

## Minutes

Meeting:	FCA Board	
Date of Meeting:	05 June 2014	
Venue:	25 The North Colonnade, Canary Wharf, London E14 5HS	
Present:	Clive Adamson	Mick McAteer
	Andrew Bailey	Tracey McDermott
	Amanda Davidson	Jane Platt
	Amelia Fletcher	Sir Brian Pomeroy
	John Griffith-Jones (Chair)	Lesley Titcomb
	David Harker	Martin Wheatley
In attendance:	Set out in Annex A	

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### Quorum and Conflicts

The Meeting noted there was a quorum present and proceeded to business.

Members were asked to declare conflicts of interest at the start of any relevant items.

The Chair explained that Treasury had confirmed the appointment of Catherine Bradley as a Non-executive Director to start on 2 August 2014. She would attend the Board meeting at the end of July as an observer.

The provisional dates for 2015 had been circulated and any issues should be reported to the secretariat. Committee dates would be set up once the Board dates were finalised.

### 1 Minutes and meetings

#### 1.1 Minutes of the FCA Board meeting

The minutes of the FCA Board meeting held on 1 May 2014 were approved.

#### 1.2 Matters arising

The Board noted the progress in respect of the matters arising.

#### 1.3 Draft minutes of Audit Committee meeting

The Board noted the draft minutes of the Audit Committee meeting held on 22 May 2014 and the update from Sir Brian Pomeroy on the following key points:

- this was the meeting at which the Committee reviewed the annual report and accounts which would be discussed later on the agenda;
- the Committee had received an internal audit report on the Supervisory Oversight Function; and
- the Committee had highlighted the need for the Board to have clarity regarding the lines of accountability of the FCA to Parliament, the Treasury Select Committee and the Treasury. The Board requested further information on these areas with regard to the role of the Board.

#### 1.4 Draft minutes of Risk Committee meeting

The Board noted the draft minutes of Risk Committee meeting held on 1 April 2014.

#### 1.5 Minutes of the Payment Systems Regulator Board meeting

The Board noted the minutes of the Payment Systems Regulator (PSR) Board meeting held on 2 April 2014 and the draft minutes of the PSR Board meeting held on 14 May 2014.

Mr Griffith-Jones provided an update on the meeting held on 14 May 2014 noting that the majority of the meeting involved discussion of developing policy and the feedback from the call for evidence which would be discussed further at an extended meeting on 23 June.

In response to a query from Mr Adamson, Mr Griffith-Jones undertook to review the appropriate interaction between the PSR and the Bank of England.

#### 1.6 Monthly reports from the Independent Panels

The Board noted the reports from the Consumer Panel, Practitioner Panel and Smaller Business Practitioner Panel and discussed the following:

- the continued concern raised by the SBPP regarding the definition and interpretation of "independent" in respect of advisory firms if not all advisers were able to advise on all retail products;
- the Consumer Panel's comments on the potential for consumer detriment from new products replacing annuities as a result of increased pension freedom; and
- the work the FCA had undertaken in relation to packaged bank accounts and that although there had been a large number of complaints regarding current accounts, it was not possible or appropriate for the FCA to apply conduct standards retrospectively.

## **2 Reports from Executive Directors**

### 2.1 CEO Report

The Board received the CEO's report, and noted and discussed the following:

- an update on Operation Cotton;
- the changes on the Co-op Bank's Board and the ongoing work of supervision;

- the work that had been undertaken with respect to various benchmarks, including silver and gold fixes;
- the close liaison with the Treasury on the development of the standards and framework that were required for the retirement “guidance guarantee”;
- Project Innovate had been launched and the Board would be kept informed of the types of firms and products that were being considered;
- the various inquiries and reviews being carried out were creating a large volume of work;
- staff turnover had continued to increase, although there was evidence that the attractiveness of the FCA as an employer was high;

Mr Bailey joined the meeting at 11.00am.

- the FPC intended to ask the PRA to take measures to counter the potentially adverse effect of increasing prices in the housing market and to ask the FCA to take similar measures regarding non-banks; and
- progress in relation to the supervision of newly regulated consumer credit firms.

### **3 Specific items of business**

#### **3.1 Relationship with the Practitioner Panel**

The Board received an update on the report and noted and discussed the following the areas that the review was looking at in particular, being: the extent to which sensitive information is shared with the Panel; general engagement (what is taken to the Panel, when and how); and media engagement and tone of voice.

