Association of
Mortgage Intermediaries

Association of Mortgage Intermediaries' response to Regulatory fees and levies: policy proposals for 2024/25 (CP23/22)

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

AMI is grateful for the opportunity to respond to this consultation. In this introduction we provide a summary of our responses along with some general comments. We would appreciate if these comments could be taken into consideration alongside our responses to the set questions.

Our general expectation regarding regulatory fees and levies is that they should decrease over time as regulation becomes more effective at preventing and reducing consumer harm. At the very least, fees and levies should not increase without solid justification backed by evidence (and in our view, inflation on its own is not a strong enough reason to increase costs).

We would also like to reiterate our call for updates on the FCA Transformation Programme (and the Joint Transformation Programme with the BoE), a topic that was raised in the FCA November 2023 board minutes but without any indication of outputs delivered or timescales for the benefits received by industry. We go into more detail on this in the body of our response.

We have wider ongoing concerns regarding the layering of regulatory costs and initiatives, and the accelerating pace and quantity of initiatives. This is something we have raised in our response to the regulatory initiatives grid survey and other responses connected with the Smarter Regulatory Framework.

We believe that reducing regulatory costs and resource burden for regulated firms should be something the FCA actively strives towards (in line with its promoting competition objective). We also feel it is important for the FCA to act with greater transparency around how it is delivering value for money, and how it is working to ensure fees/costs imposed by new and ongoing regulatory initiatives remain proportionate to the risk of harm – particularly in respect of smaller firms and the consumers they serve.

This is especially pertinent given that the new Consumer Duty regime requires firms to demonstrate a fair relationship between the prices consumers pay and the value they receive – we feel the FCA should lead by example.

Our response to this consultation can be summarised as follows:

- **Minimum fees –** we restate our expectation that the FCA transformation programme and data-led strategy should lead to economies and lower costs for firms, not the automatic assumption that costs will escalate in line with inflation.
- **Variable fees threshold** – we believe the FCA should consider increasing, in line with inflation, the £100,000 minimum fee threshold as it has been static since it was introduced. Otherwise this gives rise to the regulatory equivalent of fiscal drag. Last year the FCA said it has noted the suggestion and we therefore invite comments and a review of feasibility.
- **Flat-rate and application fees** – we do not expect these to be increasing significantly, without full explanation.
- **AR/IAR levies** – we also call for a review of AR/IAR fees now the implementation work is complete, including consideration of a more proportionate charging structure organised into fee blocks that more accurately reflect perceived risk within different markets.
- **Exceptional projects** – when the recovery of FCA project costs associated with regulating funeral plans was limited to the funeral plan provider/intermediary class of fee payers, this set an important precedent which we would expect to be followed for future project costs, i.e. Open Banking and Cryptoasset regulation.
  - **Open banking –** we support plans to limit cost recovery to deposit takers within the A.1 fee block, in line with the precedent noted above.
  - **Cryptoasset regulation –** we:
    - support plans to limit direct regulatory costs to firms engaged in this activity – again this follows the precedent set by regulatory approach to funeral plans.
    - reiterate our expectation that cost recovery for financial crime and money laundering-related work should be restricted to firms to whom Money Laundering Regulations apply.
- **Widening the 'relevant business' definition** – we support this proposal and agree it is an appropriate correction.
- **Other FEES manual technical changes –** we are generally supportive of measures that help to improve the clarity of the handbook for firms.

Further detail on each of these points is given in the question responses below.

Questions

Q1: Do you have any comments on our approach to the 2024/25 consultation on FCA fee-rates?

Minimum fees

AMI welcomed the 2023/24 freeze on minimum, flat rate and application fees, which helped ease the pressure on firms during a period of economic uncertainty. We remain concerned about the proposal to resume planned increases to FCA fees and levies in 2024/25, especially since trading conditions and the impacts of the cost of living crisis continue to result in a volatile environment (in hindsight it seems the freeze may have been premature).

