



FCA REGULATED FEES AND LEVIES: RATES PROPOSALS 2023/24 (PROFESSIONAL BODY SUPERVISORS)

Issued 11 May 2023

ICAEW welcomes the opportunity to comment on the consultation document CP23/7 FCA regulated fees and levies: Rates proposals for 2023/24 published by the Financial Conduct Authority in April 2023, a copy of which is available from this [link](#).

Our response is solely in respect of our role as a Supervisory Authority under The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017, supervising approximately 11,000 firms.

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OPENING REMARKS

1. As we set out in our responses to CP17/35, CP135/18, CP43/19, CP97/19, CP20/6 and CP22/7, we find the method of calculating the professional body supervisor fees unfair as it penalises those smaller firms and sole practitioners supervised by ICAEW, simply because they share an AML supervisor with the largest accountancy firms.
2. We feel that the disparity between the levy applied to ICAEW and the smaller PBSs that only pay the fixed fee is becoming irrational – an inadvertent consequence of maintaining the fixed fee at a low rate that has not increased with RPI and any increases in OPBAS budgets being picked up by the largest PBSs. We are concerned that, with supervisory reform on the horizon, this disparity will become entrenched and will impact on PBSs ability to recoup costs from their supervised population in future. We call for a proper review of the OPBAS levy, as this was not included in the recent HM Treasury review of the OPBAS Regulations.

RESPONSES TO SPECIFIC QUESTIONS:

Q1: Do you have any comments on the proposed FCA periodic fee-rates for 2023/24?

3. We note that FCA has budgeted £1.8m of annual funding requirement (AFR) for 2023/24, representing an 8.8% increase compared with the previous year. We do not object to this as it is broadly in line with inflation and consistent with other fee increases in the consultation document.
4. However, we note that the proposal is that the minimum fee will not increase and will remain at £5,310 whereas the variable fee will increase by 9.6%. This means that many professional body supervisors (PBSs) will see no increase at all in their OPBAS levy (as they only pay the minimum fee) whereas ICAEW's levy will increase by 9.6%. The result of the proposal will mean that the levy paid by ICAEW has increased by 39% since 2021/2022 (as can be seen by the table below) which compares to only a 5.8% increase for those PBSs which only pay the minimum fee.

	Forecast 2023	Sept 22 invoice	Sept 21 invoice
OPBAS levy	£865,768	£790,414	£624,896

5. The forecast figure for 2023 in the table, when set against the AFR for OPBAS operations for 2023/2024, means that ICAEW will pay 48% of the total OPBAS budget despite only supervising 26% of the supervised entities¹ across the accountancy and legal sectors.
6. We have complained consistently at the unfairness which is caused to ICAEW BOOMs by the original funding mechanism which provided that smaller PBSs should only have to bear a minimum fee. While we could understand that such a minimum fee was considered to be appropriate when looked at from the perspective of the much smaller resources and turnover of the smaller PBSs, we believe that all PBSs pass the OPBAS levy through to their BOOMs either specifically or as part of their members' practising certificate, member subscriptions or regulatory fees. Their own financial performance is not impacted by the OPBAS levy. If the levy increased, the increased amount would be passed through in the same way to BOOMs supervised by the smaller PBSs. Given this pass-through, the setting of minimum fees and

¹ We have used this metric as there is no publicly available data on the number of BOOMs supervised by each PBS.

the loading of more and more expenditure onto the larger PBSs results in an increasingly unfair position for BOOMs whose firms are supervised by the larger bodies.

7. ICAEW, like other larger PBSs, supervises a broad range of firms ranging from very large firms down to very small sole practitioner firms. Nearly half of our 11,000 firms are in the latter category. The grossly unfair consequence of the original funding mechanism, now exacerbated by the significantly higher increases in the variable fee compared to the minimum fee means that a High Street small accountancy practice supervised by ICAEW containing one BOOM will be invoiced by ICAEW to pay an OPBAS levy of £59 whereas the High Street accountancy practice next door supervised by one of the small PBSs, containing one BOOM, will be reimbursing that smaller PBS for a much smaller amount based on a division of the minimum fee by the number of BOOMs supervised by that small PBS. We do not understand how this is considered to be a fair way of sharing out the costs of OPBAS's operations.
8. In order to avoid this ingrained unfairness being exacerbated with the current increase proposals, we must ask that the FCA/OPBAS give urgent consideration to reviewing the OPBAS levy calculation. The increasing OPBAS budget, but static fixed fee, means that the difference between the fees charged to the smallest PBSs and the largest are greater than ever and will only get further apart over time. This is causing the OPBAS levy calculation to look irrational and is causing OPBAS to become over-reliant on its funding from one or two PBSs.

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