

## Minutes

<b>Meeting:</b>	FCA Board
<b>Date of Meeting:</b>	23 June 2022
<b>Start time:</b>	09:00 to 13:10
<b>Venue:</b>	Hybrid Meeting held via Microsoft Teams

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<b>Members Present:</b>	Richard Lloyd (Chair) Liam Coleman Bernadette Conroy Jeannette Lichner	Alice Maynard Nikhil Rathi Tommaso Valletti Sam Woods
<b>In attendance:</b>	Set out in Annex A	
<b>Presenters:</b>	Set out in Annex A	
<b>Apologies:</b>	None	

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### 1 Declarations of interest

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 No interests were declared in the items to be discussed.

### 2 Reports from Chairs of Board Committees

- 2.1 The Board noted the report from the Chair of the RemCo meeting held on 31 May 2022.
- 2.2 The Board noted the report from the Chair of the AuditCo meeting held on 13 June 2022.

### 3 New Consumer Duty

- 3.1 The Consumer Duty is aimed at setting a higher expectation for the standard of care that firms provide to retail customers, and shifting their focus to positive consumer outcomes. The FCA consulted on the high-level approach and design for the new Duty in May 2021, and on detailed rules in December 2021. The Board were updated on recent executive

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discussions on key elements of the final policy and proposed implementation period ahead of the final rules being proposed for approval in July. The Board were also updated on the FCA's readiness and its approach to embedding and implementation.

- 3.2 The Board emphasised the importance of Authorisations' role in ensuring firms approved at the gateway meet the required standards and were assured that the NCD team and Authorisations had been planning the application of the duty in practice, and further general training would be rolled out over the summer, with portfolio specific training to follow as portfolio strategies were developed. Additionally, materials had been provided to the Supervision Hub to ensure readiness for any queries on day one and feedback would be given to Authorisations to improve quality and consistency of decision making quickly.
- 3.3 The Board also discussed the communications plan and the need to inform consumers as to what this Duty would deliver and when. The Board noted the need to tailor our approach so that the proposed timeframe for implementation supports the need for firms to respond urgently to the cost-of-living challenges consumers face. It was noted that communications tailored to smaller flexible firms and small and medium enterprises would be published to give additional support, and issues relating to the cost of living were also being addressed through other ongoing interventions.
- 3.4 The Board discussed the proposals and agreed that the Duty should apply on a forward-looking basis to existing products and closed book products, noting the importance of providing high standards for existing customers as well as new customers. In consideration of the Fair Value rules, the Board reflected that rules should apply to these products and, if a firm identified any that were poor value, they should consider taking action to mitigate any harm.
- 3.5 The Board agreed with the proposed implementation timeframe, reflecting on the need for balance between delivering effectively and delivering at pace. Once implemented, the Board encouraged the FCA to take swift action where firms were not meeting standards; and were assured that feedback was already being given to firms where gaps existed and that there would be an active process to hold firms to account during the phased implementation.
- 3.6 The Board noted the importance of ensuring the outcomes for consumers were in line with our expectations and any 'unintended consequences' were identified early. The Board were keen to be kept sighted on progress as the Duty was embedded.

#### **4 Engagement with Staff Consultative Committee (SCC) Representatives**

- 4.1 The Board welcomed the SCC Staff Representative Chair and Deputy Chairs to the meeting. The SCC representatives gave their reflections on the SCC's role during the recent career, pay and grading consultation and reflected positively that the level of staff engagement with and awareness of the SCC across the organisation had significantly increased during this time, although this had also led to an increased demand on the SCC's limited resources. The SCC noted the difficulty in maintaining staff engagement with the SCC as the SCC does not have a formal negotiating remit.

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- 4.2 The Board thanked the SCC for its constructive engagement during the Career & Grading discussions. The Board noted the difficult role the SCC has and that work of the SCC representatives ought to be appropriately recognised in end of year appraisals.
- 4.3 In discussing the future of staff representation and voice at the FCA, the representatives noted the statutory requirement, based on total number of staff, that anybody would need to be able to consider legislative issues including health and safety. Companioning staff through disciplinary hearings, grievance procedures and providing informal advice was also a key role of the current SCC which was highly valued by staff. The SCC expressed their view that the process to agreeing staff representation should involve staff being able to choose how they are represented.
- 4.4 The SCC representatives highlighted their concern that changes to the hybrid working policy could impact staff during the cost of living challenges.
- 4.5 The Board noted the views shared which would be used to inform the work underway on colleague voice by the Chief People Officer and a number of Senior Advisers. They thanked the SCC for its work and welcomed continued formal and informal engagement.

