

Minutes

Meeting:	FCA Board	
Date of Meeting:	28 February 2019	
Venue:	12 Endeavour Square, London, E20 1JN	
Present:	Charles Randell (Chair) Andrew Bailey Christopher Woolard Amelia Fletcher Nick Stace Sarah Hogg Sam Woods	Catherine Bradley Jane Platt
In attendance:	Set out in Annex A	
Apologies:	Ruth Kelly	

1 Quorum and declarations of interest

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 In respect of item 15.1 on the Pension MasterTrust, Jane Platt declared that she is Chair of the Board of Trustees of Lifesight, an authorised Master Trust. The Board agreed that this would not preclude Ms Platt from taking part in the discussion.

2 EU Withdrawal

Policy Statement

- 2.1 The Board was reminded that as part of preparations for the possibility of a hard Brexit, a number of consultation papers (CPs) had been published which related to changes to the Handbook and Binding Technical Standards (BTS) and proposed guidance on the FCA's approach to EU Level 3 materials, non-Handbook guidance and Handbook forms, and the creation of the Temporary Permissions Regime (TPR) and Financial Services Contracts Regime (FSCR). The Board noted that there had been some changes, although not significant, arising from the consultation process.
- 2.2 The Board also noted that under the powers being used to make many of the amendments, those under regulation 3 of the Financial Regulators' Powers (Technical Standards) (Amendments) (EU Exit) Regulations 2018, final instruments could only be made by the Board if they have been approved by the Treasury. Subject to Treasury approving the near final

instruments, and assuming the date on which the UK left the EU remained 29 March, the final instruments would be made in March, with a view to publishing immediately afterwards.

- 2.3 The Board emphasised that any material issues that arose during the veto process should be brought to the Board's attention immediately rather than waiting until final approval at its meeting in March.
- 2.4 The Board discussed the potential implications and risks associated with the change to client asset protection arising from Brexit for assets held in EEA branches of FCA-authorized firms and requested further information.
- 2.5 The Board **noted** the feedback received to the Brexit onshoring consultations, the Temporary Permissions Regime and the Financial Services Contracts Regime consultations.
- 2.6 Following discussion, the Board **approved** the following, subject to reverting to the Board should there be a change in circumstances as a result of the Treasury veto process:
- the proposals in the Policy Statement (PS19/05), including the changes proposed in the light of consultation responses
 - near-final instruments with a view to their publication alongside the Policy Statement, ahead of the Treasury veto process.

Temporary Transitional Power

- 2.7 The Board noted that, in the event of a hard Brexit, the Temporary Transitional Power (TTP) would allow the FCA, Bank of England and Prudential Regulation Authority (PRA) to temporarily waive or modify obligations on UK-supervised persons where those obligations had changed through the Brexit onshoring legislation.
- 2.8 The Board noted that the Executive recommended a broad approach to using the TTP, with targeted exceptions. This approach had been agreed with the Bank and PRA. It was noted that for most requirements firms would not be required to comply with changes to their regulatory obligations resulting from Brexit onshoring legislation from exit day until 30 June 2020. Instead they would generally be able to continue to comply with the requirements as they had effect before exit day.
- 2.9 The Board:
- **agreed** the approach to using the Temporary Transition Power (TTP) as agreed by the Executive Risk and Policy Committee;
 - **approved** the publication of the near-final TTP directions in parallel with publication of the Brexit policy statement after this Board discussion, and
 - **agreed** that modifications to final directions could be made at Policy Director level, in consultation with General Counsel's Division and with the Executive Committee being informed. The Board would be updated on any modifications to the final directions at the March meeting.

Monthly Update to the Board

- 2.10 The Board received an update on developments in relation to EU negotiations; FCA communications strategy; a summary dashboard of the key issues that could impact each sector of the industry in the event the UK were to leave the EU in March without an implementation period; a granular update on the readiness of each EU withdrawal project, workstream and business area for a hard exit and detailed plans being developed for the weeks leading up.

- 2.11 In particular, the Board noted that firms, including trading venues, had started taking action to ensure they could continue to provide trading services in affected shares and derivatives to EU and UK clients post Brexit, including by establishing subsidiaries in the EU, or branches of EU entities in the UK via the TPR. Wholesale banks were seeking licences in the 27 European Union countries other than the UK (EU27), while maintaining UK licences so they could execute in both jurisdictions, with EU27 clients generally being re-papered to EU27.
- 2.12 The Board raised concern over the insurance sector and whether adequate plans were in place for consumers to be clear on the validity of their travel insurance particularly in time for the Easter holiday season. The Board questioned whether firms' communication planning had been assessed for effectiveness and consistency to a standard risk tolerance. It was noted that firms had been contacted to understand their communications plans and discussions with supervisors had been reassuring. The Board also discussed the need for continued communication with firms in relation to the FCA's expectations that (i) firms will keep their customers informed about coverage issues and (ii) firms will continue to service general insurance contracts in the event the UK were to leave the EU in March without an implementation period.
- 2.13 The Board **noted** the report.

