

Minutes

Meeting: FCA Board

Date of Meeting: 26 and 27 September 2018

Venue: 12 Endeavour Square, London, E20 1JN

Present:

Charles Randell (Chair)	
Andrew Bailey	Ruth Kelly
Catherine Bradley	Christopher Woolard
Amelia Fletcher	Jane Platt
Sam Woods	Nick Stace
Sarah Hogg	Megan Butler

In attendance: Set out in Annex A

Apologies:

Sam Woods (26 September)

Andrew Bailey (26 September)

Nick Stace (27 September)

Quorum and Conflicts

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 In respect of item 16 on the Joint Pension Regulatory Strategy, Jane Platt declared that she is Chair of the Board of Trustees of Lifesight, a defined contribution Master Trust. The Board agreed that this would not preclude Ms Platt for taking part in the discussion.

2 Minutes of the FCA Board meeting

- 2.1 The Board approved the minutes of the FCA Board meeting held on the 25 and 26 July 2018.

3 Matters arising

- 3.1 The Board **noted** the progress with the matters arising from the previous meetings.

4 Draft Minutes

4.1 The Board **noted** the draft minutes of the following meetings:

- Oversight Committee Meeting attended by representatives of the Financial Ombudsman Service held on the 29 June 2018.
- Oversight Committee Meeting attended by representatives of the Financial Services Compensation Scheme held on the 29 June 2018.
- Oversight Committee Meeting attended by representatives of the Money Advice Service held on the 25 July 2018.
- Payment Systems Regulator Board meeting held on the 27 June 2018.
- Payment Systems Regulator Board meeting held on the 12 July 2018.

5 Updates

5.1 The respective Chairs **updated** the Board on matters considered at the:

- Payment Systems Regulator Board meeting held on the 17 September 2018
- Audit Committee Meeting held on 21 September 2018
- External Risk and Strategy Committee Meeting held on the 5 September 2018
- Oversight Committee Meeting attended by representatives of the Financial Ombudsman Service held on 10th September 2018

6 FCA's Interim Report on Payment Protection Insurance (PPI).

6.1 It was noted that the FCA had made a public commitment to publish two evaluation reports on the PPI campaign, an interim report after one year and a final report after the deadline. These reports would assess achievement against success measures and provide an update on supervisory activity.

6.2 The Board **noted** the following:

- in the first year since setting a deadline for PPI complaints, good progress had been made with the campaign and active supervisory approach. There had been a 63.1% increase in PPI complaints and more people had complained directly to their provider, rather than using Claims Management Companies (CMCs). The campaign had increased awareness of the deadline, understanding of PPI and how to check.
- The supervisory approach had ensured that firms had improved the accessibility and ease of their PPI checking and complaints processes. Firms' handling of checks and complaints remained timely, despite the increased volumes, and was generally giving fair and consistent outcomes, with over 80% of complaints now being upheld.
- Although the results had been positive in many areas, there was more to be done, particularly with the black and minority ethnic groups and those for whom English was not their first language.

- 6.3 The Board noted that the reporting team remained confident that the package of measures was on track to bring the PPI issue to an orderly conclusion. The team was continuing to refine the campaign based on insights and analytics from the evaluation. It would continue to raise awareness of the deadline and help people understand how to make a PPI complaint.
- 6.4 The Board **commented** on the content and tone of the interim report, the assessment of risks and the proposed early handling plans for its publication.

7 The FCA's Financial Penalty Policy

- 7.1 The Board was **briefed** on the FCA's Financial Penalty Policy including issues relating to achieving deterrence and the policy's application. The Board discussed penalties on firms and alternative metrics for assessing the harm caused by misconduct, penalties on individuals and proportionality. The Board **noted** the update and was satisfied with the application of the Policy and the flexibility it allows for judgement.

8 Monthly reports from the Independent Panels.

- 8.1 The Board reviewed and discussed the reports from the Financial Services Consumer Panel (FSCP), the FCA Practitioner Panel (PP) and the FCA Smaller Businesses Practitioner Panel (SBPP).
- 8.2 The Board **discussed** the following points raised in the reports:
- the FSCP's view that legal risk, in the risk tolerance framework, should be set in the context of the costs and benefits of the FCA using its powers.
 - the volume of consultations, discussion papers and calls for input over the summer, and the timescales for response.
 - the reflections of the PP and SBPP on the investment platforms market study.

