

Meeting: FCA Board
Date of Meeting: 30 September 2021
Start time: 10:15
Venue: Meeting held via Microsoft Teams, Boardroom 2.38

Members Present: Charles Randell (Chair) Alice Maynard
Liam Coleman Nikhil Rathi
Bernadette Conroy Tommaso Valletti
Jeannette Lichner Sam Woods
Richard Lloyd

In attendance: Set out in Annex A

Apologies: None

1 Declarations of interest

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 An interest was declared in relation to Item 5 on the agenda which has been classified as inside information and recorded separately. Bernadette Conroy declared an interest in item 10.8. No other interests were declared in the items to be discussed.

2 Report from the Chief Executive

- 2.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. resourcing risks across the organisation and the potential impact on business delivery
 - ii. the Government's consultation on the Future Regulatory Framework and its potential impact on the FCA
- 2.2 The Board considered the impact that recent changes in government policy, such as the ending of the furlough scheme and the ending of the uplift in Universal Credit, may have on the consumer credit priority. The Board requested an update from the Executive Director of Consumer and Competition on the organisation's preparedness for these changes, noting that it was not the role of the FCA to facilitate credit that would be unaffordable.
- 2.3 The Board discussed with the Executive Directors the key risks they are currently facing in their respective divisions.
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3 Monthly Reports from the Independent Panels

- 3.1 The Board reviewed the reports from the Chairs of the Consumer Panel, the Practitioner Panel, the Markets Practitioner Panel and the Smaller Business Practitioner Panel and discussed some of the issues raised in the reports including:
- i. the implementation of the General Insurance pricing remedies
 - ii. the professional indemnity insurance market
 - iii. the role and responsibilities of appointed representatives

4 Report from the PRA

- 4.1 Mr Woods briefed the Board on the business of the PRA that was of relevance to the FCA.

5 Interest Rate Hedging Products Review

- 5.1 The Board was reminded of the former role held by Mr Coleman at a firm impacted by the independent review on the supervisory intervention on interest rate hedging products. Mr Coleman agreed to recuse himself for this item. Mr Randell and Ms Lichner confirmed that client work they had undertaken in former roles for impacted firms had not been related to interest rate hedging products. On this basis, the Board did not consider that this constituted a conflict of interests in relation to this agenda item.
- 5.2 The Board was briefed on the progress of the review. It was informed that the review was substantially complete and the final report by the Independent Reviewer was likely to be published in November.
- 5.3 The Board noted that the draft report finds that the FSA was 'wrong' and made a 'serious regulatory error' in agreeing to exclude from the redress scheme clients who were deemed to be sophisticated under the terms of the scheme. Whilst the view of the FCA continued to be that the original scheme was reasonable in its scope and eligibility, the Board was asked to consider how the FCA should respond to those who, following publication of the report, may claim that they were inappropriately excluded from the scheme.
- 5.4 The paper presented to the Board set out all the material considerations to be taken into account when assessing whether to use statutory powers to compel the redress of sophisticated customers who were mis-sold IRHP but excluded from the scheme.
- 5.5 The Board considered carefully all the issues addressed in the paper. Having done so, the Board concluded that the reasons not to seek to compel redress from the banks for sophisticated customers outweighed the reasons in favour.
- 5.6 Having reached that conclusion, the Board concluded that the FCA should not seek to use its s55L or s384 powers to compel any of the banks to provide redress to sophisticated customers who had been mis-sold products but excluded from the original scheme.
- 5.7 The Board agreed that its decisions in this regard should be made clear at the time the FCA issued its public response to the Independent reviewer's report.