3 Minutes of the FCA Board Meeting

- 3.1 The Board **approved** the minutes of the FCA Board meeting held on the 23 and 24 January 2019, subject to a minor amendment.

4 Matters arising

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

5 Report from the Chief Executive

- 5.1 The Board discussed Mr Bailey's report on developments since the last meeting, including:

FCA Register - the Board was updated on the longer-term work underway to enhance the Register. The Board discussed the need for quick robust systems to confirm the authenticity of the information held on the Register and options for communicating and accelerating checks. The Board asked to be kept updated on this matter.

- London and Capital Finance (L&CF) – the Board was updated on recent action in relation to LC&F.

6 Report from the PRA

- 6.1 The Board received an update from Mr Woods on matters relating to the PRA.

7 Rent-to-own price cap – recommendation for final rules

- 7.1 The Board considered the overview of responses to consultation. These ranged from support for introducing a price cap in the rent-to-own market to disagreement and concern about the cost burden imposed by the benchmarking process and difficulties for small firms in matching benchmarked prices and rules.
- 7.2 It was noted that the final policy statement would state that the FCA acknowledges that firms will need to review and refine their approaches, policies and procedures as they develop experience of benchmarking.
- 7.3 The Executive recommended to the Board that the rules be brought into force for products brought onto the market on or after 1 April 2019 as proposed, and for the largest firms to

comply with the rules for all their stock by 1 July. However, in recognition of the additional challenges faced by small firms (micro-enterprises), they would be given an additional three months (to 1 October) to ensure their existing stock was benchmarked.

7.4 Following discussion, the Board **approved** publication of the Policy Statement (PS19/06), and the rules changes consulted on, subject to the following changes:

- to bring forward the review of the price cap to one year after implementation and to note that it would include a review of the effectiveness of rules on other charges such as insurance and extended warranties.
- proceeding with benchmarking proposals as consulted on but with anti-avoidance amendments to the benchmarking rules to clarify when a price should not be used as a benchmark because no reasonably informed customer would pay it.
- a strong message on the consequences for firms of evading the cap by changing their business model in a way that causes similar harm.
- minor additions and amendments to deal with practical issues relating to the benchmarking rules and other technical issues.

8 Increasing the FOS award limit (CP18/31) – consultation feedback and final policy proposals

- 8.1 The Board was reminded that in October 2018 a Consultation Paper (CP 18/31) proposing an increase in the limit to the compensation that could be awarded by the Financial Ombudsman Service (FOS) was published. It proposed that the current limit of £150,000 should be increased to £350,000 for complaints about acts or omissions by firms on or after 1 April 2019 and to £160,000 for complaints about acts or omissions by firms before 1 April 2019, and which were referred to the FOS after that date.
- 8.2 The Board was informed that, following a two-month consultation and consideration of the feedback, the Executive had concluded that, on balance, a £350,000 limit remained the right approach. The presenting team explained that the proposal would ensure that FOS could provide fair compensation to a clear majority of consumers and SMEs with high value complaints. Generally, these complainants would otherwise find it difficult to access and afford legal recourse through the courts to recover damages.
- 8.3 The Board was informed that in reaching this decision, the Executive had considered the trade-off between the substantial benefits of a £350,000 limit for complainants and the potential for an adverse impact on the ability of personal investment firms (PIFs) to obtain professional indemnity insurance (PII) in future. It was recognised that PIFs advising on defined benefit (DB) to defined contribution (DC) pension transfers ('DB transfers') were particularly likely to be affected, as this was an area of concern to PII insurers.
- 8.4 The Board discussed the proposal. While noting the risks and uncertainties around the effect on the supply of advice, it accepted the Executive's view that it could result in a more focused market with a smaller professional group providing affordable advice.
- 8.5 The Board also discussed the implementation date and agreed with the proposal for the change to come in to effect on 1 April 2019.
- 8.6 The Board approved the final rules as consulted on in CP18/31.

