

## Minutes

Meeting:	FCA Board	
Date of Meeting:	7 and 8 December 2016	
Venue:	25 The North Colonnade, Canary Wharf, London E14 5HS	
Present:	Andrew Bailey	Sarah Hogg
	Catherine Bradley	Ruth Kelly
	Amelia Fletcher	Sam Woods
	Bradley Fried	Christopher Woolard
	John Griffith-Jones (Chair)	
In attendance:	Set out in Annex A	
Apologies:	Jane Platt	

### Quorum and Conflicts

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

## 1 Specific items of business

### 1.1 (a) HMT Review and partly-contested cases Policy Statement

The Board was presented with the three areas of policy for further consideration following consultation on the proposals aimed at strengthening the transparency and effectiveness of the FCA's enforcement decision-making processes (partly contested cases, abolition of Stage 2 and 3 settlement penalty discounts and composition of the Regulatory Decisions Committee). The Board was also presented with the FCA's proposal to implement the recommendations from the Enforcement Review and the Green Report.

The Board considered

- the proposal to implement the three options for partly contested cases outlined in the paper and noted that the proposed process would allow a greater degree of scrutiny and that final decisions were likely to be more credible and carry more weight.
- The proposal to abolish the Stage 2 and 3 penalty discounts in light of the additional transparency measures such as the FCA setting out its case more fully in advance of Stage 1, the introduction of the partly contested cases process, and the ability to extend the Stage 1 period in appropriate cases.

Following consideration, the Board agreed to:

- allow for cases to be partly contested before the RDC
- abolish the discounts currently given at Stages 2 and 3 of the settlement process
- amend the Decision Procedure and Penalties Manual (DEPP) so that the RDC panel considering representations and deciding whether to give a decision notice would usually be the same members of the RDC who previously considered the matter, rather than increasing the size of the panel
- the FCA's proposed implementation of the recommendations in the Enforcement Review and the Green Report
- commit in the Policy Statement to undertake a full review of the Enforcement Guide.

(b) Review of our penalty policy

The Board received an update on the review of the FCA's penalty policy, notably the purpose, scope and operation of the current version of the policy, the original reason for the review, the process and timing of the review and the key substantive issues being considered in the review.

1.2 Mission Follow-up

The Board was updated on key activities in relation to the launch of the Mission and next steps. The Board noted the feedback to date and that initial responses had been positive.

The Board also noted that work was being done to develop a number of areas alongside the Mission document, including Enforcement Market Oversight review, the FCA's supervision process, House Views and the FCA's Value for Money work.

1.3 FOS Budget and Plan for consultation

The Board noted the draft FOS budget and plan for 2017/18. It noted that the key issues regarding the Budget related to challenges in forecasting Payment Protection Insurance (PPI) case volumes following the FCA's PPI consultation and the Claims Management Regulator's fee cap consultation as well as the implications these may have on resourcing and operational efficiency.

Following consideration, the Board was content that FOS should proceed to consult on the basis it had set out. The final FOS budget would be put to the Board for approval in March.

## **2 Minutes and meetings**

2.1 Minutes of the FCA Board meeting held on 2/3 November 2016

The Board approved the minutes of the FCA Board meetings held on 2 & 3 November 2016.

2.2 Draft minutes of the Nomination Committee meeting held on 2 November 2016

The Board noted the minutes of the Nomination Committee meeting held on 2 November 2016.

2.3 Draft minutes of the PSR Board meeting held on 9 November 2016 and oral update from the meeting held on 8 December 201

The Board noted the minutes of the PSR Board meeting held on 9 November 2016 and received an oral update on the meeting held on 8 December 2016 to discuss the Which Super-complaint.

2.4 Draft minutes of the FOS Oversight meeting held on 10 November 2016

The Board noted the minutes of the FOS Oversight meeting held on 10 November 2016.

2.5 Oral update of the MAS Oversight Committee meeting held on 22 November

Baroness Hogg provided an oral update on the matters discussed at the meeting on 22 November 2016.

2.6 Oral update of the Remuneration Committee held on 7 December 2016

Baroness Hogg provided an oral update on the matters discussed at the meeting on 2 November and 7 December 2016. The Board approved the pay and bonus proposals recommended by the Remuneration Committee.

2.7 Oral update of the Audit Committee meeting held on 1 December 2016

Ms Kelly provided an oral update on the matters discussed at the meeting on 1 December 2016.