6 Annual Perimeter Report 2020/21

- 6.1 The Board discussed the proposed approach to the FCA's 2020/21 Regulatory Perimeter report. The Board noted that the aim of the report was to provide clarity on the FCA's approach to issues linked to or outside the perimeter, manage expectations on the limits of the FCA's ability to act and contribute to the debate around perimeter issues.
- 6.2 The Board agreed that the report should be framed in the context of the external environment and the FCA's business plan. It should articulate changes that the FCA believe should take place to its perimeter. The Board also saw the need to be clear about the limits on the powers that are available to the FCA and the need to prioritise across the range of duties ascribed to it by Parliament.
- 6.3 The Board agreed to provide drafting points outside the meeting and delegated to the Chief Executive the task of approving the final report for publication.

7 Transformation

- 7.1 The Board was briefed on the progress of the Transformation programme.
- 7.2 The Board was informed that the level of organisational change was such that there was still a need for a central Transformation function; whilst divisional leadership would increasingly take responsibility for aspects of change, coordinated by the programme. The Board recognised that it was a complex programme that would take time to define fully and integrate with other activities. It recommended using pilot projects as a means of proving and communicating the success of the programme.
- 7.3 It noted that two current areas of focus were (i) the need to ensure that colleagues understood how the Career and Grading consultation would support the necessary Transformation of the FCA to become a more agile, assertive and high performing organisation with enhanced opportunities for colleagues to build capabilities and progress and (ii) recognition of the scale and significance of the changes being asked of the organisation in the coming months and years.
- 7.4 The Board then discussed the Consumer and Markets strategies. It was noted that these would be a catalyst for a truly cross-divisional approach, incorporating all enforcement work and being an effective data-led regulator. The Board commented on aspects of the proposed strategy, emphasising the need to draw out the impact on consumers, especially those more vulnerable consumers. The Board saw this as a key strategic initiative.
- 7.5 The Board was also briefed on the progress of work on the Target Operating Model. The Board discussed how assurance of the overall end-to-end regulatory process would be achieved and how the necessary professional expertise on process design and continuous improvement would be sourced.

8 Environmental, Social and Governance work programme

- 8.1 The Board was briefed on the work of the FCA's Sustainable Finance Hub, which leads key aspects of the FCA's work relating to ESG matters, including the proposal to publish a refreshed ESG Strategy and the FCA's participation at the COP26 climate change conference. The Board discussed the FCA's role in this area and the need to ensure ESG was fully embedded into the work of the FCA. The Board recognised that there were limitations on what it could achieve and these would need to be clearly articulated. The Board also

recognised the need to prioritise and asked the team to prepare a suitable prioritisation plan. The Board also emphasised the need to ensure that the focus was not entirely on environmental, as distinct from social and governance, issues and that within the FCA, there was proper ownership of activity by first-line divisions alongside the ESG department.

- 8.2 The Board discussed the benefit of having a designated non-executive director to champion ESG matters at the Board and the Chair agreed to give thought to who may be best placed to take on this role and any consequent changes required to the membership of Board committees. It was also agreed that the terms of reference of Board committees should be reviewed in an ESG context.

9 Rules and Guidance and Technical Standards

- 9.1 The Board resolved to make the following instruments:
- i. Conduct of Business Sourcebook (Assessing Value for Money in Workplace Pension Schemes and Investment Pathways: Requirements for IGCS and GAAS) Instrument 2021 (FCA 2021/34)
 - ii. Consumer Credit (Fixed Instalment Plan Repayment Allocation) (Amendment) Instrument 2021 (FCA 2021/35)
 - iii. Technical Standards (Markets in Financial Instruments Regulation) (Derivatives Trading Obligation) Instrument 2021 (FCA 2021/36)
 - iv. Handbook Administration (No 57) Instrument 2021 (FCA 2021/37)
- 9.2 The Board noted that it would be requested to make the near-final rules relating to the implementation of the Investment Firms Prudential Regime final through a written procedure between 5 and 15 October 2021.