9 Background to the 2019 Retail Distribution Review (RDR) and Financial Advice Market Review (FAMR)

9.1 The FCA had publicly committed to conduct a full evaluation of the Retail Distribution Review (RDR) and the Financial Advice Market Review (FAMR) in 2019. The Board was provided with an overview of proposals for the Review; the expected outcomes; stakeholder engagement required and areas of potential challenge.

9.2 The Board **received** the update.

10 Funding for Suspicious Activity Reporting Reform and the Bank Account Register

10.1 The Board received an update on development elsewhere of plans to establish the Bank Account Register (BAR) and to reform Suspicious Activity Reporting (SAR).

11 Business Planning 2019/20

11.1 The Board was presented with the outcomes of the business planning process and was proposed the Annual Funding Requirement for 2019/20 for agreement.

11.2 The Board was reminded that the corporate and cross-sector priorities were previously discussed at its strategy meeting.

11.3 FCA activities were being resourced through the Annual Funding Requirement and existing operational models. The current and planned work has been flexed appropriately to deliver the corporate priorities and an extensive range of activities against the cross-sector priorities. In addition, and on the condition that a Brexit transition period was agreed, the Executive proposed to invest in two specific areas for 2019/20 - increasing the FCA's advanced analytics capabilities and increasing the FCA's pre-emptive supervisory capabilities. It was noted that it was expected that the activities would result in medium term efficiency savings.

11.4 The Board was informed that that the proposal was to fund these investments, through releasing £5m from FCA reserves and by delaying c. £6m of Brexit implementation costs until 2020/21 to reflect a transitional period. The additional expense would be for 2019/20 only, with efficiencies found over 2019/20 to ensure the ongoing cost element of these initiatives could be absorbed in the future. The investment opportunities would be reconsidered in the event of a hard-Brexit. In this scenario, the Brexit implementation costs would be realised in 2019/20 and we would need to consider whether the £5m from the reserves was held as further EU Withdrawal contingency. The Board also noted that the matching efficiencies required to fund investments in future years would not necessarily result from or be sought from the investments. Rather the efficiencies would need to be found across the organisation, potentially in areas unrelated to the investments.

11.5 It was noted that further discussion was required about future priorities of the FCA and how these were funded, in the context of a changing environment and the future of regulation.

11.6 The Board **agreed**:

- the Annual Funding Requirement and Capital Budget for 2019/20. It was noted that funding for 2020/21 would be subject to further discussion on the wider FCA priorities;
- the proposal to utilise £5m of reserves as either an additional contingency in the event of hard-Brexit, or investment in proactive supervision and data analytics in the event of a Brexit transition period, subject to agreement of detailed business cases for the new activities by the Board.

11.7 The Board also discussed the sensitivity analysis on FCA reserves and the Project Portfolio prioritisation approach. The Project Portfolio would continue to be reviewed by the Audit Committee.

12 Claims Management Companies Transition

12.1 The Board was updated on the Claims Management Companies (CMC) Transition project, noting the project timeline, the FCA's strategic approach and regulatory philosophy and resource plan.

12.2 The Board **noted** the report.

13 PSR Annual Plan

13.1 The Board considered the PSR annual plan and **approved** the requested 2019/20 PSR work programme. The Board **delegated** authority for proofreading changes and design approval to Charles Randell and Hannah Nixon.

14 Papers for noting

14.1 The Board **noted**:

- the draft minutes of the Audit Committee meeting held on 28 November 2018.
- the Payment Systems Regulator agenda from meeting held on 30 January 2019
- the External Risk and Strategy agenda from meeting held on 13 February 2019
- the monthly reports from the Independent Panels
- the paper 'Treatment of complaints in General Insurance in relation to Plevin'.

15 Decisions of the Board

Pensions Master Trust

15.1 The Board noted that the FCA Pension Plan (the Plan) falls within the scope of the Master Trust legislation set out in the Pensions Schemes Act 2017. Accordingly, the Board noted that the Trustee of the Plan was taking steps to submit an application for authorisation by The Pensions Regulator under the Master Trust regulatory regime. The Board recognised that under the Master Trust legislation, the FCA was identified as holding certain key roles in relation to the Plan, such as Scheme Strategist and Scheme Funder. It was noted that the FOS, a participating employer in the Plan, was also identified as a Scheme Funder.

15.2 After discussion of the implications for the FCA of the application, the Board:

- **noted** the FCA's master trust obligations;
- **noted** the approach being taken in relation to the application; and
- **delegated** authority to Andrew Bailey and Georgina Philippou to agree and sign the following documents on behalf of the FCA, in relation to its obligations as the Scheme Strategist, and for (iv) in relation to its obligations as a Scheme Funder:
 - i. The Master Trust Framework Deed;
 - ii. The Continuity Strategy;
 - iii. The Business Plan; and
 - iv. The Funding Side Letter, to satisfy the financial sustainability requirement.

