

Minutes

Meeting:	FCA Board	
Date of Meeting:	12 December 2013	
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
	David Harker	Lesley Titcomb
	John Griffith-Jones (Chair)	Martin Wheatley
In attendance:	Set out in Annex A	
Apologies:	N/A	

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.

1 Minutes

1.1 Minutes of the FCA Board meeting

The minutes of the FCA Board meeting held on 7 November 2013 were approved.

1.2 Matters arising

The Board noted the matters arising from previous meetings and the actions being taken to address them. It agreed with the Chairman's view that the Oversight Committee should remain in place for at least a further year to assist in the oversight of the Money Advice Service.

In addition it also noted the interaction between Mr Wheatley and the Treasury regarding the review of the Co-op.

1.3 Update on the Risk Committee meeting held on 19 November 2013

The Board received an oral update from Mr McAteer, noting the items discussed by the Risk Committee which included the following:

- the Committee's ongoing concern around firms' business models and the culture in the financial sector;
- the FCA needed to understand consumer credit firms' business models in more detail in order for it to be able to target interventions. The Board acknowledged that this was a risk and noted that the FCA would only have information gathering powers for these firms from 1 April 2014; and
- Mr Stewart had provided an update on cyber risks and the recent exercise to test firms' resilience to cyber-attacks. The exercise had given firms some additional insights into the risks and there were a number of lessons learned. A report on the exercise was being led by the Bank of England and would be produced in early 2014.

1.4 Update on the Audit Committee meeting held on 28 November 2013

The Board received an oral report from Sir Brian Pomeroy, noting the items discussed by the Audit Committee which included the following:

- an overview of the reviews carried out by Internal Audit since the last meeting in September and consideration of the audit plan;
- an update on risk responsive audits which Internal Audit had now started to carry out and which were focused reviews of emerging business risks. These were shorter and quicker than full audit reviews;
- the Committee noted the establishment of a working group to develop the self-assessment capability within the organisation and expressed its interest in this work. An update on progress had been requested to be provided to the Committee at its meeting in May 2014;
- the National Audit Office had advised that, as their appointment as auditor was now a statutory requirement, they would in future be required to give an opinion on the regularity of income and expenditure as part of their audit. This would consider whether the FCA's expenditure aligned with its objectives; Ms Titcomb undertook to check the status of the expenditure in relation to consumer credit;
- the new Director of Internal Audit was expected to join the FCA on 20 January 2014; and
- Mr Woolard had given a presentation on the development of the Policy Risk and Research Division's operating model; the Committee had also asked Mr Woolard to demonstrate the life cycle of the development of a policy at its next meeting but, following discussion, it was agreed that this would be a useful briefing for the entire Board.

1.5 Monthly reports from the Independent Panels

The Board received the reports, and noted and discussed the following key points:

- the Consumer Panel's priorities for 2014 included work on penalties vs persuasion during which they intended to evaluate the relative effectiveness of the FCA's regulatory tools;
- some concern was expressed at the timing of the recent publication by the Consumer Panel of its research on the annuities market in view of the ongoing work which the FCA was carrying out in this area. It was noted, however, that this work had been commissioned by the Consumer Panel some considerable time ago, before it was known that the FCA intended to carry out work on annuities. The Board noted that

the Executive and Panels should work together to co-ordinate publications where appropriate; and

- Ms Davidson had attended the December meeting of the Smaller Business Practitioner Panel and had discussed members' concerns about firms' interpretation of 'independent advice'. The Board noted that the FCA recognised these concerns and that work was ongoing in this area.

2 Reports from Executive Directors

2.1 CEO Report

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

- the findings that had been recently published in relation to Lloyds Banking Group for serious failings in their controls over sales incentive schemes. The Board was updated on the background to the case and developments that had occurred during the enforcement investigation;
- the background to a complex insider dealing case that had recently concluded and the Board expressed support for the FCA taking on complex cases in order to protect consumers and ensure markets worked properly;
- the developments that had occurred in the Banking Reform Bill during the last month, including the FCA being given a duty to cap the cost of short-term credit. The Executive was considering recommendations for how this should be applied; this would be discussed at the Board in due course;
- it was likely there would be an independent review of the regulatory decision making process, including the Regulatory Decisions Committee;
- the further work on lending practices conduct that the FCA had done following the publication of the Large and Tomlinson reports;
- the FCA was monitoring the use of the Co-op name in the new banking entity;
- the Financial Policy Committee (FPC) had recommended that the FCA require mortgage lenders to have regard to any future FPC recommendation on appropriate interest rate stress tests in addition to those already envisaged in the Mortgage Market Review (MMR). The MMR requires firms to test affordability against 5 year interest rate projections at the time the loan was made. This stress test would be additional test above this. This would be discussed at the next Board meeting in detail;
- the volume of PPI complaints against firms was reducing but at a slow rate;
- the external turnover of staff had increased to 9% and the Executive was monitoring areas of concern;
- the Board noted a suggestion to rename the market study on annuities to better describe the position (pension vesting);
- that the FCA was planning to issue a discussion paper early in 2014 related to the issue regarding fairness in mortgage contracts; and
- the progress made so far by the consumer credit programme, which was broadly on track, with 32,000 firms registering for interim permission.

