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Response to "Regulatory fees and levies – rates proposals 2010/11 and feedback statement on Part 1 of CP 09/26"

Introduction

The Building Societies Association represents mutual lenders and deposit takers in the UK including all 51 UK building societies. Mutual lenders and deposit takers have total assets of almost £375 billion and, together with their subsidiaries, hold residential mortgages of almost £240 billion, 19% of the total outstanding in the UK. They hold over £245 billion of retail deposits, accounting for just under 22% of all such deposits in the UK. Mutual deposit takers account for about 36% of cash ISA balances. They employ approximately 50,000 full and part-time staff and operate through approximately 2,000 branches.

Questions

Q1: *Do you have any comments on the proposed 2010/11 FSA fee rates for authorised firms and the premium applied to the rates in A1 (deposit acceptors fee-block)?*

We welcomed the minimum fee in our response to the earlier fees consultation:

www.bsa.org.uk/policy/response/CP_09_26_allquestions.htm

Our reservation was that any move to a higher figure than the £1,000 suggested would be unwelcome. Therefore, we are pleased to see that the proposed minimum fee for 2010/2011 is indeed £1,000.

However, we are disappointed to see the continued application of "premium" recovery rates to the largest mutually-owned institutions. In the consultation, the FSA says this that building societies receive less regulatory effort compared to banks. We find that hard to believe when the sector operates – as the FSA itself admits earlier in the section – a legally restricted model. A bank as complex as, for example, Barclays will surely absorb more supervisory resources than a domestic building society such as Nationwide or Yorkshire?
More explanation of this comment would be appreciated by the sector.

Not only do we believe the "premium" is a further disproportionate attack on building societies' but also their unique nature means they should be decoupled from banks and put in their own fees block.

Societies were also disappointed that the FSA declined to provide any argument why smaller credit unions were offered discount rates, apart from saying that the move was not meant "to establish a principle to be applied to mutuals". Yet buried in the same consultation is a proposal to make certain friendly societies an exception to the new minimum fee. Perhaps the FSA could explain its continued inconsistency in its treatment of mutuals. In our previous submission, we suggested that building societies receive a similar discount to those wholesale-only firms in fee block A.1 - 30%. We urge the regulator to re-examine its apparent inconsistency and recognise in its fee policy the lower risk in general the building society presents.

While the very largest mutuals' size and customer base mean they are systemically important, they operate a lower risk business model, compared to some banks. In part, this is, for example, a result of restrictions imposed by the Building Societies Act 1986 that prevents them from engaging in higher risk activities but in the main, this model is due to a desire to serve their members with simple, well-designed, low cost products.

Building societies are restricted from trading in securities, commodities and currencies, and can not enter into derivative transactions for purposes other than reducing risk or creating floating charges. Furthermore, these building societies are less able to subsiduarise their deposit taking activities, and therefore reduce their fees under the group net effect.

This has helped building societies and other mutuals to weather the economic crisis better than banks. Their reward? Higher fees designed to pay for increased supervision of large banks, including those bailed out by the government after periods of prolonged, reckless behaviour.

While we appreciate the FSA wishes to find an expedient and clear metric, we stand firm by our assertion that modified eligible liabilities is an inappropriate and blunt measure of risk or impact. They are roughly UK deposits. That has a disproportionate affect on domestic deposit takers. Why cannot any correlation be made using ARROW results?

Q2: Do you agree with the proposal to treat smaller non-directive friendly societies as an exception allowing them to pay a reduced minimum fee and the unrecovered minimum regulatory costs be applied to A.4 (insurers – life) fee-block

We welcome the move to leave unchanged the minimum fee of £430 for the 94 smaller friendly societies. We are pleased that the regulator acknowledges the vital role such mutuals play and is therefore prepared to reduce fees. But we are concerned at the regulator's inconsistent treatment of mutuals.

It has already been announced that smaller credit unions will not be subject to the new minimum fee of £1,000. However, the FSA refuses to see building societies in the same light. The sector has always operated a conservative business model and kept to selling simpler products to help its members buy their own homes. This is the same whether the society is big or small, national or local. Building societies' aims and ethos are similar to credit unions and friendly societies. But the FSA does not seem to want to acknowledge this. When it comes to fees, the FSA is intent on bracketing building societies with those large international and complex banks that behaved recklessly and are now dependent on government support. It is these banks that should be paying a "premium" in the A.1 deposit takers fee block, not building societies.

