

Minutes

Meeting:	FCA Board
Date of Meeting:	6 and 7 December 2017
Venue:	25 The North Colonnade, Canary Wharf, London E14 5HS
Present:	John Griffith-Jones (Chair) Ruth Kelly (in part) Andrew Bailey Jane Platt Catherine Bradley Nick Stace (in part) Amelia Fletcher Christopher Woolard (in part) Bradley Fried Sarah Hogg
In attendance:	Set out in Annex A
Apologies:	Ruth Kelly (6 December) Sam Woods Nick Stace (6 December) Christopher Woolard (6 December)

1 Quorum and Declaration of Interests

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 None of the directors present declared any interest in the matters to be considered at the meeting.

2 Board Effectiveness review

- 2.1 Jonathan Hayward and Catherine Stalker of Independent Audit presented their report following their recent review of the effectiveness of the FCA's Board.
- 2.2 It was noted that Independent Audit had conducted the Board's first external effectiveness review in 2014 and that there had been several changes to both the Board and wider organisation since that time. In their opinion the review had shown that the Board has many strengths and is generally working well. Some "things to think about" had been identified and, acknowledging the imminent departure of the current Chairman, there was also an opportunity for some reflection in preparation for the next phase.
- 2.3 The report set out some specific areas for the Board's consideration which were discussed in turn.
 - Aligning of activities into key strategic themes by the executive.
 - Increased engagement with different areas of the organisation
 - Exploring different ways of engaging with external stakeholders

- Balancing its agenda in terms of internal and external matters
 - Further refinement of the risk management framework, including the Board committees with responsibilities for risk and audit
 - Varying and clarifying the format of different Board sessions, formal and informal.
- 2.4 The Board welcomed the report and accepted all the broad themes as being areas for potential further improvement. Whilst a number of these issues were already being addressed others required further discussion by the Board and the incoming Chair.
- 2.5 It was **agreed** that the report would be published together with a brief response.

3 Minutes of the FCA Board meeting

- 3.1 The Board **approved** the minutes of the FCA Board meeting held on 9 November.

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:
- British Steel Pension Scheme– intelligence relating to the restructure of the British Steel Pension Scheme and the quality of the advice being given to scheme members had been received. This had led to the review of a number of firms giving advice to British Steel staff. The initial intelligence had informed the review and prompted targeted further information-gathering and file reviews. As a result a number of firms have ceased to provide pensions advice. The work has also meant that advisors are more aware of their obligations, and will take more care in giving advice. It also demonstrated that the FCA would take action where it was necessary. The Board commended the proactive intervention of the supervision team in trying to prevent harm to consumers
 - Economic Crime Review – in response to its economic crime review, the government is proposing to establish the National Economic Crime Centre (NECC) next year as part of the National Crime Agency (NCA). The intention is for the NECC to be a multi-agency body drawing from expertise across law enforcement agencies and regulatory bodies to coordinate the UK's response to high-end economic crime. The FCA will be part of the NECC with a seat on the governing body
 - Distributed Ledger Technology (DLT) – the Board discussed the FCA's role in respect of DLT and it was **agreed** that it should receive a briefing on Initial Coin Offering (ICOs), Crypto currencies and other emerging digital currencies, though there was recognition that these were not currently regulated by the FCA
- 5.2 The Board **noted** the Chief Executive's report.

6 Committee meeting updates

- 6.1 The Board received an update on the Audit Committee meeting held on 15 November 2017 from the Chair of the Committee.

- 6.2 The Board received an update on the Oversight Committee meetings held on 21 & 23 November 2017 from the Chair of the Committee.
- 6.3 The Board received an update on the Payment Systems Regulator Board meeting held on 22 November 2017 from the Chair.
- 6.4 The Board received an update on the External Risk and Strategy Committee meeting held on 5 December 2017 from the Chair of the Committee.
- 6.5 The Board received an update on the Remuneration Committee meeting held on 6 December 2017 from the Chair of the Committee.