But we also understand the need to balance our immediate concerns with longer-term considerations and the fairness of how levies are apportioned amongst fee-payers of different sizes. At this stage of the consultation process, we would be prepared to accept the minimum fee increase for 2024-25 on the condition that the FCA commits to increasing the £100k income threshold annually, in line with inflation.

Despite inflation cited as the driver behind proposed fee increases, there was no indication that the £100,000 income threshold for paying variable fees would be reviewed or uprated correspondingly. As such, more firms are likely to be dragged into the variable fees bracket as the value of £100,000 goes down in real terms. This is an issue we have raised previously, and in last year's Policy Statement the FCA said it had noted our suggestion to raise the £100k income threshold. We would therefore request that this matter be reviewed and invite FCA comments on feasibility.

On a final note, we also appreciate the FCA's confirmation of the decision to align consumer credit minimum fees with A.0 so that all firms in the A-blocks and CC.2 would eventually pay the A.0 fee only. This is a move we have long supported and will serve to simplify invoices and costs for firms in our sector.

Flat-rate fees and application fees

Unlike in the 2023/24 November Fees and Levies consultation, the current 2024/25 Fees and Levies CP doesn't confirm whether the FCA will continue to give due consideration to inflationary pressures on firms when setting its ORA budget.

It was reassuring last year to know the FCA was working to avoid reflecting the full increase in inflation as measured by the CPI in its budgeting, particularly as many firms have had to absorb their own share of inflationary costs. We strongly feel the FCA should remain committed to this endeavour, not only out of fairness to regulated firms, but also to avoid the unintended consequence of firms passing on additional regulatory costs to consumers.

Further to this, in our response to CP22/23, we expressed our view that:

> 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.

Our position on the direction of travel for ORA cost recovery hasn't changed; we still think the commitment to keep ORA flat in real terms (and thus rising in line with CPI) is not an ambitious enough target.

On a related note, we would greatly appreciate an update on the progress and any outcomes of the FCA's Transformation Programme to date. FCA November 2023 board minutes state: "The Board noted the progress of the FCA's Transformation Programme and Joint Transformation Programme (FCA/BoE) and gathered feedback on the projects and priorities."

Given the significant capital invested we are keen to understand how the money has been spent and what impact any changes have had so far. We would especially welcome clarity on when we can expect operational efficiencies gained through the Transformation Programme to translate into reduced FCA costs. We therefore call on the FCA to publish more detail on its transformation programme progress between now and publication of the next fees and levies Consultation Paper in April 2024. We have already raised this matter with the FCA Practitioner Panels, and expect to see more focussed challenge and scrutiny in this area going forward.

We would also encourage the FCA to be mindful of the ways in which efficiencies gained in one area might be negated by growing remit in others. The accelerating quantity and pace of change as evidenced by the expansion of the regulatory initiatives grid is a key concern for AMI and is something we have raised on numerous occasions as part of our engagement with the Smarter Regulatory Framework consultations, and a recent HMT consultation on the independence and accountability of UK regulators.

November 2023 FCA board minutes show an awareness of this issue in an update from the Performance Committee, which is now seeking to gain a better understanding of "the relationship between business plan, delivery and effectiveness, and "interdependencies" between different projects and workstreams". We would be grateful to hear any further detail and progress updates in this area.

AR/IAR levies

We feel there should be no increase to the AR/IAR levies and that there is scope for the FCA to review and potentially reduce these. Now that the AR regime implementation work is complete, we would expect to see a reduction in fees to reflect the shift to 'business as usual'.

The consultation makes no specific mention of the AR/IAR levies, so we assume they are captured under the general statement that the FCA is proposing "to increase all other minimum and flat fees in line with the increase in ORA, as explained in relation to application fees in paragraph 2.11." If true, we disagree that this is a fair and proportionate approach. We would need to see clear evidence of which sectors are seen as causing the biggest issues – and if additional regulatory oversight is required, clarity on how the proportionality of cost recovery has been determined along with expected timeframes for delivery.