#### **3.2 FCA Annual Report 2013/14**

The Board received the report and noted and discussed the following:

- the report would be the first published by the FCA and it reported on the extent to which the organisation had met its objectives and was prepared in line with relevant company law and accounting standards;
- the illustrations of performance throughout the report used the same measures that had been provided to the Board in regular management reporting;
- the approach to reporting on enforcement cases, which was different to that used by the FSA in previous years. The Board supported the approach which had been used to show how policy or supervision outcomes could be achieved through enforcement, rather than using highlighted case studies, although agreed that the examples should include named references;
- the Chair and CEO introductions were not yet finalised, but would summarise the key achievements during the year; and
- the Board supported the report highlighting examples of how firms had made improvements and shown a positive change in culture and suggested some drafting changes in relation to the mutuals’ regime and investment banks;

The Board noted that the statutory section of the report and accounts had been reviewed by the Audit Committee and on recommendation from the Committee agreed these,

delegating authority to Sir Brian Pomeroy to agree any minor amendments required prior to publication.

The Board approved the front section of the report subject to any final comments being received by 10 June, and delegated to Mr Wheatley and Mr Griffith-Jones the authority to make any changes required prior to publication.

### 3.3 FCA use of Skilled Person Reviews (Section 166 tool)

The Board received the report and noted and discussed the following:

- the report had been commissioned to provide information on the use of the Skilled Person (s166) Review tool and the controls in place, following concerns raised regarding the use of the tool (specifically around cost and frequency of use), particularly from the Practitioner Panel;
- the Skilled Person Review tool was used in cases where the FCA required an independent assessment of a particular issue in a firm and the Executive believed that they were a helpful tool for the FCA;
- some large one-off reviews, such as those reviewing interest rate hedging products and the review referred to in the 2012/13 FSA Annual Report had been costly but were exceptions;
- usage and costs were not significantly increasing, despite the perception of some firms that the use of the reports was more frequent; and
- there were several controls in place to ensure the reports' effectiveness, consistency and proportionality and the Executive had identified some further areas where improvements could be made to the process. The Executive was continually looking to improve the effectiveness of operation and would be putting in similar controls in relation to the use of attestations.

The Board noted that management information on the use of skilled persons' reports was published on a quarterly basis on the FCA website.

### 3.4 Individual Accountability (Approved Persons reform)

The Board received an update on the development of proposals for inclusion in the consultation. It noted the range of views in the feedback received from various stakeholders and had a detailed discussion.

The Board agreed with the high level policy objectives and broadly agreed with the proposals but asked the team to undertake some further work before bringing the final consultation back to the Board.

### 3.5 Annual Reports

The Chairs of the Independent Panels joined the meeting.

#### Practitioner Panel Annual Report

Mr Beale outlined the Practitioner Panel's view of the first year of the FCA, pointing out that a lot had been achieved - regulation and consumer outcomes were on the agenda of all financial institutions. The first year had also coincided with a large change in the market, namely the RDR and review of remuneration attached to sales of investments. Targeted selling practices had changed but there were still outstanding questions as to whether the market had changed and if the availability of advice had decreased. The Practitioner Panel had been maintaining an ongoing dialogue in relation to consumer

responsibility and recognised the need to work with the regulator and consumers to get the best outcome and welcomed Project Innovate as a way to encourage new products with the right outcomes. It also had had some concerns about the strategic direction of some of the FCA's communications. The Panel welcomed the review being undertaken by Ms Raffe which, it was hoped, would identify ways to improve the effectiveness of Practitioner Panel engagement.

#### Smaller Business Practitioner Panel Annual Report

Mr Turberville Smith reported that the Smaller Business Practitioner Panel had continued to focus on issues affecting smaller firms, particularly proportionality, clarity of communications and unintended consequences. One area that he highlighted was regulatory uncertainty and the interpretation of rules and guidance by smaller firms particularly as they only had limited resources. This had been highlighted in the recent thematic reviews of disclosure of adviser charges and SIPP operators and it was the SBPP's view that this non-compliance was frequently due to misinterpretation rather than disregard for the rules. Mr Adamson acknowledged that it was a challenge to communicate with all small firms due to the limited resources available and explained he would like to explore with the SBPP better ways of engaging with the smaller business community.

#### Markets Practitioner Panel Annual Report

Mr Swann explained that during the year the key challenge for the Markets Practitioner Panel was to build its membership to a level of appropriate seniority and quality. The Panel's key role was to guide the FCA in issues where they might affect wholesale markets and believed it was important only to intervene in markets where it was believed there was detriment, rather than stifling competition unnecessarily. Mr Swann noted that much of the work reviewed by the Markets Practitioner Panel was driven from the EU and that more needed to be done at pre-legislative stage to determine outcomes of policy implementation. Mr Swann explained that the Panel had decided to meet quarterly as it was looking at issues at a macro level although this frequency would be reviewed in due course.

#### Consumer Panel Annual Report

Ms Lewis pointed out the value of the Consumer Panel as being wholly independent and able to assist the FCA at an early stage in its policy development. It had undertaken independent research during the last year looking at aspects of annuities and general insurance. In addition, the Panel had continued to engage with EU policy and respond directly to consultations. The Consumer Panel had highlighted potential areas for consumer detriment on which it believed the FCA should focus, particularly confusion in the advice market and the scope for mis-selling new retirement products. Ms Lewis acknowledged the resource issues facing smaller firms but explained she was sceptical of the scale of change of culture in larger firms and believed there was still pressure for advisers to sell inappropriate products, even though remuneration structures were changing.