9 The Big Upgrade Programme – Finances

- 9.1 The Board received an update on the funding position of the Big Upgrade (TBU) Programme.
- 9.2 Since April, the Programme had completed most of its deliverables, keeping to the revised timeline, with the main focus being on migrating all users to the new technology in time for the move to 12 Endeavour Square. In parallel with this, there had been a full review of all remaining scope items and any close-out activities that needed to happen for the Programme to close properly, as well as current risks, opportunities and suggested contingency.

10 Report from the Chief Executive

- 10.1 The Board discussed Mr Bailey's report on developments since the last meeting. The Board was **updated** on the following:
- High-Cost Short-Term Credit Sector - A Dear CEO letter will be issued to clarify the standards the FCA expects of firms in respect of affordable lending, set out expectations that firms should update their complaints handling and lending practices where FOS has upheld complaints and outline when firms should notify the FCA on issues relating to financial viability.
 - In the context of firms' EU withdrawal planning, a Dear CEO letter was issued in August. This letter set out the FCA's continuing intention not to restrict UK market access and the FCA's readiness to accept a broad range of booking structures, provided that they allow for appropriate governance and risk management, enable

effective supervision of UK activities and reflect appropriate assessment of what is in clients' best interests.

- Citizen's Advice had indicated that it would lodge a super-complaint with the Competition and Markets Authority (CMA) regarding longstanding customers being charged more than new customers. The complaint was broad, covering cash savings, mortgage pricing and the forthcoming work on insurance pricing. The Board noted that the FCA was working closely with the CMA and was in a good position to inform the response given the work done on cash savings and the forthcoming work on insurance pricing.

11 Quarterly Performance Report Q1 2018/2019

11.1 The Board **discussed** the progress against the Business Plan commitments and issues on quarterly performance.

11.2 Specifically, the Board focused on:

- The change portfolio in terms of delivery and budgetary issues. The Board was informed that a top-down thematic approach was being implemented to look at dependencies, challenges and benefits, that sponsors and accountable executives were being upskilled, and moving to a three year budgeting cycle. The Board requested that metrics were developed to monitor the performance of the change portfolio for the new QPR.
- Enforcement cases and timescales for completing investigations, noting that the division was working towards clearing all legacy cases by Q1 of 2019. The Board was keen to ascertain the long-term sustainability of the enforcement strategy, within the current resources, to ensure cases were moving through the system. The current metrics were considered too static and the Board asked for metrics to show case movements over time, and Enforcement outputs and outcomes, to be developed. The Audit Committee was asked to monitor this.
- Progress made with the risk tolerance framework and implementation across the organisation.
- The impact of increased workload due to Brexit on staff wellbeing. The Board noted that data showed that this was not an issue but would continue to be monitored.
- How Part 7 transfers were being tracked across the organisation and collectively coordinated.

11.3 The Board **noted** the report.

12 Report from the PRA

12.1 Mr Woods presented a high-level overview of the key strategic issues for the PRA.

13 Access to the Financial Ombudsman Service

13.1 The Oversight Committee met in September to consider the extension of the jurisdiction of the Financial Ombudsman Service (FOS) to include complaints from Small and Medium-sized enterprises (SMEs) and award limits. The Committee concluded that in principle it supported extending the jurisdiction of the FOS to include SMEs and a consultation to increase the overall limit on awards. However, the Committee felt that further work was required to determine the timing of these changes and whether they should take effect simultaneously.

The Committee wished to understand how FOS would develop its plans to adapt to the proposed changes as part of the overall development plans for the organisation. The Committee also requested written confirmation of current progress in implementing the recommendations from Richard Lloyd's independent review.