3 Specific items of business

3.1 Markets overview

The Board received the report, and noted and discussed the following key points:

- the work done by the team, in co-ordination with supervision and enforcement, on insider dealing and market manipulation; and the focus on price formulation, conduct of market participants and the resilience of the markets;
- whether there were any competition issues that required attention in relation to primary and secondary markets;
- the use of intelligence in the division and work that had been carried out to ensure that firms fulfilled their obligations to report on suspicious transactions, including the evaluation of what behaviours could be deemed as suspicious, monitoring the level of submissions and writing to firms that had not been active;
- the work that had been done on a thematic basis, which included reviewing conflicts and chinese walls, rules around client money handling and best execution, and the extent of the FCA's remit; and
- the work that was being done to pool resources with other international regulators due to the increasingly multi-jurisdictional nature of markets and market participants.

3.2 The FCA's three year Budget and Business Plan 2014/15 to 2016/17

The Board received the report, and agreed the three year Budget and Business Plan.

3.3 The Client Assets Regime

The Board received a presentation on the work of the Client Assets team and discussed the following key points:

- the act of assessing what would happen to a company if it went out of business was not a natural way for firms to think when carrying on business;
- there were currently 40 individuals undertaking client asset work, including aspects of supervision, policy and data analysis; teams could be put together quickly in order to assess whether there were any issues in the event of a possible closure;
- there had been high profile enforcement cases (e.g. JP Morgan) highlighting the importance of having client money controls in place and there was now a controlled function which was required in firms to be responsible for client money (CF10a);
- the team was also working with auditors to enhance audit reports, which were risk assessed by the team;
- there was further work to do around the issue of rehypothecation where clients transferred ownership of assets to a firm; and
- the developments in policy that would be brought to the Board to make rules in due course.

3.4 INTACT Programme

The Board noted that Board members had received a demonstration of the system earlier in the day. The Board noted the objectives of the INTACT programme and the release timetable.

The Board noted that since the last meeting at which INTACT was discussed with the Board, and following challenge from Board members, the team had reviewed the support arrangements for the product; the content had been defined; the range of the financial forecast had been reduced due to more detailed planning; the benefits and measures had been defined and quantified and delivery had proceeded.

The Board discussed the proposals and challenged on a number of points. In the discussion that followed the following points were noted:

- Mutuals were not included in the INTACT programme as currently they were on a different set of systems;
- the team expected to track the project to target, but the project governance would still be in place after Board approval to ensure that project funds were spent appropriately;
- the critical relationships that were in place with the suppliers, including the key individuals;

Mr Bailey joined the meeting at 1.45pm

- there was flexibility in the software which would enable amendments to be made easily if there were changes to the interface with firms in future; and
- software as a service had been used in the Enforcement Division for its case management system.

The Board agreed

- to approve external spend in support of the INTACT programme of up to £40.2 million;
- to approve a total spend with the development partner of up to £13 million during the course of the programme; and
- that the project should report regularly to the Audit Committee, and that if forecast to exceed the target the team should alert the Audit Committee in advance.

3.5 FCA Risk Outlook

The Board received the report, and noted and discussed the following key points:

- the FCA would publish its Risk Outlook in March 2014 alongside the Business Plan; and
- it was noted that a further draft would be considered by the Executive and by the Board in February 2014. The Business Plan and the Risk Outlook would both be published in March 2014 and it would be important for the introductions of both documents to cross-refer to each other. The Chair asked that both documents be presented to the Board together for approval in February 2014.

3.6 Expectations Gap and Consumer Responsibility

The Board received the report and agreed how Executive should respond to the expectations gap and consumer responsibility strands of work.

3.7 Payment Systems Regulation

The Board received the report, and noted legislation was being put in place to require the FCA to set up a new payments systems regulator and that the Executive had discussed options for its governance and corporate arrangements. It discussed the possible composition of the Payment Systems Regulator Board; the reporting lines of the Managing Director; and delegation of functions.