Within the mortgage intermediary sector, there has been a sense that the benefits of (or at least, harms prevented by) the AR regime are yet to materialise, despite the substantial time and resource costs the regime has placed on firms. The layering of Appointed Representative (AR) regime costs has also created a competitive disadvantage for principal firms. As principals tend to be larger on average (particularly those operating as networks) and thus more likely to be paying variable fees, we don't feel we can expect further costs to be borne disproportionately by these firms.

We would therefore encourage the FCA to consider a more proportionate approach to AR regime cost recovery going forward, with fees split out into blocks to better reflect the risks and costs of supervision in different sectors. The FCA is now in its second year of collecting revenue and complaints data on ARs and therefore we feel this provides an opportunity for the FCA to use its data and insights to calculate AR levies based on each sub-sector and the risks presented.

It is important this is split by sub-sectors and not sectors; for example, it would be unfair to charge mortgage intermediary firms with ARs based on the consumer finance sector as this includes credit brokers and retail finance providers which operate very different business models. We would therefore encourage the FCA to view mortgage intermediaries as a distinct sub-sector.

Exceptional projects

In respect of open banking, we support the plans to limit cost recovery to deposit takers within the A.1 fee block – this is in line with the precedent set last year when funeral plans were brought into the regulatory perimeter. We are also pleased to see a similar approach planned for cryptoasset regulation, where by and large the cost of regulating the sector will be limited to firms directly engaging in those activities.

We remain concerned however at the suggestion that the "full population of fee payers" could be expected to share the costs for the FCA's wider work on "tackling financial crime and money laundering and mitigating the potential risks to consumers presented by cryptoassets."

Mortgage intermediaries are not subject to Money Laundering Regulations (MLRs), and over the course of the last year we established through extensive consultation and discussions with the FCA that home finance and pure protection/GI intermediaries are not within scope of MLR-driven reporting obligations like the REP-CRIM and FIN074 returns; nor are they within scope of the Economic Crime Levy.

It would therefore be inconsistent to expect firms not subject to MLRs to contribute to the costs of carrying out this work.

Q2: Do you have any comments on our proposed changes to the FEES Manual?

See below.

Q3: Do you agree that we should remove the Bank of England base rate from the calculation of the consumer credit proxy measure, do you have any suggestions for improving the measure and are you able to provide us with any evidence to help us take this forward?

No comment.

Q4: Do you agree with our proposed amendments to fee-blocks A.10 and A.13?

No comment.

Q5: Do you agree with our choice of using the median NPR, CMG, DTF and TCD K-factor values, and then for weighting them as outlined above, for MIFIDPRU investment firms? If not, can you suggest any alternative metric or combination of metrics that we should consider, and if so, explain why these may be preferable?

No comment.

Q6: Are there any technical issues we should consider for consistency, fairness and proportionality purposes, and if so, what would you propose?

No comment.

Q7: Do you have any comments on setting the minimum fee threshold for the proposed fee-blocks A.10A and A.10B at zero?

No comment.

Q8: Do you have any comments about our preferred approach of using a decreasing rate for MIFIDPRU investment firms under the proposed A.10B fee-block?

No comment.

Q9: Do you have any suggestions for transitional measures that could be introduced to help mitigate any significant fee rises for individual firms as part of any change to create the A.10B fee-block, and if so, do you have any suggestions as to what might be appropriate?

No comment.

Q10: Do you have suggestions as to what alternative measures can be used for dual-regulated firms and UK branches of non-UK firms for the proposed fee-block A.10A?

No comment.

Q11: Do you have any views on the regulatory cost associated with providing periodic information on position risk requirements for non-MIFIDPRU firms in fee-block A.10B?

No comment.

Q12: Do you agree with our proposal to widen the definition of 'relevant business' so that it covers all eligible complainants to the Ombudsman Service? If not, why?

No comment other than to say we agree this is an appropriate correction.

Q13: Do you agree with our proposal to bring forward the reporting date for firms in the general insurer and life insurer industry blocks? If not, why?

No comment.

Q14: Do you agree with our other proposed changes to FEES 5? If not, why?

No comment.

Q15: Do you agree with our proposed changes to FEES 6? If not, why?

No comment other than to say we are generally supportive of measures that help to improve the clarity of the handbook for firms.