2.8 Oral update of the External Risk and Strategy Committee meeting held on 7 December 2016

Mr Griffith Jones provided an oral update on the matters discussed at the meeting on 7 December 2016.

2.9 Matters arising

The Board noted the progress with the matters arising at previous meetings.

2.10 Monthly reports from the Independent Panels

The Board noted and discussed the following points:

- The Practitioner Panel's comments in relation to the scope and timing of the Financial Advice Working Group
- The Smaller Business Practitioner Panel's concerns that the Senior Managers Regime was being extended relatively soon after the first phase of implementation and before there had been an opportunity to learn the lessons from the first phase.
- The Financial Services Consumer Panel remained concerned about the lack of information on the FCA Register about passported firms which could potentially mislead consumers and risk significant detriment.

### **3 Report from the Chief Executive**

The Board received an update from the Chief Executive, including an update on a recent online fraud event affecting a regulated firm.

The Board discussed matters relating to senior appointments which are covered by the Senior Managers Regime.

The Board highlighted the usefulness of the forthcoming publications list in the Chief Executive report and asked that it was reinstated.

#### **4 Report from the PRA**

Mr Woods updated the Board on various matters including capital requirements and stress testing of banks.

#### **5 Specific items of business**

##### **5.1 PPI – Further consultation feedback and responses**

The Board was presented with feedback received from the consultation in relation to the proposed PPI complaints deadline, consumer communications campaign, rules and guidance on handling PPI complaints in light of *Plevin* and fee rule. The Board was also presented with a number of issues and proposed next steps in relation to the proposed rules and guidance in relation to the handling of PPI complaints.

##### **5.2 Business Plan 2017/18**

The Board received the paper and noted the proposal for the structure, timing and governance for the external Business Plan for 2017/18.

The Board approved the proposed structure of the Business Plan, the timings and process for agreeing the plan for publication by the Executive and the Board and the treatment of the Risk Outlook.

##### **5.3 FSCS Budget and Plan for consultation**

The Board noted the draft plan and budget for 2017/18.

The Board approved the Plan and Budget for consultation.

##### **5.4 MAS Budget and Plan for consultation**

The Board noted the draft Budget and Plan for the Money Advice Service (MAS) for 2017/18. The Board acknowledged the challenges faced by the organisation in the past year and noted that the timetable for the new body had shifted.

The Board approved the Plan and Budget for consultation.

##### **5.5 PSR Budget and Plan**

The Board received an update on the approach to the PSR's Annual Plan for 2017/18.

The Board noted the approach to the PSR's Annual Plan 2017/18.

##### **5.6 MiFID II & MAR Programme – external spend**

The Board noted the revision to the Outline Business Case and that the Audit Committee had attended pre-briefing meetings on the programme and had considered the revised programme at its most recent meeting.

The Board noted the updated business case and approved the measures suggested.

##### **5.7 FSCS funding review Consultation Paper**

The Board noted that following consideration of the funding review consultation paper in November 2016, further thought had been given to the interaction between PII, FSCS cover and other aspects of the market. The Board considered the proposals for consulting only on relatively minor amendments needed now and to pause on any further changes while broader discussions were had about FSCS funding through the consultation paper (CP). The Board noted the proposal to discuss the nature and extent of different forms of

consumer protection that could or should exist for when firms fail and leave liabilities to consumers. In relation to the specific funding arrangements for the FSCS – and the limits on cover that it provided – a range of different options would be outlined for discussion.

The Board approved the proposals, in addition to the specific aspects of the CP set out in the paper.

#### 5.8 Board Evaluation Follow up

The Board received an update on the progress against actions from the board evaluation follow up which took place in the summer 2016.

### **6 Decisions reserved to the Board**

#### 6.1 Rules & Guidance to be determined

The Board passed the resolutions set out in Annex B.

