

Regulatory fees and levies: policy proposals for 2022/23

UK Finance response to consultation CP21/33 from the Financial Conduct Authority

31 January 2022

Introduction and executive summary

UK Finance is the collective voice for the banking and finance industry. Representing more than 300 firms, we act to enhance competitiveness, support customers and facilitate innovation. We welcome the opportunity to respond to the Financial Conduct Authority's (FCA) consultation on regulatory fees and levies: policy proposals for 2022/23.¹

2. Our response is limited to answering question 9, regarding the FCA's proposal to divide the recovery of scope-change costs between existing fee-payers and new entrants. We disagree with this proposal, on the basis that those who cause the need for regulation should bear the costs of administering it.
3. If you have any questions relating to this response, please contact Daniel Wraith, Manager, Strategic Policy, at daniel.wraith@ukfinance.org.uk.

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

4. We disagree as a matter of principle with the proposal to divide the recovery of scope-change costs between existing fee-payers and new entrants. We believe it is unfounded in two respects, given the general 'polluter-pays' principle that the costs of regulation should fall on those who cause it.
5. First, if blocking the entry of newly in-scope but unsuitable firms results in an insufficient pool of potential fee-payers to cover the costs of additional regulation when an activity is brought into the FCA's regulatory perimeter, that strongly suggests that the societal benefits of permitting that activity on a regulated basis are simply insufficient. The cost of regulatory compliance is part of a firm's cost of doing business. It should not be subsidised by other firms and ultimately, therefore, consumers of unrelated products and services.

¹ <https://www.fca.org.uk/publication/consultation/cp21-33.pdf>

6. Second, if the government and parliament believe it is in the public interest for an activity to be regulated, the upfront costs of establishing the additional regulatory capacity and capability that cannot be covered by the fees of newly in-scope and authorised firms should not be borne by unrelated firms, which already cover the costs of their own regulation. The FCA's assertion that "the wider body of fee-payers benefits from the market confidence and lower regulatory costs that arise from effective control of the gateway for scope change" is unconvincing. For instance, it is not clear how mortgage lenders would gain, in terms of increased consumer confidence, from regulation being extended (even in a properly funded manner) to pre-paid funeral plans. Moreover, as argued above, additional fees will inevitably be passed on to consumers, and we believe it is wrong that those of unrelated firms should have to bear the costs arising from the FCA's regulation of newly regulated firms.
7. Recognising that the scope of regulation can only be extended by the government with parliament's approval, it would be more appropriate for the FCA's upfront costs to be covered from the public purse (e.g. by a government loan to the FCA) and repaid over time by those subject to that regulation.