2.2 (continued) Report from the Prudential Regulatory Authority (PRA)

The Board received an oral update from Mr Bailey and noted the following key points:

- the Banking Reform Bill had entered its final stages; and
- the liability management exercise in respect of the Co-operative Bank was now almost complete, which would stabilise the bank.

3.8 Budget and Plans for consultation of Financial Services Compensation Scheme (FSCS):

Mark Neale advised the Board that:

- the FSCS generally used an outsourced process which was more efficient and which enabled compensation payments to consumers to be made more quickly;
- the professionalism of staff had also been enhanced, particularly in respect of the organisation's ability to act as creditor when assuming the rights of compensated consumers;
- the budget figure remained relatively constant for the 2014/15 financial year compared to the 2013/14 year;
- currently, compensation payments would be made automatically to customers of banks, building societies or credit unions in the event of failure but consumers would need to submit claims for compensation in other instances. It was acknowledged that further work was needed to explain the parameters of the FSCS's remit to consumers.

Following consideration, the Board agreed:

- that the proposed total Management Expenses Levy Limit (MELL) for 2014/15 of £80m, comprising management expenses of £74.7m and a contingency reserve of £5.3m, was reasonable;
- to provide the FSCS with a letter, signed by the Chair of the Board, confirming that in a crisis the FCA Board would give urgent consideration to a request from the FSCS to raise the MELL to enable the FSCS to meet its obligations on a timely basis;
- to approve a joint consultation with the PRA in January 2014 on the FSCS MELL of £80m; and
- that in the event that the figures presented by the FSCS fluctuated it would not be necessary to revert to the Board before consultation unless it involved a material change of more than 5% of the budgeted management expenses.

Lawrence Churchill extended an invitation to all Board members to attend an information session on the work of the FSCS and the Chair asked the Secretary to liaise with Mr Churchill and to include this as a future briefing session for the Board.

3.9 Budget and Plans for consultation of Money Advice Service (MAS):

Caroline Rookes introduced a paper setting out the MAS business plan and budget for 2014/15 and the following points were noted:

- the value for money review of MAS undertaken by the National Audit Office had been published on 5 December 2013 and the key recommendations covered activities which were already underway or planned for 2014/15 and beyond;
- the total proposed budget for 2014/15 was £77.5m which was slightly lower than the 2013/14 total of £78.3m;
- MAS had three strategic aims for 2014/15, namely:
 - to deliver a more effective service that impacts on people's lives and was accessed by them in their daily lives;
 - to increase access to high quality debt advice; and
 - to drive the wider agenda on financial capability.
- the business plan had been well received by stakeholders;
- the target number of customer contacts for 2014/15 was 15 million compared with 5.45 million for 2013/14. This significant increase was expected partly as a result of advertising campaigns highlighting the work of MAS; and
- the number of telephone calls received by MAS had decreased, however, which was consistent with the experience of other similar services. Consumers were encouraged to access the MAS website as this was the cheapest method of communication.

Following consideration, the Board approved the MAS business plan and budget for consultation.

3.10 Budget and plans for consultation for Financial Ombudsman Service (FOS)

Ms Davidson left the meeting at 4.40pm

The Board received the report, which was presented by Mr Boorman, and noted and discussed the following key points:

- the majority of cases received were PPI cases and resources had increased to deal with the demand;
- the proposals for the budget included a slight increase to operating expenditure to account for additional staff, although the Service was now planning to cap resources as it believed it had the resources to deal with the remaining PPI cases, this assumed that there would be a decline in PPI cases in future and no shocks to the system;
- the Ombudsman Service was proposing to freeze case fees at previous levels and drop the supplementary case fees for new PPI cases received after 1 April 2014 (although the Ombudsman Service would retain the flexibility to increase the supplemental case fee in the future if it needed to do so);

- the organisation expected to reduce its expenditure over the next few years, to around £160m in 2017/18 (adjusted for inflation); it was assumed that case fees would be fixed through until 2017/18 and that the reserves would be released to fund the Service running at a deficit whilst it managed down its PPI caseload and reduced the scale of its operations accordingly; and
- the Ombudsman expected that there would be a rigorous review of the reserves in the 2015/16 budget which would be discussed with the FCA Executive.

The Board agreed the budgeted expenditure of £259.5m for consultation.

4 Decisions reserved to the Board

4.1 Rules & Guidance to be determined:

The Board noted that the AIFMD and UCITS instrument contained changes on which the FCA had not expressly consulted, but these were proposed to ensure the UK was compliant with EU legislation.

The Board noted the correspondence from the Association of Investment Companies regarding concern about the UCITS rules made in June regarding marketing restrictions for retail investors, and the subsequent administrative amendments.

The Board queried the reasons for the delay to the RDR (Platforms) instrument and asked for some further detail on the next steps.