#### 6.2 Decisions of the Board

The Board agreed:

- the re-appointment of Elizabeth Neville, Pauline Wallace and Peter Craddock for a further three-year term as members of the Regulatory Decision Committee.
- the reappointment of Peter Crook as a member of the FCA Practitioner Panel for 3 years from 1 January 2017 to 31 December 2019.
- the re-appointment of Consumer Panel members Caroline Barr, Doug Taylor and Liz Barclay for a second three year term and Faith Reynolds for a third three year term.
- the changes to the Remuneration and Nominations Committees' terms of reference
- to abolish the Guidance Committee and delegate authority to the Executive Committee to issue general guidance (as defined in section 139B(5) and 333P(9) of the Financial Services and Markets Act 2000 (FSMA) with effect from 1 January 2017.
- the role specifications of the Chair and SID and agreed for the FCA's Corporate Governance and Senior Managers Regime documents to be updated and published on the FCA website

The Board noted the decision taken outside of the meeting to approve the Pension Schemes (Restrictions on Early Exit Charges) Instrument 2016

### **7 Papers for noting:**

#### 7.1 Minutes of ExCo meetings

The Board noted the minutes of the Executive Committee meetings held on 21 & 26 September, 11, 14, 18, 25 & 27 October, 1, 7 & 15 November

#### 7.2 Forward agenda

The Board noted the forward agenda.

### **8 Any other business**

There was none.

Alana Christopher  
Deputy Company Secretary

## **ANNEX A: Attendees**

Jimmy Barber	Chief Operation Officer, FSCS (for item 5.3)
Alison Barker	HoD, Supervision, Infrastructure & Trading Firms (item 5.1)
Andy Briscoe	Chairman of Money Advice Service (item 5.4)
Megan Butler	Director, Supervision, Investment, Wholesale & Specialists
Julia Cavanagh	Finance Director for the Financial Ombudsmen service (item 1.3)
Alana Christopher	Acting Deputy Company Secretary
Andrew Cotterell	Manager, EMO, S&D - Law, Policy & Internat'l - Policy (item 1.1)
Jennifer Dalby	Manager, Business Planning & Prioritisation (for item 5.2)
Nausicaa Delfas	Director, Chief Operating Officer (item 5.1)
Trevor Ellis	Head of Corporate Services at Money Advice Service (for item 5.4)
Simone Ferreira	HoD, Event Supervision (item 5.1)
David Geale	Director, Policy (item 5.7)
Cosmo Gibson	Manager, Strategy & Competition, Redress (item 5.7)
Jed Hodgson	Manager, Strategy & Competition, Consumer Partnerships (for item 5.4)
Nick Holloway	Manager, GCD Investment, Insurance and Redress (for item 5.1)
Jennifer Long	HoD, EMO, MO - Directors Office (for item 5.6)
Sean Martin	General Counsel
Graeme McLean	HoD, Strategy & Competition, Banking Lending & Distribution (item 5.7)
Sir Nick Montagu	Chairman, Financial Ombudsmen service (item 1.3)
Mark Neale	CEO, FSCS (for item 5.3)
Hannah Nixon	Managing Director, PSR (for item 5.5)
Tim Parkes	Decision Making Committee Member (for item 1.1)
Simon Pearce	Company Secretary
Chris Preston	Manager, Event Supervision - Complex Events 2 (for item 5.1)
Caroline Rookes	CEO, Money Advice Service (item 5.4)
Alex Roy	Manager, Strategy & Competition, Strategy Development (item 1.2)
Mark Steward	Director, EMO (for item 1.1 & 5.6)
Emma Stranack	HoD, Business & Consumer Communications (for item 5.1)
Marc Teasdale	Director, EMO-MO (for item 5.6)
Grahame Tinsley	Manager, PSR Operations (for item 5.5)

Beverley Walker                      Manager, DMC Secretariat (for item 1.1)

Caroline Wayman                      CEO, Financial Ombudsmen service (item 1.3)

Relevant associates and technical specialists also attended the meeting



## **ANNEX B: Resolution**

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

Fees (Tariff Data for Insurers in 2017/2018) Instrument 2016 (FCA 2016/73)

Recovery and Resolution Directive (Amendment) Instrument 2016 (FCA 2016/74)

Mortgage and Home Purchase Plan Payment Shortfalls (Conduct of Business) Instrument 2016 (FCA 2016/75)

Credit Unions Sourcebook (Amendment No 9) Instrument 2016 (FCA 2016/77)

Consumer Credit (Total Charge for Credit) Instrument 2016 (FCA 2016/78)

Wind-down Planning Guide Instrument 2016 (FCA 2016/79)

Standards for Designated Guidance Providers (Amendment) Instrument 2016 (FCA 2016/80)

***The Board hereby approves the making by the Board of the Financial Ombudsman Service Ltd of that part of the following instrument which falls within the responsibility of that organisation:***

Fees (Tariff Data for Insurers in 2017/2018) Instrument 2016 (FOS 2016/10)