- 13.2 The Board discussed its oversight responsibilities to ensure that the FOS was ready to take on the extended jurisdiction. The Board **delegated** authority for the decision on whether and when to publish "near final rules" to the Oversight Committee following that committee's further scrutiny of the FOS's approach to the Lloyd review and its preparations for an extended jurisdiction to receive complaints from larger SMEs.
- 13.3 The Board considered the proposals for the award limit. The Board **approved** the publication of a Consultation Paper, alongside the near final rules referred to above, to propose the Ombudsman's £150,000 award limit, for complaints about firms' acts or omissions on or after 1 April 2019, should be increased to £350,000, and then automatically adjusted on every 1 April from 2020 onwards in line with the Consumer Prices Index (CPI). The Board delegated authority to determine the consultation period to Andrew Bailey.

The Board discussed the proposal that, for complaints about acts or omissions before 1 April 2019, the award limit should be increased by CPI, backdated to 2015 (provisionally, from £150,000 to £160,000) and then automatically adjusted on every 1 April from 2020 onwards in line with CPI. The Board discussed the potential complexity of this proposal and the risk that it incentivised claimants to delay their claims until the proposal was adopted. The Board **delegated** authority for the decision on this proposal, as well as finalisation of the content of the CP, to Andrew Bailey.

14 FCA Scotland Office Business Strategy and Lease Strategy

- 14.1 The Board noted that a strategic review of the business strategy for the Scotland Office had been taking place over the past 18 months.

15 Financial Crime Strategy

- 15.1 The FCA's proposed Financial Crime Strategy focuses on Anti-Money Laundering (AML)/Anti-Bribery and Corruption (ABC) and fraud, with a view to reviewing the FCA's approach on sanctions if required in the future. The strategy would refine the FCA's existing approach by improving effectiveness and efficiency of what the FCA does to ensure the financial system is robust in deflecting and detecting money laundering.
- 15.2 The overall aim is to build a landscape where both industry and consumers are clear about their role to prevent fraud and take responsible steps to protect themselves. In addition, it aims for the FCA to better understand the part it plays in the UK's wider response to reduce financial sector enabled fraud. The strategy also aims to transform what the FCA does in this area by using technology and data. This should allow the FCA to become faster, smarter and more efficient in delivery, by using intelligence and data to drive a more integrated approach across Authorisations, Supervision and Enforcement.
- 15.3 The Board **agreed** the proposed strategy for tackling money laundering and bribery and corruption and **noted** that the proposal to publish a discussion paper on the roles and responsibility of industry and consumers in tackling fraud is planned for the end of Q2 2019. The Board **noted** that messaging around AML may need to be done ahead of the proposed publication of the discussion paper.

16 Joint pensions regulatory strategy

- 16.1 The Board noted the joint pensions regulatory strategy that has been developed with The Pensions Regulator (TPR). This was intended to clarify the FCA's and TPR's respective remits and how they work together generally, set out their views as to what they want to see in the

pensions savings and retirement income sector and outlined how they would work to tackle the risks facing the sector over the next five to ten years.

- 16.2 The Board **approved** the final joint FCA and TPR pension strategy for publication.

17 Cryptoassets – Domestic Taskforce and future policy action

- 17.1 The Board was informed of the progress made on work on cryptoassets in the context of the HM Treasury (HMT), Bank of England (BOE), and FCA Cryptoassets Taskforce. The Taskforce was set up to explore the potential impact of cryptoassets and distributed ledger technology in the UK and to assess the future regulatory response.
- 17.2 The Taskforce intended to publish a report on its initial findings in late October, potentially to align with the Budget. The report would commit HMT to publishing an initial consultation document, or a call for evidence, by early 2019 to seek input on options for extending the regulatory perimeter to cover more activities related to cryptoassets. The Taskforce report itself would not explore options for regulation in detail, although the Board would be updated once there was more clarity on these options.
- 17.3 The Taskforce report was also likely to commit the FCA to publishing a consultation, by the end of 2018, on perimeter guidance regarding how regulation currently applies to cryptoassets.
- 17.4 The Board **noted** the update and in particular the policy objective and approach to financial crime concerns. The Board was **content** with the proposal to publish the report.

