how it decides which firms should be required to contribute towards the recovery of project costs and to detail the considerations that form part of this. The current approach is ad-hoc and unfair to existing fee paying firms, whilst also creating uncertainty over the costs that firms outside a particular sector may be asked to contribute towards from one year to the next. It's important the FCA considers that the Buy Now Pay Later (BNPL) sector is likely to fall under FCA regulation at some point in the future, thereby creating additional project costs. As this is an emerging sector, it is also likely to feature a small pool of fee payers.

As such, we disagree with the proposal to spread the funeral plan project cost recovery across all fee blocks. FCA project costs should form part of the cost of regulation, and subsequently the cost to operate, in a particular market. We therefore feel project costs should be borne by firms in the fee blocks most directly concerned and not spread more widely.

To mitigate the impact on firms within sectors that are new to regulation, the FCA could spread the cost across say five years which we do not feel is an unacceptably long timeframe on both sides. For the most part, firms within sectors that are new to FCA regulation are established businesses and therefore should have the necessary cashflow (as long as the FCA manages expectations as part of the authorisations process, by sharing estimated project costs and the projected impact with individual firms). In addition, as firms can pay fees via direct debit this should reduce the burden further by allowing firms to spread the cost over 12 months, each year.

Q2: Do you have any comments on the £5,000 fee we are proposing to charge firms which apply for permission to approve financial promotions of types of product?

We feel unable to comment fully on the proposed £5,000 fee until we have had the opportunity to respond to the FCA's consultation on a financial promotions regulatory gateway (which closes after this consultation). However, we encourage the FCA to review its fee proposal once it has received feedback from stakeholders on CP22/27, as the feedback is important and will likely influence its final decision.

We feel CP22/23 is ambiguous on when the application fee will apply. It states the fee is an 'appropriate contribution towards the costs of processing applications to add new financial promotions products'. This could be interpreted that firms already authorised by the FCA will not need to apply for permission under the new section 55NA of FSMA if they wish to continue approving financial promotions that are related to their existing Part 4A permissions.

Having reviewed the draft FCA Handbook, our understanding is that the application fee will apply to all firms that wish to apply for permission to approve financial promotions of unauthorised firms. We ask the FCA to provide clarity on when the application fee will apply.

It is important the fee only applies to authorised firms approving promotions of unauthorised firms. As the FCA has stated in CP 22/27, it does not expect the financial promotions regulatory gateway to apply where firms approve promotions on behalf of their ARs or of unauthorised persons within their corporate group nor where an authorised firm approves their own financial promotions for onward communication by an unauthorised person. We support a fee if these exemptions apply.

In terms of a suitable fee amount, our view is that a category five charge (£5,000) applying to all firms that require this permission seems high. Firstly, we ask the FCA to provide further detail on its cost analysis to demonstrate how it has arrived at this figure. Secondly, the FCA should consider a more proportionate approach to the application fee. In our view fees should be grouped into bandings to reflect the risk and to determine the likely amount of FCA resources required to review and approve an application. £5,000 should be the upper fee limit, with bandings at lower amounts.

The FCA could use the number and type(s) of unauthorised firms the firm currently approves financial promotions for, as a proxy for risk. We feel this is a more proportionate approach, as promotions relating

to mortgages and insurance (such as those typically approved by mortgage intermediary firms that are S21 approvers) are likely to be less complex (from a consumer understanding viewpoint) than financial promotions relating to investments. As the FCA states in CP22/23, 'harm has been most common in the consumer investments market'. Therefore, a blanket £5,000 application fee fails to reflect there are financial services markets where consumer harm is less common. The FCA should be able to distinguish from its existing financial promotions data the sectors where consumer harm is 'more' or 'less' common and use this as a starting point for determining appropriate fee bandings.

A blanket £5,000 application fee also fails to acknowledge that 'firms will be able to apply to approve all types of financial promotion or only those promotions for certain types of products' (Section 3.3. of CP22/27). A firm that only requires permission to authorise promotions for certain types of products should pay a reduced fee, with the highest fee charge representing the widest scope of the permission.

Q3: Do you have any comments on our proposed application fees for UK Data Reporting Service Providers (DRSPs), Trade Repositories (TR)s and Securitisation Repositories (SRs)?

No comments.

Q4: Do you have any comments on our proposal to introduce a variable rate fee for Data Reporting Service Providers (DRSPs) based on applicable turnover, and are there any amendments we should make to our proposed definition?

No comments.

Q5: Do you have any comments on the proposed clarification of the definition of income for fee-block A.9?

No comments.