#### Practitioner Panel Survey

Mr Swann, Mr Collett and Ms Lewis left the meeting at 2.15pm

The Board noted the contents of the survey and discussed the following:

- all metrics in the Practitioner Panel report had improved since the last survey undertaken in 2013; this was a strong endorsement of the quality of the relationship between the regulator and the industry and the strongest score since 2008;

- knowledge of regulation had increased, although work was still needed in the area of credit unions;
- the Practitioner Panel believed that there was tension between the three statutory objectives and it was important for the FCA to acknowledge that;
- the scores on information and communications had shown a year on year improvement. They also showed that different types of firm were influenced differently by the channels of communication used and this information could be used to focus communications, although it was clear the website still needed to be made more accessible to small firms, as did the handbook;
- the qualitative comments in the survey indicated that there was a need to ensure proportionality and also allow a period of consolidation following the changes that had occurred; and
- the survey would be published in July and Mr Wheatley reiterated that the FCA would seek to address the issues that had been identified

Mr Beale and Mr Turberville Smith left the meeting.

### 3.6 PCBS Special Measures recommendation

The Board received the report and noted that the statement had been drafted in response to the recommendation from the PCBS and set out the way in which the FCA would use its current powers to meet the Commission's aims in proposing a Special Measures tool, which was planned to be published in June.

The Board noted that, within its existing powers, an enhanced supervision approach would be used when fundamental failings of standards, governance and culture were identified and the Board would be informed of firms which entered into enhanced supervision.

## 4 Report from the PRA

The Board received an oral update from Mr Bailey, which included an explanation of the reorganisation at the Bank of England and PRA and the implementation of a number of policy initiatives.

## 5 Decisions reserved to the Board

### 5.1 Rules & Guidance to be determined:

The Board discussed the proposed CASS rules relating to the way in which firms held client money in order that it could be distributed quickly and be easily accessible in the event of the failure of a firm. This had the effect of not allowing firms to hold assets in unbreakable term deposits, and requiring assets to be liquid within 30 days.

The Board made two instruments set out in Annex B.

### 5.2 Matters requiring a decision of the Board:

The Board approved the appointment of Caroline Gardner as a Trustee Director of the FSA Pension Plan Trustee Company Ltd for a period of 3 years with effect from 5 June 2014 until 4 June 2017.

## 6 Papers for noting:

### 6.1 Minutes of ExCo meeting held on 8 April 2014

## 6.2 Forward Agenda

The Board noted the papers.

## 7 Any other business

There was none.

## 8 HBOS

In line with the conflicts previously declared, Ms Titcomb, Mr Adamson, Mr Griffith-Jones, Ms McDermott left the meeting.

The Board noted the update following the Board meeting on 22 May 2014 and the following points:

- a track change version of Part I of the report had now been circulated, which reflected the Board's and other comments received; and
- work to ensure the consistency of the report with final notices was in hand.

The Board agreed to delegate the final arrangements for agreement of the report for maxwellisation to the Joint Steering Group.

The meeting closed at 5pm

Claire Strong  
Deputy Company Secretary

## **Annex A: Attendees**

Sean Martin	General Counsel
Claire Strong	Deputy Company Secretary
Simon Pearce	Company Secretary
Katie Barnes	Manager, Culture & Governance (for item 3.3)
Graham Beale	Chair, Practitioner Panel (for item 3.5)
Graham Collett	Manager, Independent Panels Secretariat Team (for item 3.5)
Jennifer Dalby	Manager, Planning and Performance (for item 3.2)
Nausicaa Delfas	Head of Department, Specialist Supervision (for item 3.3)
Mikael Down	Head of Department, Cross Cutting and Prudential (for item 3.4)
David Godfrey	Director, Finance & Operations (for item 3.2)
Sue Lewis	Chair, Consumer Panel (for item 3.5)
Graeme McLean	Head of Department, Approved Persons, Passporting & Mutuals (for item 3.4)
Victoria Raffe	Director, Authorisations (for item 3.1)
Andrew Turberville Smith	Chair, Smaller Business Practitioner Panel (for item 3.5)
Paul Swann	Chair, Markets Practitioner Panel (for item 3.5)
Rebecca Tabor	Manager, Independent Panels Secretariat Team (for item 3.5)
Dermot Whelan	Manager, Governance and Professionalism (for item 3.4)
Chris Woolard	Director, Policy Risk & Research (for items 3.2 & 3.4)

Relevant Associates and Technical Specialists attended for certain items.

## **ANNEX B: Resolution**

The Board of the Financial Conduct Authority hereby resolves to make the following instruments:

Retail Distribution Review (Complaints Data) Instrument 2014

Client Assets Sourcebook (Amendment No 5) Instrument 2014