Association of Mortgage Intermediaries' response to FCA CP 23/7 Regulated fees and levies rates proposals 2023/24

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

Whilst there are a number of positive aspects to this year's proposals, we continue to have a number of on-going concerns over the continuing escalating costs of regulating and supervising a sector which appears to provide limited risk and relatively few poor outcomes.

We are supportive of the FCA's freezing of minimum fees and application and AR fees. However, we challenge the proposed 10.4% increase to funding allocation for fee blocks A.18 and A.19 which we feel is unfair and disproportionate compared to other sectors. In addition, this adds a greater proportion of the cost of regulation onto larger firms, many of whom are also bearing the additional, as yet only partially explained, costs of the review of the Appointed Representative regime.

We explore our thoughts on the 10.4% increase as part of this response and invite the FCA to provide comment.

Other areas of our response include:

- When costs savings achieved through the FCA's transformation programme will be passed onto fee paying firms.
- Projected future Consumer Duty funding allocation.
- With more than 50% of FCA costs being staff costs, in assuming that there will not be a 10% salary award for all employees, we are struggling to see where the money is being apportioned.

Whilst not part of this consultation, we encourage the FCA to review the £100,000 income threshold for calculating minimum fees. This has remained static for more than 10 years. We feel stakeholders should be given the opportunity to provide views on whether this should increase and how often it should be reviewed. This could form part of next year's fees and levies consultation (2024/25).

Questions

Q1: Do you have any comments on the proposed FCA periodic fee-rates for 2023/24?

We welcome the FCA's proposals to freeze minimum fees, application fees and the Appointed Representative (AR) levy. This will help give smaller firms greater certainty over their FCA fees at a time of economic instability.

However, we challenge the 10.4% increase to the funding allocation under fee blocks A.18 and A.19 (the two fee blocks that mortgage intermediaries typically fall under). The FCA consultation (CP 23/7) and 2023/24 Business Plan, in our view, does not provide sufficient detail on why the funding allocation for A.18 and A.19 fee classes is higher than the majority of other fee classes. There are only five fee classes with an increase in excess of 10% and A.18 and A.19 are two of them. In addition, the proposed increase for fee classes A.18 and A.19 is nearly three times higher than the increase seen in 2022/23[1].

Aside from cross-cutting policy work such as Consumer Duty, we feel it is unclear as to why the FCA needs to increase its resources to regulate the mortgage intermediary sector, above and beyond what would be required in other sectors that are subject to a lower AFR allocation percentage increase. We appreciate the FCA has allocated additional resources as part of its work on the AR regime, a common business model in the mortgage intermediary sector, but this is funded separately under fee block A.22. Additionally, we are concerned that this shift is discriminating against larger, more successful firms by asking them to pay such a significant increase in costs.

With more than 50% of FCA costs being staff costs, in assuming that there will not be a 10% salary award for all employees, we are struggling to see where the money is being apportioned.

We kindly ask the FCA to provide its rationale behind its proposed increase for fee blocks A.18 and A.19.

The consultation paper and FCA 2023/24 Business Plan repeatedly talks about the FCA becoming a more data driven regulator. Is the FCA expecting cost savings to arise? A recent FCA speech (February 2023) talks about its transformation programme streamlining processes and reducing the costs of dealing with firms and individuals[2] but we are yet to see this reflected in the AFR, which is set to increase by 8.4%.

It would therefore be helpful to understand when the FCA expects to realise benefits from the transformation programme and how it anticipates cost savings will be transferred to fee paying firms. We invite the FCA to comment.

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[1] The AFR allocated to fee blocks A.18 and A.19 increased by 3.5% in 2022/23 (compared to 2021/22 AFR allocation). Source: https://www.fca.org.uk/publication/policy/ps22-7.pdf

[2] How to organise a COO | FCA

We are grateful the FCA has listened to AMI's calls for the recovery of FCA project costs be recovered by firms most directly concerned. We therefore welcome the proposal to recover £5m of costs from fee block A.23 (funeral plan providers) only. This helps ensure a consistent and fairer approach to cost recovery and sets an important precedent. We look forward to seeing this approach reflected in subsequent FCA fees and levies consultations.

The AFR includes £5.3m for Consumer Duty. Whilst we recognise ongoing supervision of Consumer Duty is key to its success, we would expect project costs to reduce considerably in 2024/25 and, post-implementation, move into 'BAU', forming part of the ORA. Whilst we appreciate this consultation focuses on 2023/24, any insight the FCA is able to provide on how it intends to allocate future costs relating to Consumer Duty would be much appreciated.

We note this year sees the introduction of the Economic Crime Levy (ECL). Our understanding is that mortgage and protection intermediary firms are outside of scope and therefore should not receive the regulatory return FIN074 nor be subject to the levy itself. Should his not be the case, we would welcome early face-to-face discussions prior to the Policy Statement, as this would be different to the assurances provided under previous consultations.

Q2: Do you have any comments on the 2 clarifications we are proposing for the FEES Manual?

No comment.

Q3: 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?

We have no comments on the proposed method of calculating the fee tariff rates.

AMI responded separately to the 2023/24 FOS plans and budget consultation and for the purposes of this response, we wanted to provide a summary:

- We are supportive of FOS freezing the minimum fee and case fees.
- We remain concerned that firms only have three free cases available. With Consumer Duty coming into force, there is uncertainty around how FOS will apply and interpret the rules and guidance. The impact of such a small number of free cases is felt acutely in the mortgage sector due to the network model, as the number of free cases applies to the principal firm and not to each AR.

Should the FCA wish to read's AMI's response to FOS plans and budget 2023/24 in full, please click here.

Q4: Do you have any comments on the proposed 2023/24 rates for the levies collected on behalf of government departments?

As part of our response to FCA Consultation Paper 22/23 (CP 22/23), we highlighted that mortgage intermediary firms no longer pay separate Consumer Credit fees as these were merged into the 'A' block in 2022. We therefore believe the illegal money lending levy should not apply to these firms, as the driver for the levy is CC.01 or CC.02 fee blocks.

This was not addressed by the FCA within its response to CP 23/7. We kindly ask the FCA to provide comment and, if our understanding is correct, remove the illegal money lending levy from mortgage intermediary firms ahead of issuing 2023/24 fee invoices.