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Mr David Cheesman
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FCA
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Dear David

FOA Response to CP13/14

Many thanks for agreeing to Mitja Siraj's request for an extension of time until COB today for the purpose of responding to CP13/14.

Our principal concern arises in connection with the creation of the proposed new fee block (A21) for firms whose permissions include safeguarding or administering assets and/or holding client money as set out in Section 3 of CP13/14.

While we understand FCA's objective of seeking to recover certain of its regulatory costs in a more targeted way, it is our firm belief that (a) consumer protection and all its constituent parts are a public policy objective which lies at the heart of FCA's role and responsibilities and should be borne equally by all regulated firms; and (b) levying fees in this way will enable firms to quantify and pass on those costs to the beneficiaries of, in this case, client money protection, to their financial disadvantage.

As to (a) we believe that all regulated firms should contribute in an even-handed way to supporting and meeting the costs of FCA's statutory obligation in terms of protecting consumers (section 1B(3)(a) Financial Services Act 2012). To single out one element of consumer protection in this way for charging purposes and not any other key components of investor protection is disproportionate and will do little to *"advance the consumer protection objective"* as envisaged in section 1(B) Financial Services Act 2012. Further, and for the reasons set out in (b) below, this new fee block will operate to the prejudice of the beneficiaries of client money protection.

As to (b), there is little doubt that some firms which hold client money/assets may surcharge customers whose money/assets are protected under the CASS Rules. This will have the unfortunate consequence of disincentivising customers from electing to have their money individually segregated because of the increased identifiable cost and will incentive customers (which are free to do so) to elect for their collateral to be held under title transfer arrangements. We believe this kind of economic distortion will undermine the statutory objective of consumer protection and a core public policy responsibility of the FCA.

Our third and last point is that we fail to understand why non-cash assets should attract significantly lower fees than cash assets, particularly where they are held as margin collateral.

It follows from the above that we think this new fee block runs contrary to FCA's statement that *"our fees are intended to be neutral and not to influence firms' behaviour"* (para 1.9) and that it will put at real risk its fundamental principle that fees should not *"inadvertently interfere with the market or distort competition"* (para 1.10). In this latter context, firms holding large amounts of client money will face significantly larger costs as part of the new fee block than those which hold small amounts of client money.

We note FCA's recognition in para 3.16 that this new fee block will generate *"large increases in fees for some firms"*. In our view that will, of course, read directly across to the size of the surcharge that will have to be met by customers whose money or assets are held pursuant to FCA's CASS rules. It is also understandable that firms may well wish to surcharge customers with any additional regulatory costs in order to clarify that increased charges generated by those costs should be distinguished from any increase in costs that may be driven by firms which wish to enhance profitability of services offered to customers.

In these circumstances, we would urge FCA to reconsider creating this new fee block for the reasons set out above.

Yours sincerely

Anthony Belchambers
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