

Minutes

Meeting:	FCA Board	
Date of Meeting:	24 July 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
	David Harker	Lesley Titcomb
	John Griffith-Jones (Chair)	Martin Wheatley
In attendance:	Set out in Annex 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.

The Chair welcomed Ms Bradley to the meeting as an observer.

1 Listing Authority Advisory Panel Annual Report

The Board noted that it had met James Palmer, Chair of the Listing Authority Advisory Panel (LAAP) the previous afternoon to discuss the LAAP Annual Report. During the discussion Mr Palmer had highlighted some of the areas on which LAAP had focused during the year. The Board noted the work undertaken by LAAP and the comments it had provided in relation to: the competitiveness of UK listed debt markets; the engagement with the Listing Rules review, in particular that LAAP supported the FCA having powers to sanction controlling shareholders; Enforcement policy and outcomes; the Kay review and market structure; and the Sponsor regime. The Chair noted the useful contribution LAAP provides to the FCA Board.

2 Minutes

2.1 Minutes of the FCA Board meeting

The minutes of the FCA Board meetings held on 25 and 26 June 2014 were approved subject to minor amendments suggested by Board members.

2.2 Draft minutes of the Risk Committee meeting held on 8 July 2014

The Board reviewed the draft minutes and received an oral update from Mr McAteer, noting in particular the following points:

- the meeting had a wide-ranging discussion about potential risks in wholesale firms and markets and the sources of intelligence in these areas; and
- the risks which might arise in relation to pensions reforms announced in the budget.

Draft minutes of the PSR Board meeting held on 16 July 2014

The Board noted the draft minutes and the oral update provided by Mr Griffith-Jones, who explained that a policy paper would be published later in the year with the two key areas of focus being access and governance. The PSR Board had also reviewed the target operating model of the PSR and estimated future costs.

2.3 Matters arising

The Board noted the progress in respect of the matters arising. Mr Wheatley reported on the progress of the consultation papers that would be published in conjunction with the PRA covering accountability and remuneration.

2.4 Monthly reports from the Independent Panels

The Board received the reports from the Consumer Panel, Practitioner Panel, Smaller Business Practitioner Panel and Markets Practitioner Panel and discussed a number of issues, noting in particular:

- the Practitioner Panel's comments with respect to the Markets in Financial Instruments Directive and concerns it had about the industry's ability to implement changes in time.
- the Practitioner Panel's comments in relation to the tone, themes and breadth of the work to assess progress with the Mortgage Market Review;
- the concerns of the SBPP in relation to the FCA Website and Handbook. The Board noted that there had been some changes during the transition to the FCA in April 2013 which may have unintentionally made it more difficult for smaller firms to find the information they wanted. Ms Titcomb undertook to discuss this with colleagues in the Communications Division;
- the Consumer Panel said that the HMT review of Enforcement fitted well with its penalties vs persuasion work and intended to submit a response to the review; and
- the Consumer Panel's concerns about potential consumer detriment from the increasing number of consumers switching from a conventional scheme to a SIPP, and the Board noted that Mr Adamson will liaise with the Panel to explain the FCA's role and how it was addressing issues in this area.

2.5 APM feedback

The Board noted that the Annual Public Meeting had been held the previous week and noted that some additional time should be given to questions in the following year.

2.6 Sector report: Wholesale Banking

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

- the way in which the FCA was approaching the regulation of wholesale banking and the progress that had been made so far in ensuring that Boards of wholesale firms considered conduct issues;
- the issues on which the FCA would be focusing in future and matters which might affect these, including how the culture in firms developed, their management of conflicts of interest, management of behaviour of staff in firms and the way performance was measured for calculating financial incentives; and
- future workstreams would include ensuring co-ordination with EU policy initiatives, the recruitment of specialists to assist with this aspect of regulation and working with the findings of the Fair and Effective Markets Review.

The Board requested that future updates provide an overview of the trends in the activities of wholesale banks.

2.7 Prudential supervision

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

- the approach used by the FCA to classify firms in order to allocate the specialist prudential resource to supervise them, noting that judgemental overrides were considered when classifying firms, particularly if they held niche positions;
- there was a significant difference in size between the firms prudentially regulated by the FCA and those regulated by the PRA. There were some similarities in the way the firms were financially assessed although the frequency of assessments were likely to be different; and
- the extent of public awareness of the FCA as a prudential regulator and whether this needed to be re-articulated.

The Board thanked the team for the explanation of the prudential supervisory strategy and noted the risk appetite inherent in the model.

