David Cheeseman
Financial Conduct Authority
12 Endeavour Square
London E20 1JN

5 May 2023

Dear David,

AFM Response to FCA CP23/7, FCA regulated fees and levies: rates proposals for 2023/24

1. I am writing in response to this consultation paper, on behalf of the Association of Financial Mutuals. The objectives we seek from our response are to:

- Comment on the proposals, and
- Explore the consequences for members of AFM and their customers.

About AFM and its members

2. The Association of Financial Mutuals (AFM) represents insurance and healthcare providers that are owned by their customers, or which are established to serve a defined community (on a not-for-profit basis). Between them, mutual insurers manage the savings, pensions, protection and healthcare needs of over 32 million people in the UK and Ireland, collect annual premium income of over £22 billion, and employ nearly 30,000 staff[1].

3. The nature of their ownership and the consequently lower prices, higher returns or better service that typically results, make mutuals accessible and attractive to consumers, and have been recognised by Parliament as worthy of continued support and promotion. In particular, FCA and PRA are required to analyse whether new rules impose any significantly different consequences for mutual businesses[2] and to take account of corporate diversity[3].

[1] ICMIF and AFM, 2022: https://financialmutuals.org/wp-content/uploads/2022/10/UK-Market-Insights-2022.pdf
[2] Financial Services Act 2012, section 138 K: http://www.legislation.gov.uk/ukpga/2012/21/section/24/enacted
[3] http://www.legislation.gov.uk/ukpga/2016/14/section/20/enacted

AFM comments on the proposals

4. We welcome the opportunity to respond to this consultation paper. As a trade association representing smaller businesses, we take a close interest in regulatory costs, where they affect our members and their future capacity. We respond most years to the consultation, though have not always noted capacity in FCA to debate changes or address concerns.

5. We have no comments on the issues raised in Chapters 5 and 6.

Periodic fee-rates (Question 1)

6. We note that the proposed increase in fees funding payable is 9%. Whilst this includes one-off costs for exceptional projects, such as the future regulatory framework, the majority of the extra funding sought is for ongoing activities. Regulated businesses are experiencing rapid increases in operating costs, but unlike the regulators, do not have the capacity to raise prices: either due to contractual restrictions, or competitive forces, or due to regulatory pressure on value for money. This enormous increase in fees payable, when combined with other increases in regulatory costs (such as PRA, FOS and others), and substantial implementation costs for regulatory change, is unwelcome.

7. We welcome the publication of the FCA Business Plan alongside the fees consultation though, and as we've commented on in previous years, it is difficult to track how FCA allocates resources, and as a result to comment on the overall quantum of the fee increases proposed. It is notable though that the Business Plan indicates an increase in headcount for FCA of 18% in 2022/23, and we have been pleased to see greater support in recent times for work on the Consumer Duty, as well as signs of improving SLAs for authorisations. We would encourage FCA therefore to consciously consider how it evidences greater hands-on activity to support increases in fees: in the same way that FCA expects firms to show how their products provide demonstrable value for money.

8. We appreciate the commitment to freeze fees for all minimum-fee firms, and that this recognises the impact of inflationary pressures on very small firms. However, in addition to our concerns about the scale of increase, we are equally concerned about the fairness in the allocation of fees across blocks. The Business Plan gives no clarity as to where resources are deployed against each fee-block and therefore gives no basis on which to assess the allocation. It is difficult therefore to understand why, for example, general insurers face an increase in fees

of a third more than deposit-takers (10.1% versus 7.6%). The consequences of the steady increase in fees is that insurance blocks A.3 and A.4 are on schedule in the next couple of years to pay more fees than the deposit-takers in block A.1. (This is in stark contrast to the contributions paid towards FOS rates which, as per Table 6.1, are around half for insurers compared to deposit-takers- suggesting that the balance of risk and foreseeable harm is not reasonably represented in FCA's fees.)

9. We note that as well as the general approach to allocating fees, as per table 2.2, firms may see greater distortions if there is a change in the number of feepayers in their block (paragraph 3.8). We don't think this is a given, since a reduction (increase) in the number of authorised firms over time should reduce (increase) proportionately the amount of supervisory activity undertaken. To illustrate:

    a. It was surprising to see in Table 3.2 an 18% increase in the number of fee payers in block A.4 (life insurers). We have not seen a commensurate increase in the number of regulated firms- or new insurers established via the insurer start-up unit, so we question whether there have been some changes in classification in FCA, or an error in the estimate. Certainly the indicative fee-rate quoted in Appendix 1 does not reflect a higher number of feepayers.
    b. For general insurers, the expected 10.1% increase in fees coincides with an expected fall in the number of firms of 3.2%: this will further exacerbate the increase each firm suffers.

10. We note the application of fee premiums for high impact firms in the A.1 fee block (deposit-takers). That recognises the extra/ systemic risks those firms pose, and the extra resource dedicated to them, and we query whether a similar approach should be applied to all dual-regulated firms. As most AFM members are not directly supervised, they have had minimal supervisory engagement in the last few years, and the current straight line approach to fee allocation described in paragraph 3.11 seems to set costs for small firms that are disproportionate to the amount of policy/ supervisory time allocated. We would be happy to discuss this further before the next fees policy consultation in the autumn.

<u>Levies collected on behalf of government departments (Question 4)</u>

11. We recognise that FCA has little discretion over the sums of money to be collected. However, whilst paragraph 7.1 explains that FCA has no responsibility for setting the sum to be collected or how it is spent, the disclaimer does not indicate that the method of allocation is laid down.

We think that in many cases it is, though in the case of the economic crime levy, we consider that the basis adopted is not consistent with the tariff base used by FCA for allocating its own fees. Paragraph 7.11 presents the payment bands using the criteria set out by the UK Government, and is based on 'UK revenue'. FCA adopts different tariff bases for each fee block, and these are not appropriate proxies for revenue. For example, fee blocks A.3 and A.4 use gross written premium as a basis for allocating fees, whereas fee-block J for credit agencies uses turnover, and deposit taker fees tend to be allocated according to the number of mortgages held.

12. FCA is collecting data to identify the levy payable (paragraph 7.13); however, it is certainly not the case that the insurance premiums data FCA is collecting via the RegData system are a proxy for revenue or turnover, and utilising this would bring many insurers above the threshold for paying the economic levy unfairly and unjustifiably. The amount payable, starting at £10,000 would be punitive for small firms, and lead to significant stress to their business if the proxy for revenue used is inappropriate. We have raised our concerns on this point earlier with our FCA contacts, but not yet had a response: we therefore urgently need a clear understanding of what data FCA is using to measure turnover for insurers.

13. We note that the presentation of data in Table 7.1 reverses the order of next period vs. current period compared to other tables (e.g. Table 3.2), and would suggest that the layout is standardised in future.

14. We would welcome the opportunity to discuss further the issues raised by our response. We are happy to be included in the published list of respondents.

Yours sincerely,

Martin Shaw
Head of Policy
Association of Financial Mutuals