

Our response to the Financial Services Authority's consultation Regulatory fees and levies: policy proposals for 2012/13, CP 11/ 21

Introduction

The Building Societies Association represents mutual lenders and deposit takers in the UK including all 47 UK building societies. Mutual lenders and deposit takers have total assets of over £375 billion and, together with their subsidiaries, hold residential mortgages of over £235 billion, 19% of the total outstanding in the UK. They hold more than £250 billion of retail deposits, accounting for 22% of all such deposits in the UK. Mutual deposit takers account for 34% of cash ISA balances. They employ approximately 50,000 full and part-time staff and operate through approximately 2,000 branches.

Background

We appreciate the opportunity to discuss the FSA's annual consultation on proposed changes to its policy on regulatory fees and levies. Our comments relate only to areas of interest to our members – mutual deposit takers - and their operations.

Q2: Do you have any views on the definitions and guidance we have prepared on the income measures we propose to introduce for fee-blocks A.12, A.13 and A.14 from 2013/14?

The FSA argues that the process for calculating the tariff base for these fee blocks has become increasingly time-consuming and resource-intensive since the former seven customer functions, on which Approved Persons are based, were merged into one (CF30) in 2007. Each year, it has to agree with firms which of their CF30 APs might have obtained authorisation under the old customer functions, if they still existed.

While the AP process may take time for the regulator, we feel it is a simple – and therefore transparent – metric for firms. Any replacement has to reflect those qualities as well as being fair and efficient. We note the FSA has previously suggested replacing the AP measure with an income measure but retreated in face of opposition from industry.

The proposed replacement is an average annual income measure. Our members have not found this simple or transparent. They say that the proposed definition of annual income for calculating fees (11AR of Annex 4) does not make sufficiently clear that annual income is to be based on regulated investment advice and the designated investments only. To change this, “regulated activities” and “relevant business” need to be clearly defined.

One large building society has told us that the guidance for those firms that cannot separate their income on the basis of activities needs to be extended. It should cover a proportionate approach to calculating the advised versus non-advised ongoing commission from previous years that are received in the current year where this income cannot be separated.

Timing is also an issue. The FSA proposes that the new process comes on stream from 2013/4. Our members fear that this deadline does not take into account the time needed to make the necessary changes to systems to record the income – it is clearly not possible to do so partway through a financial year. We therefore suggest that if the FSA does decide to replace the tariff base with an average annual income figure, it should delay implementation to 2014/2015 at the earliest.

Q3: Do you agree that, after paying the enforcement costs of cases, we should distribute the balance received from financial penalties according to the aggregate levels of enforcement activity estimated for each fee-block, to reduce the impact on firms in the same fee-block which are not generating enforcement work?

The FSA wants to change the way it distributes financial penalties across fee blocks. It has concluded that it is potentially unfair to distribute remaining amounts from financial penalties across all fee blocks. In future, it wants to distribute these remaining amounts in proportion to its estimated allocation of enforcement costs. We agree with this proposal.

Q5 Do you agree with our proposed revised application fees for an issuer applying for registration of a RCB?

We support the proposal to introduce a new application fee of £45,000 for a covered bond or programme where the assets in the asset pool are not UK residential mortgages. We welcome the FSA's assurance that it will review the fee once it has experience of such applications.

Q6 Do you agree with our proposed revised methodology for calculating periodic fees for issuers of RCBs?

A large building society has pointed out to us that using data at issuances as at 31 December will not determine the current total outstanding. It does not take into account cancellations or redemptions etc. The society suggests, and we agree, that it would be fairer if the proportions were based on issuance added to the Register in the 12 months ending as at 31 December or an equivalent recent, relevant period.

Q7 Do you agree with our proposed basis for the RCB financial penalty scheme?

We agree that any surplus financial penalty (after paying for the cost of the RCB-related enforcement case) should only be applied to the benefit of issuers of RCBs.

Q8 Do you agree with our proposal to introduce a material change fee of £6,500?

We believe the charge is reasonable for a material change to the contractual terms of an RCB. Our only concern is that "material" is not defined – we expect that anything minor will not be subject to such a fee.