



*CFA UK is a member society of*



Peter Cardinali  
Finance – Fees Policy  
Financial Services Authority  
25 The North Colonnade  
Canary Wharf  
London E14 5HS

6<sup>th</sup> February 2012

Dear Peter,

The Chartered Financial Analyst Society of the UK (CFA UK) welcomes the opportunity to respond to Regulatory fees and levies: Policy Proposals for 2012/13 (CP11/21). The response will focus on chapter 2 and provides some observations that may be useful to the FSA in meeting its policy objectives in this policy area.

This response has been prepared by the CFA UK's Professional Standards and Market Practices Committee. The society has not surveyed its members.

### **About CFA UK and CFA Institute**

The CFA Society of the UK (CFA UK) represents the interests of more than 9,000 leading members of the UK investment profession most of whom work as front office investment professionals (managing portfolios, researching securities and advising on asset management). The society, which was founded in 1955, is one of the largest member societies of CFA Institute and is committed to leading the development of the investment profession through the promotion of the highest ethical standards and through the provision of continuing education, advocacy, information and career support on behalf of its members. Most CFA UK members have earned the Chartered Financial Analyst® (CFA®) designation, or are candidates registered in CFA Institute's CFA Program. Both members and candidates attest to adhere to CFA Institute's Code of Ethics and Standards of Professional Conduct.

CFA Institute is the global association for investment professionals. It administers the CFA and CIPM curriculum and exam programs worldwide; publishes research; conducts professional development programs; and sets voluntary, ethics-based professional and performance reporting standards for the investment industry. CFA Institute has more than 106,000 members in 135 countries, of whom more than 97,000 hold the Chartered Financial Analyst® (CFA®) designation.

### **Context and rationale for fees and levies**

CFA UK appreciates that fees and levies imposed on regulated firms are required and that they should be proportionate and fair without imposing costly burdens on firms. These features of an appropriate set of fees and levies become even more crucial when applied to a heterogeneous set of firms operating in the UK financial services industry. Based on FSA figures the FSA regulates 29,000 firms and 165,000 individuals ranging from sole traders to universal banks. The financial services industry accounts for approximately 10% of UK GDP (£124Bln in 2009). CFA UK understands that to regulate

the industry effectively these fees and levies are a cost that should deliver net benefits in terms of market integrity, while enhancing trust and confidence and ensuring clients' interests are placed first at all times.

CFA UK would view this consultation as an excellent opportunity for the regulator to demonstrate it will deliver these net benefits in a manner that is proportionate to the diverse range of firms that operate in the industry. At the same time the regulator needs to demonstrate that it has the awareness to ensure that any costs imposed by firms willing to take regulatory risks are not shared by firms that act in their clients' best interests.

### **Tariff base for fees**

The fees levied on regulated firms should be based on:

- 1) The type of business conducted; for example plain vanilla types of business should pay a lower fee than a more complex type of business. Firms that engage in a variety of regulated activities should have limited scope for cross-subsidising the fees from these numerous sources of regulated income. This becomes more important when multi-activity firms have been found to have acted inappropriately in one or more regulated areas.
- 2) The level of regulated income and the types of business that generates this income.
- 3) The regulatory and non-regulatory risks associated with each source of regulated income and the level of oversight required to ensure that the activity is undertaken appropriately. Firms that require more of the regulator's resources should pay fees and levies that reflect this attention.

The income based approach and definitions seem to be appropriate although the FSA may wish to consider that firms add to their annual income any fines or penalties that have been imposed and which type of activity this relates to. There could be the potential for firms that have faced fines or other actions to use these amounts to deflate the regulated income. We would hope that the FSA will be sensitive to any potential gaming by firms seeking to deflate the income they want to present and so reduce the fees they would have to pay.

It is useful for the FSA to levy fees by type of activity rather than type of firm. Opting for an income based approach to levy fees is not without risks and we hope that the FSA is aware of these. For example firms that have small numbers of employees but generate high levels of income per regulated employee could pay more in fees than a large firm that has more employees but generates a lower income per employee. Similarly, the regulator's revenue is tied to the prosperity of the industry which is welcome on one level but may be open to question when industry income declines (possibly from the onset of RDR) or the regulator realises it requires more funds following the implementation of the new financial services bill. An income based approach does have the potential for the regulator to impose burdens that are disproportionate.

### **Regulatory dividend**

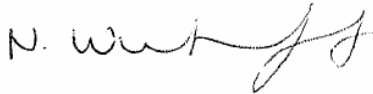
Fees and levies should be part of the strategy to enhance market integrity and raise trust and confidence in UK financial services. Firms that act in the best interests of their clients should be in the position to benefit from a "regulatory dividend" (for example a "no claims discount" via reduced fees and levies). These discounts would be sourced from the penalties, higher fees and levies imposed on firms that have not acted appropriately. We

are aware that the FSA is not averse to granting discounts to those it has fined; maybe it is time to provide discounts to firms that continue to act appropriately.

CFA UK also requests the regulator to consider how it can reduce the moral hazard that is inherent in compensation schemes. CFA UK recognizes the benefits of such schemes although it is aware that recent events have seen levies imposed on the whole industry to raise compensation for mis-selling of investment products from a small number of firms. Many of these firms no longer exist and so realizes the moral hazard where the rest of the industry carries the burden imposed by a few. As a suggestion, the regulator could set aside some of the penalties and fines raised from enforcement cases in excess of the costs for these actions into an additional fund that complements the compensation scheme. In doing so, the industry faces a reduced burden of moral hazard in the future.

We hope this response is useful to you and look forward to discussing or developing any of the issues raised in this submission.

Yours,



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