Association of
Mortgage Intermediaries

Association of Mortgage Intermediaries’ response to FCA regulated fees and levies: rates proposals for 2024/25 (CP24/6)

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 have significant concerns over the proposals set out in this consultation and the impact they will have on the mortgage intermediary sector:

- The 8% rise in fee rates to deliver a 9.4% increase in the overall cost of supervising mortgages (excluding the network supplement) constitutes one of the sharpest rises the industry has seen.
- This comes at a time when most firms are seeing falls in profitability, having borne the brunt of the significant additional work pressures brought by interest rate volatility and the changes invoked by Treasury under the Mortgage Charter.
- The FCA’s own data shows firms in the A.18 fee block are under pressure, having seen a 3% reduction in the number of firms trading over the last year.
- The five-week deadline for responses is exceptionally tight even for trade bodies to compile a robust response, not to mention individual firms juggling other business priorities. Given the short timescale we request that our introductory comments are taken into account in all of the responses to questions.
- The April consultation is too late in the cycle to propose increases significantly in excess of CPI without prior warning or justification.
- The FCA may argue it is recouping the cost of fee freezes in previous years, however this goes against the common understanding of the term ‘freeze’, which is simply holding fees in place for a year. Had the FCA been clearer regarding its intention to claw back ‘lost’ fee income in future years – i.e. had they been described as ‘deferrals’ and not ‘freezes’ – firms might have been less supportive of the idea in the first place. Firms “cost of existing” in the crisis is far from over.
- The FCA would not accept fuzzy and misleading language like this being used with consumers under Consumer Duty – i.e. mortgage lenders supporting customers in financial difficulty have had to be very clear that temporarily moving to interest only or extending their mortgage term would have a significant impact on the borrower’s future debt. The same expectation of transparent and fair communication has not been extended to regulated firms.

- The overall AFR and minimum fee increases will put pressure on firms across the fee-paying population, but it appears that firms in the A.18 fee block are expected to shoulder a disproportionate share considering this is a market functioning responsibly with low levels of consumer inertia and negligible risk of harm. By comparison, Independent Financial Advisers (IFAs) are seeing a relatively modest 4.9% fee rate increase, and a smaller rise in AFR allocation (8.7% – vs. 9.2% for A.18), despite legacy issues surrounding unsuitable Defined Benefit Transfer advice (including but not limited to BSPS), unfair charging structures, and trail fees not delivering value for money.
- Taking lender and intermediary fees together, we fail to see what the mortgage industry is getting for £46.5m of fees.
- We were surprised and disappointed to see that the FCA plans to include protection insurance in its Advice Guidance Boundary Review / AGBR project. This product set is traditionally grouped with General Insurance, which is out of scope of the AGBR. Furthermore, the wording and coverage of the expected impact on the protection industry has been too vague in Discussion Papers issued to date. We have yet to see formal consultations. Whilst investment and pension trade bodies have been in roundtable meetings on this subject, AMI as the mortgage trade body has not been involved. As mortgage advisers are the largest single source of "protection" sales this seems an omission. The fees and levies paper should not be the first unequivocal confirmation that a sector is expected to be brought into the scope of an exceptional project – firms cannot be expected to fund an initiative if they have not had sufficient information and opportunity to challenge and debate its implementation.
- We also oppose the allocation of costs to supervise cryptocurrencies across the fee-paying population as mortgage intermediary firms are not subject to Money Laundering Regulations (MLRs). We believe the costs of this project should be borne by firms subject to MLRs for whom financial crime prevention is a core business concern. This is in line with the precedent set when the FCA accepted our argument that the wider fee-paying population should not be liable for the costs associated with the regulation of funeral plans.
- We are unable to support the FCA's proposals to increase minimum fees, application fees and the Appointed Representative (AR) levy in this continued period of economic uncertainty.
- In regard to application fees specifically the FCA notes that all respondents to CP23.22 stated that now was not the right time to increase fees, so it is disappointing to see that this has been disregarded.

Our concern is that as currently constructed mortgage and protection intermediary firms, based on the FCA fees calculator, will see a 30% year on year increase in their invoiced amount. This is caused by the general minimum fees and specific tariff increases, doubling up of minimum fees, reduction in the penalty rebates, no FSCS rebate, introduction of levies on cryptocurrency, paying for the AGBR and additional Consumer Duty costs. These are likely to have significant impacts on already stretched firms and give the impression of the FCA being out of touch with the realities facing advice firms. This is fast becoming a sector that becomes uninvestable and given its relative positive performance appears unfair and likely to limit competition.

We go into further detail on several of the points raised above in the body of our response.

Questions

Q1: Do you have any comments on the proposed FCA periodic fee-rates for 2024/25?

We urge the FCA to reconsider its proposals to increase minimum fees, application fees and the Appointed Representative (AR) levy. As stated in our response to CP23.22 we welcomed the freeze on minimum, flat rate and application fees, which helped ease the pressure on firms during a period of economic uncertainty, due to trading conditions and the ongoing cost of living crisis we are still experiencing a period of economic uncertainty.