18 EU Withdrawal - Contingency planning

- 18.1 The Board considered the FCA's contingency plans for any Brexit-related disruption that could occur during the period prior to the UK's withdrawal.
- 18.2 The Board considered the consequences of a non-cooperative UK-EU relationship, ways in which the UK's legislative contingency planning could fail and the risk of market disruption and firm failure as a result of a no-deal Brexit.
- 18.3 The Board was keen for the contingency plans, including a communications strategy, to be further developed for managing a range of severe outcomes of Brexit and to address sector issues at a more granular level, paying particular regard to the impact on consumers and small business. The Board was also keen for the contingency plans to address key trigger points for consumers and small business where action was required to ensure that the FCA was adequately prepared. The Board requested that a summary table of key risks and progress in mitigating them, reflecting this more granular view of sectors, should come to each future Board meeting until 29 March 2019 has passed.

The Board **noted** the report.

19 EU Withdrawal - Consultation Paper 2

- 19.1 The Board **noted** the proposed approach to publish a series of Consultation Papers (CP) to amend the FCA's Handbook and the binding technical standards (BTS) for which the FCA is responsible, and understood the likely impact of delay in the publication of Statutory Instruments (SI) by the Treasury and other Government departments.
- 19.2 The Board acknowledged that there was significant risk that SI content might change or be delayed during the parliamentary process. It also recognised that along with the SI delay, non-Brexit related changes to the Handbook after 1 October 2018 could potentially impact the changes the FCA needs to make for Brexit. The Board noted that plans were being developed to address these issues.

19.3 The Board **agreed**:

- the provisional content of the second CP, as approved by the Executive Regulation and Policy Committee
- to delegate authority to the General Counsel and the Director of Policy to change content if there are further delays in the publication of SIs by HM Government

20 Cloud Migration Programme - Cloud Business Case 2 and Cloud resourcing procurement

20.1 The Board noted that the Cloud Migration Programme had been structured into two key phases of activity, each with a dedicated business case.

20.2 It was confirmed that the funding for Gabriel migration/replacement, ERP and Livelink replacement did not form part of the costing and that business cases were being developed separately. The ownership of these projects was not centrally held and each strand had its own governance structure, however the milestones were aligned and consistent.

20.3 The Board noted that the business case was independently assured and was also considered by the Audit Committee. The Audit Committee requested that it was provided with regular updates on key milestones of the programme.

20.4 The Board discussed the benefits derived from the proposal as well as associated risks and mitigating actions.

20.5 Following consideration, the Board:

- **supported** the approach in the Business Case, noting the approach to closely co-ordinate the related ERP, Livelink and Gabriel migration/replacement projects to ensure timescales are achieved.
- **noted** the approach to resourcing cloud datacentre skills, including the proposed creation of a long-term framework

21 Annual Firm Category Review

22 The Board **noted** the changes to the fixed and flexible portfolios.

23 Rules and Guidance to be determined

23.1 The Board **passed** the resolution set out in Annex B.

24 Decisions of the Board

24.1 The Board **approved** the following:

- the reappointment of Bernard Mensah as a member of the FCA Markets Practitioner Panel to 30 September 2021
- the reappointment of Duncan Ford as a member of the FCA Markets Practitioner Panel to 30 September 2021
- the reappointment of Nikhil Rathi as a member of the FCA Practitioner Panel and FCA Markets Practitioner Panel to 31 October 2021

- the introduction of an annual agenda item for the Staff Consultative Committee (SCC) Staff Reps to present a report to the Board
- introduction of a regular update from the SCC Staff Reps via the CEO report.
- to ratify the decision made by written resolution to agree the changes to the structure in Strategy and Competition
 - Split the MIDA Division into its component functions and to reassign them to other Divisions within S&C based on synergies
 - Split the existing Policy Director role into two parts (broadly wholesale and retail) and form a larger policy group into which the Strategy Department and some of the MIDA Departments are absorbed.
 - Create a new Innovation and Analytics Division led by a director
 - Reposition the Chief Economist as a director-level role