Modern Slavery Act Slavery Statement 2017-18

- 15.3 The Board **agreed** the voluntary publication of the Modern Slavery Act Statement in the form set out in the papers presented to the meeting and **delegated** authority to Andrew Bailey to sign the statement on behalf of the FCA.

FCA Scotland Lease

- 15.4 The Board **delegated** authority for the signature of leases on both floors of Quayside House for 15 years in accordance with the outline Heads of Terms.

Appointments to the PSR Board and Board Committees

- 15.5 The Board **agreed**:
- the reappointment of Noel Gordon to the PSR Board for a further three years from 1 May 2019 to 30 April 2022;
 - the reappointment of Amelia Fletcher to the PSR Board for one further year to 31 March 2020;
 - the appointment of Nick Stace to the PSR Board as a non-executive director for a one year term from 1 April 2019 to 31 March 2020 to coincide with the dates of his current FCA term.
 - the appointment of Simon Ricketts, a non-executive member of the PSR Board, to the Audit Committee, with effect from 1 March 2019;
 - the appointment, with effect from 1 April 2019:
 - of Richard Lloyd to the External Risk and Strategy Committee;
 - of Amelia Fletcher as Chair of the External Risk and Strategy Committee and member of the Audit Committee;
 - of Catherine Bradley as Chair of the Audit Committee and a member of the External Risk and Strategy Committee;

Proposed changes to the FCA's responsible lending rules and guidance to remove barriers to switching

- 15.6 The Board noted a concern that the FCA's responsible lending rules were resulting, or could result, in consumers being unable to move to a more affordable mortgage, despite being up to date with payments. Accordingly, the Board **agreed**:
- to consult on changes to the FCA's responsible lending rules and guidance;

16 Rules and Guidance to be determined

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

17 Papers to be noted

- 17.1 The Minutes of Executive Committee meetings held on 5 and 11 December 2018 were noted.

17.2 The Minutes of Executive Risk and Policy Committee meetings held 10 and 17 December 2018 and 28 and 31 January 2019 were noted.

17.3 The Board noted the forward agenda.

18 Any other business

18.1 There being no further business, the meeting closed.

Charles Randell
Chairman

ANNEX A: Attendees

Attending all, or substantially all, of the meeting:

Megan Butler	Director, Supervision – Inv., Wholesale and Specialist
Alana Christopher	Deputy Company Secretary
Jonathan Davidson	Director, Supervision, Retail and Authorisations
Nausicaa Delfas	Director, International
Sean Martin	General Counsel
Georgina Philippou	Chief Operating Officer
Simon Pearce	Company Secretary
Mark Steward	Director, Enforcement and Market Oversight

Attending for the following items:

3.1	Richard Monks	Director - Strategy
	Martin Boffey	Manager – GCD EU Coordination
	Tim Rowe	Manager – Brexit Policy
3.2	Richard Monks	Director - Strategy
	Lee Foulger	Head of Department - International
	Sarah Raisin	Technical Specialist – Brexit Policy
	Vina Shukla	Technical Specialist – EU Coordination
3.3	Lee Foulger	Head of Department – International
	Greg Sachrajda	Head of Department – International Delivery
	Andrew Whyte	Director – Communications
	Sarah Bailey	Manager – Strategic Communications

7	Nisha Arora	Director – Consumer & Retail Policy
	Graeme McLean	Head of Department – HCC Review
	Jesse Leary	Technical Specialist – Economic & Financial Analysis
	Emma Thomas	Manager – EU Withdrawal Communications Team
8	Nisha Arora	Director – Consumer & Retail Policy
	Sarah McKenzie	Head of Department – Consumer Strategy & Policy
9	Jason Pope	Technical Specialist – GI & Protection
	Marc Maxfield	Manager – GI & Protection
	Alex Roy	Manager – Consumer Distribution
	Nisha Arora	Director – Consumer & Retail Policy
10	Andrea Bowe	Director – Wholesale and Unauthorised Business
	Alison Barker	Director – Specialist Supervision
	Jennifer Long	Head of Department – Specialist Supervision
	James London	Manager – Financial Crime
11	David Godfrey	Director - Finance
	Keren Oser	Head of Department - Finance
	Richard Monks	Director – Strategy
		Director – BTS Divisional Operations
	Martin Bellamy	Head of Department – RegTech & Advanced Analytics
	Nick Cook	
12	Rob Grupetta	Head of Department – Claims Management
	Chinmay Parikah	Manager – BTS Supervision Project Management
	Mike Baker	Manager – Claims Management
13	Jane Gosling	Manager – PSR Communications & Operations
	David Godfrey	Director - Finance