In addition to the across-the-board increases, the expected number of firms in fee blocks A.18 & A.19 are due to fall by approx. 400 further increasing the financial pressure on this sector.

It is positive to see the FCA has taken onboard our suggestion to review the £100,000 income threshold for paying variable fees on an annual basis, but disappointing that this is deferred.

We stated in our response to CP23.22 that we appreciated the FCA's confirmation of the decision to align consumer credit minimum fees with A.0, though we would note that the FCA Fee calculator currently adds both the CC02 and A000 fees. The FCA have up to now been clear that where firms have no Consumer Credit income, having to hold a full permission due to technical requirements to advise on certain mortgage advice elements, then only one minimum fee would be levied. We require clarification on this or proper consultation for such a change, which the FCA has previously acknowledged as not being appropriate.

In our 2023 response to the regulated fees and levies rates proposals 2023/24, we questioned the benefit of the ongoing transformation project as we had not yet seen the expected reduction in costs, in our response to CP 23.22 we requested additional information on the progress and outcomes of the transformation project. As of yet we have not had any additional clarity and this year we continue to see increases rather than reductions which calls into question the efficacy and management of the transformation project as a whole.

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.

The AFR for 2023/24 included £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 in 2024/25 so we are surprised and concerned to see this is not the case. We would welcome additional insight the FCA is able to provide on how it intends to allocate future costs relating to Consumer Duty though we note that the consultation paper states that in the future Consumer Duty will not be separately identified.

AR/IAR levies

We feel there should be no increase to the AR/IAR levies and would encourage 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'.

We would 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

We would challenge the proposed fee block allocation for cryptoassets. Mortgage intermediaries are not subject to Money Laundering Regulations (MLRs). It would therefore be inconsistent to expect firms not subject to MLRs to contribute to the costs of carrying out this work. This would be in line with the precedent set by the approach to cost recovery in regulating funeral plans: the FCA previously accepted our argument that exceptional project costs should be limited to the population of fee-payers who stand to benefit from the work.

We are also exceptionally concerned about plans to push the cost of Advice Guidance Boundary Review (AGBR) work on intermediaries, especially those in the A.19 fee block. This project benefits pro-Direct to Consumer (D2C) product providers at the expense of intermediaries – it is effectively asking mortgage and protection advisers to pay for their own redundancy by funding the development of reforms that would allow manufacturers to take away their market share.

A deeper concern is that there appears to have been an ambiguous use of language in previous AGBR discussions (unintentional or otherwise) over the question of whether or not protection insurance would be within scope of the AGBR work. We picked up on this in the latest AGBR discussion paper, but gave the FCA the benefit of the doubt and assumed it was accidental due to there being only a passing reference to 'life insurance', and a promise that 'general insurance' would be out of scope (which is typically grouped with pure protection by the FCA). We know there is a tendency in legislation not to differentiate between pure protection and investment-based life insurance contracts, so assumed it was a technical oversight.

However, this fees consultation now makes it apparent that the aim was to capture pure protection within the AGBR work all along. We feel this – if not deliberate, then at least careless - ambiguity has deprived the mortgage and protection intermediary sector of the opportunity to understand, debate and adequately push back on the FCA's plans. The AGBR DP includes no specific plans for these elements and is heavily focussed on the Pensions and Investment implications. The first full confirmation that this project intends to capture the protection industry is the point at which they are being asked to pay for it.

As we state in our AGBR discussion response, non-advised sales in protection cause demonstrably more consumer harm than an advised one, with higher cancellation rates. The advice gap seen in the investments space is not applicable in the protection sector, as commission-based charging means there is no upfront cost barrier to accessing advice. We strongly recommend the FCA rethink its strategy or at least pause work in this area pending a fuller, more transparent consultation on the implications of AGBR work in the protection industry.

Q2: Do you have any comments on the proposed FCA application fees for 2024/25?

In the CP it is stated that ***'At present, application fees account for only 20% of the cost of processing applications'*** while we understand the rationale behind recouping the remaining balance from firms already authorised so as to help reduce barriers to entry, we believe that the funding of application fees could be rebalanced to capture a larger proportion from applicants.

Q3: Do you have any comments on the proposed method of calculating the CJ levy tariff rates for firms in each feeblock?

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

AMI responded separately to the 2024/25 FOS plans and budget consultation and for the purposes of this response, we wanted to provide a summary:

- We are supportive of the reduction in the CJ levy & 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.
- We are pleased to see the outputs of the FOS transformation programme are translating to efficiency gains and reduced costs for firms.

Q4: Do you have any comments on our proposals for how the overall CJ levy should be apportioned?

No comment.

Q5: Do you have any comments on the proposed 2024/25 rates for the levies collected on behalf of government departments?

No comment.