2.8 Supervision One Year On

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

- the progress in moving from FSA to FCA supervision and the change in resource allocation, which focused more on thematic work and business model analysis;
- early intervention was one of the biggest changes of approach for the FCA;
- the changes that had been made to the target operating model due to the number of firms assessed to be in each category;
- Future demands such as consumer credit, the senior persons regime, wholesale supervision and CRDIV would increase pressure on delivery of the model; the senior management team in supervision were looking at prioritising work to improve the operation of the model, there were options for reviewing resourcing, risk appetite and intensity of the model which would be prepared for a discussion at the November meeting if required;
- the examples of how the Supervision Division had been addressing some of the issues, including working with HR to ensure there was appropriate senior management strength and depth in the Division and with the change community to review potential barriers to prioritisation and decision making;

- the Supervision Division made use of an internal risk committee to review any common underlying themes arising from thematic reviews; and
- the Supervision Division was building on processes to ensure there was a record of decision making.

2.9 Discussion on HMT Review of Enforcement

The Board received an update on the progress of the review.

The Board requested that Ms McDermott provide some further information on some of the cases which were not taken through the enforcement process in the next periodic review of Enforcement.

2.10 Relationship with the Practitioner Panel

The Board received the report and supported the findings of the review. It noted that the Practitioner Panel had seen the recommendations and these had been broadly well received.

Ms Raffe had agreed to discuss similar issues with the Chair of the Consumer Panel and would consider whether any of the recommendations were equally applicable to other panels.

3 Report from PRA

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

- the issues arising from the Financial Stability Report, in particular the evidence of return of search for yield and how any correction in the market might affect the banking system;
- the PRA was building relationships with the European Central Bank in relation to the Single Supervision Mechanism; and
- the stress tests for the next Financial Stability Report were being carried out alongside the EBA stress tests.

4 Specific items

4.1 Quarterly Performance Report

The Board received the quarterly performance report and noted and discussed the following points:

- Supervision: the additional information provided on progress on thematic projects and time spent by Supervision on different Pillar work;
- The whistleblowing team had been increased and the information gathered had become a good source of data on themes that were emerging and this would be useful in providing information to the Risk Committee;
- PRR: the Board noted the activity and priorities for the next quarter and the work of the Information Governance Board, overseeing the implementation of the FCA's data strategy;

Mr Bailey left the meeting at 2.30pm.

- Markets: the data on market resilience showed no priority one incidents in Q1. The Board noted that there were no clear trends in cyber-crime activity and a team at the FCA had close liaison with HM Treasury and the Bank of England to act on any issues that arose; and
- People: there were high levels of recruitment activity with actual hires being significantly more than planned. There was a high new starter ratio for several divisions, the largest being in Authorisations.

4.2 Retirement Guidance Guarantee

Mr Harker declared a potential conflict as the new Chair of TPAS. The Board noted this declared conflict and, after due consideration authorised it pursuant to Article 10.2, noting he should be allowed to take part in the discussion but would not be permitted to vote on any of the decisions that the Board was required to make.

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

- the Government response to its initial call for evidence and the FCA consultation had been published on 21 July;
- HM Treasury would set the annual levy, although the FCA would be expected to collect it; HM Treasury would also control the delivery of guidance, which would be carried out by MAS and TPAS initially with the FCA determining the appropriate standards;
- the potential risks that might arise from the changes and the difficulty of estimating the uptake of the guidance and designing a model that would be able to flex appropriately;
- the Board discussed the extent to which the guidance would be able to be personalised and how the organisations providing guidance would be able to pass consumers to other forms of advice, or financial providers; and
- the results of the consultation would be discussed at the Board later in the year in order to set the standards and the legislation which would give the FCA the power to make the standards was expected to be passed in April 2015.

4.3 Marketing restrictions for non-mainstream investments, including contingent convertible securities (CoCos)

The Board received the paper and noted and discussed the following key points:

- the risks posed by Contingent Convertibles (CoCos) and Core Capital Deferred Shares (CCDS) if distributed inappropriately to retail consumers, the assessment of which had led to the proposed introduction of a temporary product intervention rule restricting the promotion of marketing for CoCos;
- prior to recommending the temporary product intervention the FCA had relied on close supervisory interventions to ensure CoCos had not been inappropriately marketed, but that this approach was not sustainable due to the increasing issues of these securities;
- the intervention would give the FCA the time to consult on a permanent solution for the treatment of CoCos and CCDS, as well as other complex higher-risk investments; and

- the temporary product intervention rule proposed for CoCos would only apply to marketing to retail investors. There would be no restriction on asset managers using the instruments in funds.