## **5 Report from the PRA**

- 5.1 Mr Woods briefed the Board on the business of the PRA that was of relevance to the FCA including the development of the Solvency II Review.

## **6 Report from the Chief Executive**

- 6.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. Progress on business plan commitment outcomes – The Board noted the progress metrics against ongoing projects and were assured that senior leaders were focusing on these to ensure outcomes were being delivered and that a meaningful impact could be demonstrated. Additional metrics were being developed to better show the full picture.
  - ii. People – The Board welcomed the significant progress made on recruitment and noted that the additional resource that has been recruited and was continuing to be brought in at pace had increased capacity and provided a good balance of external and internal hiring for vacancies. The time needed to fully train new colleagues was noted. It was suggested that the People Committee look at how best to ensure there is an effective transfer of knowledge when there is staff turnover in the organisation.
  - iii. Interventions – The Board asked what action had been taken following recent FCA interventions, including Dear CEO letters to over 28,000 firms and the identification of poor behaviour in the cost-of-living review among firms. It was advised that a number of CEOs had confirmed that their firms would make changes following the Dear CEO letter and Supervision were following up with those firms identified as not performing well for borrowers in financial difficulty. Supervision was continuing to review and analyse data for firms with the most at risk customer base, and interventions would follow where

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needed. Firms were also taking seriously the work and guidance on vulnerability that the FCA had developed over a number of years.

- iv. External environment – the Board noted the economic outlook summary and the potential impact on consumers and markets. The Board welcome a further session to review the outlook in detail and outputs from the recent Crypto Sprints.

## **7 The Complaints Commissioner’s Annual Report 2021/22**

- 7.1 The Complaints Commissioner presented her draft Annual Report to the Board. Ms Somal outlined the key themes in the report including an improvement in the backlog of cases and reduction in delays; areas where she considered improvements were needed relating to the register; her views on transparency in the complaints processes and transformation; and themes arising from London Capital and Finance complaints. The FCA executive confirmed that where reports did not meet the quality expected, action had been taken and that the FCA was continuously striving to learn through the complaints process.
- 7.2 The Board noted the value of the Commissioner’s independence in her decision making. The Chairs of the Audit and Risk Committees explained their roles in (i) providing assurance that actions had been taken in response to issues identified by the Commissioner and (ii) taking a forward look at themes the Commissioner has identified, so as to help the FCA continue to be a learning organisation.
- 7.3 On the FCA Register specifically, the Audit and Risk Committees had been closely monitoring progress on improvements to the Register and noted that restrictions on how information is presented in the register limited the extent to which the FCA can make changes. However, it was noted that the improvement process was not yet complete and further improvements were in development.
- 7.4 The Board thanked the Commissioner for sharing her thoughts and hoped that the assurance given during the discussion had given her confidence that the FCA was engaging with the themes she had identified. The Board welcomed continuing engagement at senior and operational level.

## **8 The FCA’s Response to the Complaints Commissioners Annual Report 2021/22**

- 8.1 The team presented the draft response to the Commissioner’s Annual Report, which aimed to present a balanced picture and provide context. The team explained improvements which the FCA is making to its data and processes, transparency, and the register.
- 8.2 The Board acknowledged the significant improvement in the FCA’s handling of complaints over the last year.
- 8.3 The Board agreed it was a balanced report, with its tone suitably factual. The Board welcomed the team’s commitment to ensuring the report is accessible on a range of equality and diversity aspects.

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- 8.4 The Board discussed the Memorandum of Understanding (MOU) as proposed by the Commissioner and agreed this was better done through a protocol rather than an MOU. The Commissioner's proposed MOU contained a number of provisions which go beyond the current arrangements and therefore need careful consideration, with the other Regulators concerned. The Board clarified that the Commissioner is independent in their decision-making but is not an independent function and therefore any funding and resourcing requests from the Commissioner needed to be properly assessed for value for money. It was suggested that this be monitored and reported on through the Audit Committee.
- 8.5 The Board suggested minor amendments to the report to set parameters and give contextualisation at the beginning of the report but otherwise **approved** the FCA's response to the Complaints Commissioners Annual Report and delegated authority to Nikhil Rathi, Sheree Howard and Stephen Braviner-Roman (copied to Liam Coleman) to approve the final draft of the report to be laid before Parliament.

## **9 FCA and PSR Annual Report & Accounts 2021/22**

- 9.1 The Board reviewed the FCA and PSR Annual Report and Accounts in preparation for laying before Parliament in July 2022 and noted the recommendation from the Audit Committee that the reports accurately reported on the FCA and PSR's activity and that there were no significant areas of concern identified. The external review of the accounts by the National Audit Office was yet to be completed and as such final approval the accounts was **delegated** to a sub-committee of the Board.