25 Minutes of ExCo meetings

25.1 The Minutes of ExCo meetings held on 5 June, 14 June, 19 June and 4 July 2018 were noted.

26 Minutes of the ERPC Meetings

26.1 The Minutes of the ERPC meetings held on 10 May, 31 May, 11 June, 18 June, 5 July and 9 July 2018 were noted.

27 Forward Agenda

27.1 The Board noted the forward agenda.

28 Any other business

28.1 There being no further business, the meeting closed.

Charles Randell
Chairman

ANNEX A: Attendees

Attending all, or substantially all, of the meeting:

Alana Christopher	Deputy Company Secretary
Megan Butler	Director, Supervision, Investment, Wholesale & Specialists
Jonathan Davidson	Director, Supervision, Retail and Authorisations
Nausicaa Delfas	Executive Director of International
Sean Martin	General Counsel
Georgina Philippou	Chief Operating Officer
Mark Steward	Director, Enforcement and Market Oversight
Simon Pearce	Company Secretary

Attending for the following items:

6	Christopher Preston	Manager – Event Supervision – Complex Events 1
	Julian Watts	Technical Specialist – Event Supervision Complex Events 2
	Emma Stranack	Department – Business & Consumer Communications
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7	Mark Steward	Director – EMO
	Andrew Cotterell	Head of Department – EMO S&D – Law, Policy and International Policy
	Alistair Dawes	EMO S&D – Law, Policy & International Policy
	Tim Parkes	Chair – Regulatory Decisions Committee
	Andrea Bowe	Director – EMO - WUBI – UBD
9	Martin Bellamy	Director – BTS
	Steven Green	Manager, Data and Information Operations

11	Keren Oser	Manager – Finance
	Richard Monks	Head of Department – Strategy
	James Shafe	Technical Specialist – Reporting and Performance Measurement
	Vito Capobianco	Manager – Operations
13	Richard Fox	Head of Department – Cross-Sectoral & Funds Policy
	James Tallack	Associate – Consumer Information and Cross-Cutting Investments Team
	Mark Threipland	Head of Department – GCD Investment, Insurance and Redress
	David Geale	Director – Policy Directors Office
14	Andrew Whyte	Director, Communications
	Maggie Craig	Head of Department – Authorisations
	Peter Hewitt-Penfold	Manager – Head of Estates Management
	William Hague	Director – Human Resources
15	Alison Barker	Director – Specialist Supervision Division
	Rob Gruppetta	Head of Department – Financial Crime
	Jeremy Tizard	Manager – Financial Crime – Specialist Supervision
	Andrea Bowe	Director – EMO - WUBI – UBD
16	Pritheeva Rasaratnam	Head of Department – Pension Policy
	David Geale	Director – Policy Directors Office
	James Ward	Pension Policy
17	Anna Wallace	Head of Department – Innovate
	Laura Royle	Manager – Innovate
	Nick Bertram	– Manager – GCD – Markets, Funds & Authorisations

	Edwin Schooling Latter	Head of Department – Markets Policy
18	Nausicaa Delfas	Director – International
	Lee Foulger	Head of Department – International
	Greg Sachrajda	Head of Department – International Delivery
	Vina Shukla	Technical Specialist – GCD EU
	Iliana Lani	Manager – International Delivery
19	David Geale	Director – Policy Directors Office
	Tim Rowe	Manager – Handbook Review Team
	Lee Foulger	Head of Department – International
20	Martin Bellamy	Director – Business & Technology Solutions
	James Anderson	Head of Department – Business & Technology Solutions
	Sandra Paton	Head of Department – Operations
21	Jane Savidge	Manager – Framework & QA
	Chris McGrath	Head of Department – Central Support
	Paul Ullah	Technical Specialist – Framework & QA

ANNEX B: Resolution

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

- Individual Accountability (Dual-Regulated Firms) Instrument 2018 (FCA 2018/45)
- Fees (Miscellaneous Amendments) (No 12) Instrument 2018 (FCA 2018/46)
- Conduct of Business Sourcebook (Pension Transfers) (No 2) Instrument 2018 (FCA 2018/47)
- Supervision Manual (Reporting No 9) Instrument 2018 (FCA 2018/48)