ANNEX B: Resolution

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

Fees (Devolved Authorities Debt Advice Levies) Instrument 2019 (FCA 2019/8)
Fees (Office for Professional Body Anti-Money Laundering Supervision) Instrument 2019 (FCA 2019/9)
Fees (Miscellaneous Amendments) (No 13) Instrument 2019 (FCA 2019/10)
Reporting of Information About Directory Persons (Dual-Regulated Firms) Instrument 2019 (FCA 2019/11)
Financial Ombudsman Service (Award Limit) Instrument 2019 (FCA 2019/12)
Consumer Credit (Rent-To-Own Cost Cap) Instrument 2019 (FCA 2019/13)

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:

Financial Ombudsman Service (Award Limit) Instrument 2019 (FCA 2019/12)

The Board of the Financial Conduct Authority resolves to publish the following European Union withdrawal near-final instruments

Exiting the European Union: Glossary (Amendments) Instrument 2019
Exiting the European Union: High Level Standards (Amendments) Instrument 2019
Exiting the European Union: Prudential Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Business Standards Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Regulatory Processes Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Specialist Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Listing, Prospectus and Disclosure Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Regulatory Guides (Amendments) Instrument 2019
Exiting the European Union: Redress Sourcebooks (Amendments) Instrument 2019
Exiting the European Union: Miscellaneous (Amendments) Instrument 2019
Exiting the European Union: Temporary Permission and Financial Services Contracts Instrument 2019
Exiting the European Union: SMCR and APR (Amendments) Instrument 2019
Exiting the European Union: SMCR and APR (Amendments) (Solo-Regulated Firms) Instrument 2019
Credit Rating Agencies (Guidance) Instrument 2019
Trade Repositories (Guidance) Instrument 2019
Exiting the European Union: Fees and Dispute Resolution: Complaints (Amendments) Instrument 2019
Exiting the European Union: Gibraltar (General Rules) Instrument 2019

Technical Standards (Alternative Investment Funds Management Directive) (EU Exit) Instrument 2019

Technical Standards (Benchmark Regulation) (EU Exit) Instrument 2019

Technical Standards (Credit Ratings Agencies Regulation) (EU Exit) Instrument 2019

Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 1) Instrument 2019

Technical Standards (European Social Entrepreneurship Fund Regulation) (EU Exit) Instrument 2019

Technical Standards (European Venture Capital Funds Regulation) (EU Exit) Instrument 2019

Technical Standards (Insurance Distribution Directive) (EU Exit) Instrument 2019

Technical Standards (Long-Term Investment Fund Regulation) (EU Exit) Instrument 2019

Technical Standards (Market Abuse Regulation) (EU Exit) Instrument 2019

Technical Standards (Markets in Financial Instruments Directive) (EU Exit) (No 1) Instrument 2019

Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 1) Instrument 2019

Technical Standards (MiFIR Transparency) (EU Exit) Instrument 2019

Technical Standards (Money Market Funds Regulation) (EU Exit) Instrument 2019

Technical Standards (Packaged Retail and Insurance-Based Investment Products Regulation) (EU Exit) Instrument 2019

Technical Standards (Payment Accounts Directive) (EU Exit) Instrument 2019

Technical Standards (Payment Services Directive) (EU Exit) Instrument 2019

Technical Standards (Prospectus Directive) (EU Exit) Instrument 2019

Technical Standards (Short Selling Regulation) (EU Exit) Instrument 2019

Technical Standards (Transparency Directive) (EU Exit) Instrument 2019

Technical Standards (Undertakings for Collective Investment in Transferable Securities Directive) (EU Exit) Instrument 2019

Financial Conduct Authority Technical Standards (Bank Recovery and Resolution Directive) (EU Exit) Instrument 2019

Financial Conduct Authority Technical Standards (Capital Requirements Directive and Regulation) (EU Exit) Instrument 2019

Financial Conduct Authority Technical Standards (Financial Conglomerates Directive) (EU Exit) Instrument 2019

Technical Standards (Markets in Financial Instruments Directive) (EU Exit) (No 2) Instrument 2019

Technical Standards (Markets in Financial Instruments Regulation) (EU Exit) (No 2) Instrument 2019

Technical Standards (European Market Infrastructure Regulation) (EU Exit) (No 2) Instrument 2019