Association of Mortgage Intermediaries' response to FCA CP21/2: Financial Services Compensation Scheme – management expenses levy limit 2021/22

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. Our members also provide access to associated protection products.

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

Response

Given the annual costs of compensation now dwarf the costs of operating the Financial Conduct Authority (FCA) this must call into question the effectiveness of the authorisation and supervision processes historically applied by the FCA.

We are supportive of the increase to the FSCS management expense levy to cover the increased costs of operating the compensation scheme dealing with an increasing number of cases. However, it must be recognised that mortgage intermediary firms are under escalating financial pressure due to claims from customers of failed firms from other sectors. Firms are now paying more towards the compensation scheme than they are for the regulator and the situation is not sustainable.

We are concerned that the increase in the FSCS levy might drive brokers to cease their protection and general insurance permissions as certainly revenue from general insurance business will not offset the levy increase. Such a change would not be beneficial to consumers and will offer less choice in the market

Good firms should not be responsible for compensating victims of criminal activity. Consideration must be given to potential mitigations to ensure that the polluter pays. This might include consideration of reversing the decision for the majority of regulatory fines to be passed to the Exchequer. This was taken post financial crisis to prevent banks from benefitting financially. However, it has left many innocent firms in other sectors picking up the full FSCS costs without the reduction that would have come from fines imposed on the polluters.

Whistleblowing and the flagging of bad practice among firms and individuals can help to address bad practice and create more financial resilience in firms. However, the FCA needs to be seen to act on this intelligence and to have a feedback loop that confirms to the reporter that some action has been taken.

We welcome the work being undertaken under the Financial Services Compensation Scheme's "prevent" pillar and encourage further work in developing its intelligence, data and feedback loops. However, we believe that the FCA has to work harder in this area, in conjunction with both the Financial Services Compensation Scheme and the Financial Ombudsman Service, to root out and close down more efficiently, those causing detriment to consumers. The FCA Board needs to demonstrate the same level of commitment and oversight to "prevent" as we have seen from the FSCS Board.

We fully support the aim of FSCS that people who phoenix into claims management companies and claim compensation on behalf of their former customers, would no longer be able to provide regulated financial services. This would offer protection for consumers looking for financial advice, help prevent harm and avoid further burden on levy payers.

Questions

Q1. Do you have any comments on the proposed FSCS MELL for 2021/22?

We are supportive of the changes to the MELL levy for 2021/22 including the increase in the unlevied reserve in recognition of the higher level of uncertainty as we recover from the pandemic. We expect and hope that the increase to the unlevied reserve is in relation to the current exceptional circumstances and that this will be reduced next year as forecasting will be more reliable.

Q2: We would welcome views for future MELL consultations on the use of the FSCS unlevied reserve for expected increases as opposed for unexpected scenarios that were not known at forecasting stage.

Whilst we understand and are supportive of the changes this year, we do not agree that the unlevied reserves should be used for expected increases in the future as this would reduce the safety net for additional unexpected scenarios.