Association of Mortgage Intermediaries' response to FCA CP21/33 Regulatory Fees and Levies: policy proposals for 2022/23

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

AMI supported the increase in application fee rates last year expecting to see a proportionate reduction in annual on-going fees to firms in the respective fee groups. We believed that the cost of the regulator should be settled by those that are creating them. We were therefore disappointed when the fee rates were consulted on that there was no recognition of the additional income that the FCA was generating from the increases in application fees. This is additional income that is not obvious in subsequent fees consultations.

Instead, we are now seeing firms penalised again. The cost burden being requested of existing firms to compensate for the failure of the FCA to adequately supervise firms under their regime is unfair. Firms cannot afford the rising yoke of costs, which will need to be passed on to the consumer, as the FCA continues to want to do more rather than better. It is time for the FCA to consider costs and stop throwing good money after bad. It is time for them to go back to regulation basics.

We share the concerns that many long standing FCA employees are stating as they leave because they are disillusioned with the direction of travel. There are real dangers that we are losing the benefit of a quality regulator which has an extensive and useful corporate memory. Much is made of the need to migrate to being a data led regulator - which we could be minded to support – but we are not being presented with sufficient information on how this will work to improve outcomes. It is clear that data should enhance work – not replace workers as they are needed to understand and interpret the data. More important will be a cadre of skilled supervisors able to take the data, interpret and apply it to limit damage being caused by markets and within that, firms.

We are yet to be presented with any tangible evidence that the transformation programme, new rules on consumer duty or activity linked to the appointed representative regime will prevent any of the issues which led to the FCA failures to adequately address their duty to the market and public in the LC&F, Connaught, Woodford or Greensill affairs. With this backdrop we cannot have the confidence to support these significant increases in costs which consumers will have to pay.

In addition, AMI remains frustrated by the increased charges applied to the appointed representatives applications regime which were introduced last year without proper transparent consultation. This was then exacerbated by additional periodic charges for principal firms for each AR and IAR which was also not adequately consulted on. The disproportionate levy on mortgage intermediaries to address the issues in other markets is yet to be properly explained.

In previous years the FCA has committed to only increase fees in line with ORA. This consultation walks all over that. Prior commitments to only increase ORA by 2% per year was flouted by last year's fees consultation when the ORA was 'rebased' to include new responsibilities and therefore saw an actual increase of 5.5%.

We continue to see issues in the FCA authorisations department which are causing firms (and sole traders) to lose income and in some instances be unable to trade for a period of time. The length of time for applications to be allocated to a case handler is significant. We continue to see spurious requests for information which is not required to assess the application, but allows those assessing the application to show it as being in progress. We have concerns that these practices are not obvious to FCA senior management.

In addition to the periodic fees that firms were asked to pay, mortgage intermediary firms are now paying:

- For new firms to be authorised.
- To compensate customers of firms who did not adhere to the principles of regulation, and in many cases knowingly defrauded vulnerable customers.
- For non-regulated firms to test their ideas within a safe environment through the sandbox.
- For the digitalisation of a regulator who is still unable to send communications to the correct people in firms.
- For our member firms not to have a supervisor to discuss any issues with and are left to speak to the Supervision Hub who may or may not understand their query. This severely impacts the sector in understanding FCA requirements.
- For firms regular RMAR being lost from the new Regdata systems as migration appears to lose some firms information.
- For reduced service as we have lost regular contact via Network events; regional roundtables; speaking at industry events.
- For reduced access and information as AMI has lost our regular contact with an executive director of the FCA team.

All of this leads AMI to be concerned that mortgage advice firms are being put on the back burner, but asked to pay for events, development and issues in other markets.

Questions

Q1. Do you have any comments on our proposals to rebase minimum fees for the A and consumer credit fee-blocks on our model of the minimum cost of being regulated, and to integrate consumer credit firms into the prudential fee-block AP.0?

We would request that our introductory comments are taken into account as part of our response to this question.

We are deeply concerned by the increase in A.0 from £1,151 to £2,200. This is a significant increase in costs for small firms. Whist we can see rationale within the proposals we do not consider these are relevant to mortgage intermediary firms. These continue to present limited issues in relation to the overall market. There are low levels of consumer inertia, high levels of advice, a highly intermediated market with excellent communication between lenders and their distribution partners.

We support the intention of integration of consumer credit firms in CC2 into A.0.

However, paragraph 2.11 in the consultation appears to set out a justification for mortgage intermediaries to no longer pay an additional consumer credit minimum fee where they derive no income from credit-related activity. This would be absorbed within the higher A.0 minimum fees for firms with income under £100,000, by consolidating CC.2 within A.0. However, we think that the bulk of mortgage broker firms are not in class CC.2 but hold limited permissions under CC.1.

This means that for a small mortgage and protection firm that has to hold a CC.1 permission but has no consumer credit income their fees, if we are reading this correctly, will see an increase from £1401 (£1151 A.O and £250 CC.1) in 21/22; to £2700 in 22/23; and to £3300 in 23/24.

FCA have advised AMI that there are no mortgage brokers paying fees in fee-block CC.1. Firms with FSMA authorisations such as mortgage broking are not eligible for limited consumer credit permission and have full authorisation in fee-block CC.2, albeit with limitations in many instances. Typically, a mortgage broker has the credit related permissions, often as ancillary, of credit broking, debt adjusting and debt counselling, with the debt permissions limited to not providing debt management plans.

We will take this assertion from the FCA policy team that the required permissions under which firms derive no income will benefit from the new consolidated minimum fee at face value. However, we will be advising firms to monitor this position closely as part of the 2022 invoicing process and will challenge any positions where amounts in excess of £2,200 are levied.

Q2: Do you have any comments on our proposal to extend the definition of special project fees to include certain significant applications under MIFIDPRU?

No comment.

Q3: Do you have any comments on the most appropriate metric or combination of metrics we might use to calculate the fees of MiFID trading firms, and are there any technical issues we should take into account to ensure consistency, fairness and proportionality?

No comment.

Q4: Can you suggest an alternative metric or combination of metrics that we should consider?

No comment.

Q5: Do you have any comments on our proposal to include a question on income for fees purposes in the half-yearly returns submitted by pre-paid funeral plan firms?

No comment.

Q6: Do you agree that the definition of fee-block A.22 should not be amended to exempt pre-paid funeral plan firms from the annual charge for appointed representatives?

No comment.

Q7: Do you have comments on our proposal to charge recognised overseas investment exchanges £25,000 if they intend to use new and untested IT systems?

No comment.

Q8: Do you agree with our drafting clarifications to FEES 4.2.9G and FEES 4 Annex 11AR?

No comment.

Q9: Do you have any comments on our approach to recovering our costs when new firms into the scope of FCA regulation through legislation?

No comment.