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FSA's Regulatory fees and levies 2009/10 consultation CP08/18

A Submission by the London Investment Banking Association

This response covers the issues that our Members have asked us to raise so far in response to the questions raised in CP 08/18: at this stage, in addition to the Chapter 10 proposals – upon which we responded on 6th January - our Members have focused on Chapters 3 and 4.

We would be pleased to discuss the issues covered in this response with FSA or to provide further information about any of the matters which our Members have raised if that would be helpful.

Chapter 3: Firms operating Multilateral Trading Systems

Q2: Do you agree with FSA's proposal to charge individual periodic fees to firms for the activity of 'operating an MTF'?

We do not object to the principle that FSA should charge individual periodic fees to firms for the regulation of the activity of 'operating an MTF' based on the estimated full cost of regulating each individual entity. We note FSA's argument that the proposed minimum £2,000 fee broadly corresponds to the £1,850 that firms currently pay in the A13 fee block for nil or one person, and that the minimum represents a share of FSA's overheads. While £2,000 is not a substantial amount for the firms concerned, firms that operate small MTFs which typically do not involve FSA in any substantive ongoing work have expressed concern that, if FSA is to move to an estimated full cost basis, the fee should indeed be calculated according to estimated full cost, without a minimum amount.

Q3: Do you agree with FSA's proposed application and variation of permission fees for firms seeking permission – or a variation of their permission – for the activity of 'operating an MTF'?

Again, we do not object in principle that FSA should charge application or variation of permission fees for firms seeking permission or variation of permission for the activity of 'operating an MTF' provided that the fees charged clearly relate to the costs to FSA of undertaking the work.

Q4: Do you agree with FSA's proposal to charge a fixed minimum periodic fee of £2,000 for the first year for newly authorised firms operating MTFs or firms extending their permission to operating MTFs?

See our answer to Q2 above.

Chapter 4: Transaction reporting

Q5: Do you have any comments on the proposed introduction of an hourly fee to be levied upon ARMs and other reporting entities when they make changes to their systems which then require testing with FSA?

We agree that it is appropriate for FSA to levy a testing fee on ARMs in instances where an ARM or other reporting entity makes discretionary changes to its own systems (after gaining FSA approval). These fees will be used to compensate FSA for the costs it incurs during the testing period. However, we do not consider that FSA should levy charges on ARMs for testing in instances where it mandates a systems change.

Firms implement transaction reporting systems, at a great cost, to meet FSA's transaction reporting requirements, the rationale behind which is to produce clean UK markets which, in turn, benefit the economy as a whole. Although the proposed testing fee will be levied on the ARMs, a portion of this is likely to be passed on to those firms reporting via the ARMs. Considering this, and the fact that the FSA transaction reporting rules are mandatory requirements, all fees levied on ARMS that utilise FSA testing facilities should be recovered on a strict cost-recovery basis.

The type and extent of testing that FSA carries out depends on the discretionary system change requested and implemented by the ARM/reporting entity in question. We therefore agree that all costs should be decided on a case-by-case basis, with an indication of likely cost provided by the FSA before the start of the testing window.

FSA does not make clear whether the hourly fee of £80 plus VAT in paragraph 4.6 relates to the rate per hour of each person's time involved in supporting the testing, or the rate per hour of testing regardless of resources employed. If the former, the rate would seem to be surprisingly high – comparable to the cost of a project manager or experienced business analyst or specialist developer – whereas we would expect the FSA personnel supporting testing to be less expensive technicians with responsibility for more 'infrastructural' activities like network connectivity, batch operations, etc.

Q6: Do you agree with FSA's proposals to decrease TRS transaction reporting fees in 2009/10?

Whilst this is essentially a matter to be decided internally by the FSA's Transaction Reporting System, we welcome FSA's proposals to reduce those fees applicable for firms that decide to transaction report via TRS. Since FSA's transaction reporting rules are mandatory requirements that benefit the UK economy as a whole, we welcome FSA's proposed fee reductions to a level that is consistent with a cost-recovery basis, plus an element of funding for on-going developments and operation of FSA's market SABRE II surveillance system.

**London Investment Banking Association
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