Subject to receiving further information on the RDR (Platforms) Instrument, the Board agreed to make the 13 instruments and two pieces of guidance set out in Annex B.

(Post meeting note: further information on the RDR Platforms Instrument was circulated to the Board following the meeting).

4.2 Matters requiring a decision of the Board

The Board discussed and approved the following decisions:

- the appointments of Liz Barclay, Caroline Barr, and Doug Taylor as members of the Consumer Panel, with effect from 1 January 2014 for a period of three years; the Board discussed the representation of Small and Medium Enterprises as consumers on the Consumer Panel and suggested that this could be an area for future recruitment;
- the reappointments of Linda Main and Gavin Boyle as members of the Listing Authority Advisory Panel from 1 October 2013 for a period of three years, back-dated for continuity of term;
- the appointment of Peter Crook as a new member of the FCA Practitioner Panel, representing the consumer credit sector, with effect from 1 January 2014, for a period of three years;
- the terms of reference of the Independent Panels; and
- the appointment of Dr Robin Keyte as a member of the Smaller Business Practitioner Panel, with effect from 1 January 2014, for a period of three years.

5 For noting:

5.1 Minutes of ExCo meeting held on 11 September 2013

5.2 Forward agenda

The Board noted the papers.

6 Any other business

There was none.

The meeting closed at 5.00pm

Claire Strong

Deputy Company Secretary

Annex A: Attendees

Sean Martin	General Counsel
Claire Strong	Deputy Company Secretary
Emad Aladhal	Manager, CASS Policy & Strategy (for item 3.3)
James Anderson	INTACT Accountable Executive (for item 3.4)
Tony Boorman	Deputy Chief Ombudsman & Executive, Financial Ombudsman Service (for item 3.8)
Barbara Buettner	Manager, General Insurance (for item 3.6)
Julia Cavanagh	Director, Finance and Performance for Financial Ombudsman Service (for item 3.8)
Lawrence Churchill	Chairman, Financial Services Compensation Scheme (FSCS) (for item 3.8)
Alex Craker	Manager, Corporate Strategy (for item 3.2)
David Geale	Head of Department, Savings, Investments and Distribution (for item 3.6)
Cosmo Gibson	Manager, Redress (for item 3.8 and 3.10)
David Godfrey	Director, Finance & Operations (for item 3.2)
David Lawton	Director, Markets (for items 3.1, 3.3)
Gareth Lewis	Director, Information Systems (for item 3.4)
Mark Neale	Chief Executive, Financial Services Compensation Scheme (for item 3.8)
Caroline Rookes	Chief Executive, Money Advice Service (for item 3.9)
Mary Starks	Director, Competition (for item 3.7)
Gavin Stewart	Head of Department, Risk and Strategy (for item 3.5)
Richard Sutcliffe	Head of Department, Whole Conduct Policy & Client Assets (for item 3.3)
Julia Tennant	Manager, Strategic Risk Analysis (for item 3.5)
Chris Woolard	Director, Policy Risk & Research (for items 3.2, 3.5, 3.6, 3.7, 3.8, 3.9 and 3.10)

Relevant Technical Specialists and Associates also attended the meeting

ANNEX B: Resolution

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

Handbook Administration (No 32) Instrument 2013 [FCA 2013/73]

Capital Requirements Directive IV Instrument 2013 [FCA 2013/74]

Capital Requirements Directive IV (Governance and Remuneration) Instrument 2013 [FCA 2013/75]

Capital Requirements Directive IV (GENPRU and BIPRU Amendments) Instrument 2013 [FCA 2013/76]

Capital Requirements Directive IV (AIFMD and UCITS Consequential Amendments) Instrument 2013 [FCA 2013/77]

Capital Requirements Directive IV (Reporting) Instrument 2013 [FCA 2013/78]

Capital Requirements Directive IV (Consequential Amendments) Instrument 2013 [FCA 2013/79]

Conduct of Business Sourcebook (Key Features Illustrations for Personal Pensions) (Amendment No 2) Instrument 2013 [FCA 2013/80]

Retail Distribution Review (Platforms) (Amendment No 2) Instrument 2013 [FCA 2013/81]

Supervision Manual (Reporting and Audit Requirements) (Amendment) Instrument 2013 [FCA 2013/82]

Supervision Manual (Product Sales Data and Mortgage Lenders and Administrators Return) (Amendment) Instrument 2013 [FCA 2013/83]

Compensation Sourcebook (Investments by Large Unincorporated Associations and Certain Large Partnerships) Instrument 2013 [FCA 2013/84]

Listing Rules (Annual Financial Report) Instrument 2013 [FCA 2013/85]