FIA EPTA response to the Financial Conduct Authority (FCA) Consultation Paper on Regulatory fees and levies: policy proposals for 2022/23
(CP21/33**)

31 January 2022

Introduction:
The European Principal Traders Association (FIA EPTA) welcomes the opportunity to respond to the Financial Conduct Authority (FCA) Consultation Paper on Regulatory fees and levies: policy proposals for 2022/23. FIA EPTA represents 26 independent European Principal Trading Firms (PTFs) which deal on own account, using their own money for their own risk, to provide liquidity and immediate risk transfer in exchange-traded and centrally-cleared markets for a wide range of financial instruments, including shares, options, futures, bonds and ETFs. FIA EPTA's members are based in the Czech Republic, Germany, Ireland, The Netherlands, and the UK (~70% of our members have been licensed by the FCA).

Our members are independent market makers and providers of liquidity and risk transfer on trading venues and to end-investors across Europe. Market making and liquidity provision (also referred to as principal trading or dealing on own account) is a distinct activity that is undertaken by non-systemic investment firms rather than banks, in a highly dispersed and varied ecosystem of independent Principal Trading Firms. These firms operate in an innovative and competitive fashion leading to a vibrant, dynamic and diverse ecosystem which massively reduces interconnectedness and increases substitutability. This fundamentally reduces systemic risk whilst improving market quality and lowering costs for retail and institutional investors alike.

We would welcome the opportunity to provide further background to the FCA on the issues raised in our response.

Q2: Do you have any comments on our proposal to extend the definition of special project fees to include certain significant applications under MIFIDPRU?

FIA EPTA does not have a strong view on the proposed change as in practice we are not aware of any firms subject to IFPR that have obtained in the past such internal model approval. This is due to the fact that the conditions to implement the internal model are extremely burdensome as they were initially designed for large credit institutions. However, should the FCA allow for a relaxation of these conditions at some point in time (following, for example, dialogue with the industry) to reflect the different profile of firms subject to IFPR, we believe that the fees should be set a level that does not further discourage the development and adoption of internal models by firms.

Q3-Do you have any comments on the most appropriate metric or combination of metrics we might use to calculate the fees of MiFID trading firms, and are there any technical issues we should take into account to ensure consistency, fairness and proportionality?

FIA EPTA agrees that periodic fees based on traders' headcount is not always a fair representation of the regulatory risks posed by a firm and consequently of the time spent by the FCA to supervise firms. FIA EPTA supports the rationale to change the basis of periodic fees but would like to make some comments on the proposed approach to base periodic fees on trading volume and market risks metrics.

FIA EPTA believes that the periodic fees should be based on total risks associated with the firm (i.e., total K-factors) and not only on market risk and trading volume. Indeed, a firm that has, for example, low market risk but high counterparty credit risk may require the same or higher level of supervision than a firm that only has market risk.

We also note that no indication has been provided in this CP on calibration (i.e., percentages applied to the metrics). We believe that calibration will be a key factor when assessing whether the periodic fees are proportional to the time spent to supervise. We understand that the FCA will consult at a later stage on such calibration so that it will give firms the opportunity to assess the impact of the change and provide further comments. We would also assume that it is not intended that the change would lead to a material increase of periodic fees compared to the existing fees levels.

In addition, we would like to provide comments on other design principles that the FCA may want to consider:

- The periodic fees should be fair i.e., **proportionate to the time spent and costs incurred to supervise**. The FCA may want to investigate whether the calibration could be adjusted every year depending on the total supervisory budget (which would have to be assessed annually, explained at a high-level and published for transparency). By way of example, this is the practice implemented currently by the Dutch regulator (AFM).
- The periodic fees should be based on metrics that are **readily available** so that firms do not have to spend time and costs to get data for these specific purposes. They could be based for example on K-factors reported in regulatory returns submitted by firms
- The periodic fees should be, to the extent possible, **stable** so that firms, particularly smaller ones, can anticipate the cost. As some K-factors could be quite volatile (i.e., K-DTF due to varying trading volumes) the regulatory fees could e.g., be based on the annualised average of end-of-quarter numbers.