Q5: *Do you support our proposals for the new FEES 7 chapter?*

The government is seeking to enable the FSA to set up a new consumer financial education body, a separate legal entity, through the Financial Services Bill, which is being considered by parliament. This means the FSA has had to present its proposals for levying fees which will recover the costs of setting up this body, and of maintaining its existing financial capability activities if they are not passed. We note that the success or failure of the Bill will not affect the fees paid by firms.

The building society sector supports, both in words and deeds, consumer education in financial matters. We can see benefit in the idea of a new financial services consumer education and information authority, particularly given that its remit – and funding base will extend beyond that of the FSA.

But the industry will want to be assured that the new body can genuinely add value. In order to ensure that overlap between the FSA and the new financial services consumer education and information authority is avoided, it will be important that the FSA's current responsibilities for these matters are ceded to the new body. Also the industry, which is being called upon to part-fund the new body, will require assurance that it will have in place a robust framework for cost control. There is a natural tendency with any body that provides services free-of-charge for demand to exceed supply. With free money-advice services already overloaded and the implementation of the Retail Distribution Review set to constrict the availability of regulated financial advice, the demand for straightforward free advice is likely to burgeon. The new body must be alive to this and be very clear about its role.

The new body's annual budget would be funded from several sources:

- fees raised from firms authorised under FSMA.
- public funds and dormant accounts.
- relevant consumer credit firms through the levies they pay to the Office of Fair Trading.

This consultation is concerned with the fees in the first bullet point – those collected from authorised firms. The Bill will empower the FSA to set fees to recover the relevant costs from those firms, collect the fees and pay the amounts received to the CFEB after deducting its own costs incurred in collection.

The total budget for financial capability in 2010/11 is £45.4 million, of which the FSA is contributing £32.9 million. The costs will be allocated between fee blocks in line with their contribution to the total FSA annual funding requirement.

For 2010/11, the FSA will limit the CFEB levy to firms in the A.0 to A.19 fee-blocks. Since the Financial Services Bill amends FSMA, the FSA is empowered to recover costs from FSMA-authorised firms. **We agree with this plan as the benefits should reach more than just the firms in the A fee blocks.**

If the new body goes ahead, there will be a new chapter in the FSA Handbook, FEES 7, to distinguish the CFEB levy from FSA fees. The FSA has applied the straight-line recovery model to all fee blocks without moderation. **Again, we believe this is an appropriate course of action.**

In summary, we agree with the proposals for FEES 7 but are concerned at the overall cost and the potential for over-spend. **It will not be just mutuals who would have to pay in such circumstances.**

Q6: *Do you agree with our proposed £10 minimum levy for financial capability work/ Consumer Finance Education Body?*

We agree with the £10 minimum levy.

Q7: *Do you agree with our proposed levies on periodic fees to recover the costs of financial capability work/ Consumer Finance Education Body?*

See our answer to question 5.

Q8: *Do you agree that we should apply to CFEB the same discounts that we apply to FSA fees, apart from the discounts on financial penalties?*

We have no objection to the extension of the 30% discount afforded to those wholesale-only firms in A.1 fee block or to the proposal not to apply discounts for financial penalties received. We agree with the FSA's reasoning that it is because these penalties arise out of regulatory failures and CFEB will not be a regulator.

Q17: *Do you agree with our proposals for recovering the costs of setting up the regulatory regime for reclaim funds?*

As with the proposals to set up a consumer education body, we of course welcome this initiative which will make use of funds left in dormant accounts. We are, however, concerned at more costs to be borne yet again by the building society sector (and banks). The FSA itself acknowledges it will incur costs of £170,000 in setting up a new regulatory regime.

So we note, with some surprise, the statement at chapter 17.5 that "banks and building societies in the A.1 fee-block (deposit acceptors) … can potentially benefit from establishing reclaim funds….." By the same token, we are similarly interested to know how "it is also within their interest that any reclaim fund is appropriately regulated, given the potential negative consequences for them if a reclaim fund should fail." Building societies are pleased to be able to make sure money left in dormant accounts is either used for good causes or returned to its rightful owner in a timely and appropriate manner but they do not feel that their obligations stretch as far as monitoring a third party.

Turning to the detail, the FSA proposes to allocate the set-up costs using the same tariff base and tariff data used to allocate UK banks and building societies periodic fees ie modified eligible liabilities (MELs). We welcome the move not to charge UK banks and building societies with MELs of less than £10 million.

9 April 2010