10 Decisions of the Board

- 10.1 The Board agreed to approve the minutes of the meeting of the Board that took place on 3 September 2021 by written procedure.
- 10.2 The Board noted the following decisions taken by written procedure since the last meeting:
- i. on 4 August 2021, the Board resolved to make the make the following instruments:
 - a) Non-investment insurance: General Insurance Auto-renewal and Home and Motor Insurance Pricing (Amendments) Instrument 2021
 - b) Handbook Administration (Home and Motor Insurance Pricing) Instrument 2021
 - ii. on 23 September 2021, the Board approved the minutes of the FCA Board meeting held on 19 August 2021
- 10.3 The Board reviewed the Action Log.
- 10.4 The Board approved an increase to the spend ceiling for the EDT International LLC contract, and noted:

- i. an associated increased Enforcement & Market Oversight division budget forecast to manage the requirement for increased EDT demand
 - ii. the inclusion of an EDT archive service to manage inactive cases which will require a contract change with additional fixed costs.
- 10.5 The Board approved the Policy to improve diversity on the independent panels by adopting the same comply or explain approach to diversity on which the FCA is currently consulting for listed company boards. The Board granted its approval pending the outcome of the consultation.
- 10.6 The Board agreed to re-appoint Jennifer Genevieve as a member of the Consumer Panel for a period of three months from 1 October 2021 to 31 December 2021.
- 10.7 The Board agreed to re-appoint Sharon Collard as a member of the Consumer Panel for a period of three months from 1 November 2021 to 31 January 2022.
- 10.8 The Board appointed Bernadette Conroy as a member of the Risk Committee with effect from 1 October 2021 and agreed that Ms Conroy should take over as Chair of the Risk Committee at the end of its meeting on 1 December 2021. Ms Conroy recused herself from this decision.
- 10.9 The Board accepted the recommendation of the Oversight Committee and approved the appointment of Shrinivas Honop and Nigel Fretwell as non-executive directors of the Financial Ombudsman Service for a period of three years from 30 September 2021 to 29 September 2024.

11 Reports from the Chairs of Board Committees

- 11.1 The Board received written reports from:
 - i. the Chairs of the Audit Committee and the Risk Committee of the joint Audit and Risk Committee meeting that took place on 29 July 2021
 - ii. the Chair of the Audit Committee on the meeting of the Committee on 7 September 2021
 - iii. the Chair of the Oversight Committee on the meeting of the Committee on 14 September 2021
- 11.2 The Board also received oral reports from the Chair of the Risk Committee on the meeting of the Committee on 16 September 2021 and from the Chair of the Remuneration Committee on the meeting of the Committee on 29 September 2021.

12 Papers for noting

- 12.1 The Board noted the paper outlining a change in approach for the Application Development and Maintenance project. The Board requested further details of how the change in approach would mitigate the risks associated with it.

There being no further business the meeting closed.

Charles Randell
Chair

Annex A: Attendees, presenters and observers

In attendance:

Megan Butler – Executive Director, Transformation
Sheree Howard – Executive Director, Risk and Compliance Oversight
Sarah Pritchard – Executive Director, Markets (from item 6)
Jessica Rusu – Executive Director, Chief Data, Information and Intelligence Officer
Emily Shepperd – Executive Director, Authorisations
Mark Steward – Executive Director, Enforcement and Market Oversight
Andrea Bowe – Director, Chief of Staff
Simon Pearce – Director, Company Secretary
David Scott – Interim Executive Director, General Counsel
Ian Runacres – Manager, Chairman’s Office
Gaynor Keen – Professional Business Support, Central Secretariat

Presenters and observers present for the following items:

5	Interest Rate Hedging Products Review	David Geale - Director Robin Jones - Director Pritheeva Rasaratnam - Head of Department Julian Watts - Technical Specialist Karen Levinge - Head of Department
6	Annual Perimeter Report 2020/21	David Raw – Director Alexander Smith – Head of Department Caroline Halstead-Smith – Manager
7	Transformation	Richard Monks – Director Deb Jones - Director Ed Smith – Head of Department Graeme Reynolds – Head of Department Graeme McLean – Head of Department
8	Environmental, Social and Governance work programme	Sacha Sadan – Director Tim Rowe – Manager Mark Manning - Manager