



Association of
Mortgage Intermediaries

Association of Mortgage Intermediaries' response to FCA CP20/22 Regulatory Fees and Levies: policy proposals for 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. 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.

Response

We welcome the opportunity to comment on these changes and are generally supportive of the move to increase application fees so that the costs of new authorisations are shared more equally between applicants and existing fee payers. We presume that the increase in application fee rates will result in a proportionate reduction in annual fees to firms in the respective fee groups in the year 2021/22.

We are concerned that as part of the introduction of charges for applications under the Senior Managers Regime, it is also proposed to apply a new charge to principal firms applying on behalf of their appointed representatives (ARs). As AR firms and/or ARs do not have any Senior Management Functions, we have concluded that this is a proposal to charge principal firms for the applications for approved persons within their AR firms however this has not been made clear and should not be actioned without a transparent consultation.

Whilst we understand that the FCA has to undertake additional work as part of the application process for approved persons, we do not feel that firms should be charged for this. The lack of inclusion of appointed representatives in the Senior Managers and Certification Regime was an oversight during the drafting of the legislation rather than by design and firms should not pay for that mistake. AMI has repeatedly called for legislation to be amended so that the appointed representatives are included in SM&CR, rather than being subject to the approved persons regime. If this were the case, then principal firms would be responsible for assessing the current approved persons as fit and proper, rather than the applications being assessed by the FCA. The role of an approved person within an appointed representative does not correspond to the role of a senior manager under the SM&CR and should not be considered as such for application fees. A principal firm will also have to pay for SMR applications under the new proposals. It is not appropriate for a charge for approved person applications to be levied in addition. Instead, the regulator should prioritise the inclusion of appointed representatives in the Senior Managers and Certification Regime so that principal firms are able to assess these applications themselves.

We disagree with the proposal to revalorise application and transaction charges in line with the ORA and suggest that they should be annually revalorised in line with inflation as has been the case for this consultation.

Questions

Q1: Do you have any comments on our proposals to revalorise application fees in line with inflation and create a simplified structure with a reduced number of pricing categories?

We are supportive of the proposal to revalorise application fees in line with inflation and agree with the principle of simplifying the structure to reduce the number of pricing categories. We request that the response to this consultation confirms that the increase in application fee rates will result in a proportionate reduction in annual fees to firms in the year 2021/22, within the appropriate fee blocks.

Q2: Do you have any comments on our proposals to remove income bandings from application fees?

Whilst we understand the reasoning behind the decision to remove income bandings from application fees, we are concerned that mortgage brokers will see an increase of £400 for a permission that, whilst required in certain circumstances, in many cases generates no income for a broker. Mortgage brokers are required to apply for a limited scope consumer credit permission to allow them to discuss a consumer's debts as part of a non-regulated mortgage application. Whilst MCOB carries an exemption for mortgage brokers, this is only applicable for regulated mortgage contracts. In order to be able to discuss which loans, if any, a customer might want to consolidate into a buy to let mortgage, currently a broker must hold a non-standard, limited scope consumer credit permission for 'debt counselling – no debt management'. Under these proposals, the charge for this permission will increase from £100 to £500 and yet a mortgage broker makes no income from the activity covered by this permission. As such, we believe that this structure is not in line with the FCA's statutory principle that "a burden or restriction which is imposed on a person, or on the carrying on of an activity, should be proportionate to the benefits, considered in general terms, which are expected to result from the imposition of that burden or restriction" (FSMA 2000). We believe that the FCA should amend the framework so that if a firm has no eligible income then there is no fee, and accordingly a firm's mortgage fee would cover this consumer credit permission.

Q3: Do you have any comments on our proposals to introduce a Category 4 fee of £2,500 for claims management companies that apply only for the permission of seeking out people who may have a claim and to restructure the charges for validation orders?

We support this on the basis that it reflects the known costs of dealing with these type of applications.

Q4: Do you have any comments on our proposals to introduce charges for changes in control and applications under the senior managers regime?

We accept the proposals to allocate a category 2 charge of £500 for changes in control and feel that this is a reasonable amount to charge.

We have no objection to the proposal to charge a category 1 fee of £250 to firms for the approval of new SMR applications. We are however, greatly concerned by the inclusion of principal firms applying on behalf of appointed representatives. This statement lacks detail and clarity and leaves us to have to draw the conclusion that the proposal is to charge principal firms for approved persons applications. This should have been clarified in the consultation paper. This is a large change for networks and as such, should have been fully explained within the paper with an indication of the cost to firms.

For many networks this will incur individual costs in excess of £25k per annum, which we consider material to them and also, in aggregate, material in relation to the total charged by FCA to the mortgage advice sector.

We do not agree that a charge should be introduced for principal firms for appointed representatives. Instead, the regulator should request legislation is introduced to move appointed representatives from the Approved Persons Regime to the Senior Managers and Certification Regime. We would support legislation that allows persons acting in the controlled functions of AR firms to have their fitness and propriety assessed by their principal firm.

Q5: Do you have any comments on our proposal to revalorise application and transaction charges annually in line with our budget for ongoing regulatory activities (ORA)?

We do not feel that it is appropriate to revalorise charges annually in line with the ORA budget and would prefer to see the charges revalorised annually in line with inflation as has been the premise of this consultation. Whilst we recognise that the FCA has made a commitment to deliver an ORA that is flat in real terms, this is subject to any changes in its wider ongoing regulatory responsibilities. Such changes should not affect the application process or costs and should not therefore induce a rise in application fees as would potentially occur if increases were linked to the ORA. Whilst the ORA has remained relatively flat since 2018/19, it is set by the FCA and has been subject to larger increases in previous years when the FCA's scope has changed.

We would suggest that whilst the rate of inflation should act as a cap to the amount that application fees can rise per annum, there is no obligation to affect this increase if the FCA has improved the efficiency of the process and the cost to process applications.

Q6: Do you have any comments on our proposals for the fees paid by cryptoasset businesses?

No comment.

Q7: Do you have any comments on our proposed basis for calculating fees for firms operating MTFs and OTFs from 2021/22?

No comment.