## **10 Rules and Guidance and Technical Standards to be determined**

- 10.1 The Board **resolved** to make the following instruments:
- i. Funeral Plans (No 4) Instrument 2022
  - ii. Handbook Administration (No 60) Instrument 2022
  - iii. Removing Application Forms from the Handbook
  - iv. Periodic Fees (2022/23) and Other Fees Instrument 2022
  - v. Collective Investment Schemes Sourcebook (Side Pockets) (Russia) Instrument 2022

## **11 Decisions of the Board/Board committee**

- 11.1 The Board **approved** the minutes of the meeting held on 26 May 2022.
- 11.2 The Board noted the action log and **approved** closure of completed actions.

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11.3 The Board **ratified** the following decisions taken by written procedure:

- i. Approve Claims Management (Relevant Connections) Instrument 2022

11.4 The Board noted the Market Data Processor refresh and **approved** the contract extension with Sopra Steria Group under a fixed contract and committed to the 3-year expected cost of £12.9m (range £12.5m-13.5m) incurred monthly from FY 23/24.

11.5 The Board reviewed the Market Surveillance Refresh investment case and delivery plan and that it was asked to approve the project spend on the understanding that a contract with the core supplier was ready to be signed. It had since been understood that this was not the case, since certain drafting needed to be completed in the contract, and therefore there was a low risk of regret spend. The Board **approved** the following decisions subject to the contract issue being resolved;

- i. Contract signing for the provision of a Market Surveillance Tool.
- ii. A drawdown to proceed with the Project as planned.

11.6 The Board **approved** the formation of the People Committee, its terms of reference and proposed membership.

11.7 The Board **approved** the formation of the Policy and Rules Committee and its membership, with the addition of Bernadette Conroy. The Board also **approved** the governing principles that should inform the terms of reference, to be further determined by the Committee and submitted to the Board in July for approval.

11.8 The Board **approved** the appointment of Jeannette Lichner as the Chair of the Oversight Committee with effect from 24 June 2022.

11.9 The Board **approved** the following Panel appointments:

- i. Sam Ward as a member of the FCA Listing Authority Advisory Panel from 1 July 2022 to 30 June 2025
- ii. Christina Lewis as a member of the FCA Smaller Business Practitioner Panel from 1 August 2022 to 31 July 2025
- iii. Will Self as Deputy Chair of the FCA Smaller Business Practitioner Panel from 1 July 2022 to 30 September 2023

11.10 The Board noted the following papers submitted for information:

- i. Independent Panels Annual Reports 2021
- ii. Independent Panel Reports to the Board

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- iii. CMC Judicial Review: update on potential damages
  - iv. Critical Third Parties

There being no further business the meeting closed.

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## Annex A: Attendees, presenters and observers

### In attendance:

Sheree Howard – Executive Director, Risk and Compliance Oversight  
Sheldon Mills – Executive Director, Consumers and Competition  
Sarah Pritchard – Executive Director, Markets  
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  
Miles Bake – Director, Company Secretary  
Stephen Braviner Roman – Executive Director, General Counsel  
Graham McLean – Head of Department, Chief Executive Office  
Ian Runacres – Manager, Chairman’s Office  
Aidene Walsh – Interim Chair, PSR (from item 6 onwards)

### Presenters and observers:

<b>Item 1 - Declarations of interest</b>	No attendees
<b>Item 2 – Reports from Chairs of Committees</b>	No attendees
<b>Item 3 – New Consumer Duty</b>	Nisha Arora – Director Ian Searle – Manager Richard Wilson - Manager Rob Gruppetta – Head of Department
<b>Item 4 – Engagement with SCC</b>	Siobhan Sheridan – Chief People Officer
<b>Item 5 – Report from PRA</b>	No attendees
<b>Item 6 – Report from the Chief Executive</b>	No attendees
<b>Item 7 – The Complaints Commissioner’s Annual Report 2021/22</b>	Amerdeep Somal – Complaints Commissioner (External Attendee) Ivona Poyntz – Office of the Complaints Commissioner (External Attendee) Robin Jones – Head of Department Alison Russell – Head of Department Dean Harwood – Manager
<b>Item 8 – The FCA’s Response to the Complaints Commissioner’s Annual Report 2021/22</b>	Robin Jones – Head of Department Alison Russell – Head of Department Dean Harwood – Manager
<b>Item 9 – Annual Report &amp; Accounts 2022/22</b>	Amanda Ebourne – Manager Jaz Sansoye – Senior Manager Joe Genova – Head of Department Tim Lennon – Manager

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<b>Item 10 - Rules and Guidance and Technical Standards to be determined</b>	None
<b>Item 11 - Decisions of the Board</b>	No attendees