The Board agreed the introduction of a temporary product intervention rule restricting the promotion of marketing restrictions for CoCos.

5 Report from the Chief Executive

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

- the developments in a number of enforcement cases;
- the progress in relation to benchmarks which included questions raised about the perimeter of guidance in this area;
- the Chair and CEO would appear before the TSC in September;
- an update on IRHP, including that over £1.2bn had been paid back to SME firms. The FCA was reviewing each case where firms had raised issues;
- the practices in the consumer credit market that the FCA was reviewing and how the market was reacting to regulation; and
- there might be some overlap between the FCA's thematic work on the mobile banking and payments market and the work of the PSR; this would be kept under review.

6 Decisions reserved to the Board

6.1 Rules & Guidance to be determined:

The Board noted the responses to the consultation in respect of the prudential framework for SIPP operators and the view of the Executive in relation to why the rules were proposed as they were. The Board noted that it was important to ensure that the initial benefits of the capital requirements were in proportion to the costs to ensure it did not impede competition and affect consumers. The Board agreed to make this instrument following final sign off by the General Counsel. (This was received shortly after the meeting).

The Board made the three instruments set out in Annex B.

6.2 Matters requiring a decision of the Board

The Board considered the paper and approved:

- the appointment of Ashley Rogoff to the FCA Smaller Business Practitioner Panel for a term of three years, from 1 August 2014;
- the re-appointment of Paul Geddes to the FCA Practitioner Panel for a term of one year from 1 August 2014;
- the appointment of Peter Hinchliffe as Acting Chair of the RDC with effect from 1 October 2014 until 31 March 2015; and
- the appointment of Andrew Long as a Deputy Chair from 1 October 2014 until 31 December 2015.

7 Papers for noting:

- 7.1 Mortgage Credit Directive and Second Charge Lending
- 7.2 The Board noted the high level approach to the implementation of the MCD and the second charge regime, the legal risks and the proposed mitigations. One of the risks had emerged since the initial discussion at the Board in March and arose from the way in which early repayment charges were calculated. The Executive had considered the position and assessed the cost to firms and believed the proposal to implement the Directive using the existing Mortgage Conduct of Business Handbook would be the most pragmatic approach.
- 7.3 Minutes of ExCo meetings held on 27 May, 10 and 25 June 2014
- 7.4 Forward Agenda.

The Board noted the minutes of the Executive Committee meetings and the forward agenda.

8 Any other business

- 8.1 Actions from effectiveness review

The Board received the report and noted that there would be time for further discussion at the Board meeting in September. In the meantime the Chair asked Board members to provide comments before the end of August.

- 8.2 HBOS Review update

Mr Griffith-Jones, Ms Titcomb, Ms McDermott and Mr Adamson left the meeting having previously declared potential conflicts in this matter.

The Board received an oral update from Sir Brian Pomeroy on the progress of the review.

The Board noted the following points:

- the terms of reference had now been published;
- Maxwellisation had started; and
- it was expected that the report would be published by the end of the year.

The meeting closed at 5.25pm.

Claire Strong
Deputy Company Secretary

Annex A: Attendees

Catherine Bradley	Observer
Sean Martin	General Counsel
Claire Strong	Deputy Company Secretary
Simon Pearce	Company Secretary
Will Amos	Director, Wholesale Banking & Investment Management (for item 2.6)
Margaret Craig	Manager, Life, Pensions and Other Products (for item 4.2)
Nausicaa Delfas	Head of Department, Specialist Supervision (for item 2.7)
Bob Ferguson	Head of Department, Policy Risk & Research (for item 4.3 and 6.1)
David Godfrey	Director, Finance & Operations (for item 4.1)
Anthony Hanlon	Manager, Wholesale Banking & Investment Management (for item 2.6)
Andrew Long	Chair, Regulatory Decisions Committee (for item 2.9)
Victoria Raffé	Director, Authorisations (for item 2.10)
Paul Rich	Manager, Prudential (for item 6.1)
Gerald Sampson	Manager, Prudential Specialists (for item 2.7)
Chris Woolard	Director, Policy Risk & Research (for items 4.1 to 4.3)

Relevant associates and technical specialists also attended the meeting.

ANNEX B: Resolution

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

Crowdfunding (Amendment) Instrument 2014 [FCA 2014/45]

Personal Pension Scheme Operators (Capital Requirements) Instrument 2014 [FCA 2014/46]

Temporary Marketing Restriction (Contingent Convertible Securities) Instrument 2014 [FCA 2014/47]