7 EU Withdrawal – update

- 7.1 The Board received an update on developments regarding the work being conducted across the FCA to prepare for the UK's withdrawal from the EU.
- 7.2 The FCA will continue to monitor the progress of the EU Withdrawal Bill and associated subordinate legislation.
- 7.3 Core communication materials for use in relation to EU withdrawal both internally and externally were being developed for use as and when appropriate.
- 7.4 The presenting team advised that there was a process of embedding a risk management framework into the project to ensure that the organisation is able to prioritise its work on EU withdrawal and identify, manage and mitigate the associated risks.
- 7.5 It was noted that the preparatory work which had been done in respect of onshoring would create a good foundation for any future work required
- 7.6 The update was **noted** by the Board and it was also noted that specific items related to the UK's withdrawal from EU would be brought for its consideration and decision next year. In addition the Board would receive further updates as necessary.

8 Consequential amendments to Board documents due to changes to FCA executive committees

- 8.1 The Board was reminded that at its November meeting the Chief Executive had advised that the Executive Committee structure would change from January 2018. The changes followed an internal review of the way in which the Chief Executive's authority was currently delegated through the executive committee structure with a view to providing a more streamlined framework that would continue to facilitate a decision making process which was risk-based and outcome-focused.
- 8.2 As a result of the structural changes a series of minor amendments would need to be made to the following public documents:
- The FCA's Senior Managers Regime
 - Corporate Governance of Financial Conduct Authority
 - Decision Procedure and Penalties Manual (DEPP 4)
- 8.3 The difference between the proposed top level executive committees, Executive Committee (ExCo) and Executive Regulation and Policy Committee (ERPC) was explained to the Board. ExCo and its sub committees would focus on strategy, business planning and operational matters whereas ERPC would be focused on regulatory issues.

8.4 The Board **noted** the required changes to the above documents.

9 Improving Access to Redress for small and medium sized enterprises (SMEs)

9.1 The Board was reminded that there is no universally accepted definition of "Small and Medium sized enterprises" (SMEs), but that the FCA's recent focus was on businesses employing under 250 staff or with an annual turnover of under £50m. Since 2013 the FCA has facilitated discussions on access to redress for SMEs, including out of court forms of redress. ExCo had agreed consultation proposals which would extend the eligibility for access to the Financial Ombudsman Service (FOS) to smaller SMEs and to personal guarantors of certain SME loans. These proposals will be subject to consultation in January 2018.

9.2 It was noted, however, that despite the proposals set out above a number of SMEs will still encounter difficulty accessing redress for a number of reasons. The circulated paper set out ways in which the residual issues relating to SME redress might be addressed, which would be included for discussion in the January consultation document.

9.3 The Board discussed the drivers of the residual issues relating to SME redress and the options for change - including some that would require legislative amendment. It was agreed that Board members should have sight of the draft CP before the consultation is launched.

9.4 The CEO of FOS was in attendance and it was noted that the proposed changes extending its jurisdiction could potentially involve extra resourcing, and different approaches to handling complaints.

9.5 The Board **noted** the proposals for consultation within the report.

10 Monthly Report from the Financial Services Consumer Panel

10.1 The Board reviewed and discussed the report from the Consumer Panel including

- The panel's concerns about access to redress for SMEs. The Board was apprised of other on-going work in connection with SMEs
- The panel's concerns in relation to the safety of open banking

10.2 The Board **noted** the monthly report from the Consumer Panel.

11 Money Advice Service Business Plan & Budget 2018/19

11.1 The Chair and Chief Executive of the Money Advice Service (MAS) were welcomed to the meeting.

11.2 The draft plan and budget for 2018/19 had been considered by the Oversight Committee at its recent meeting and it was noted that the Treasury was broadly content. The budget request was £84.3m compared to this year's budget of £75m and comprised a money guidance levy of £27.6m and debt advice levy of £56.7m.

11.3 The money guidance element remained flat whilst the increase in the debt advice levy was due to a planned focus on debt sessions due to increased demand as a result of the economic situation.

11.4 £0.5m would go towards transition costs for the new body, which had been reduced following challenge received at the Oversight Committee.

11.5 The Committee recommended that the additional £8m of funding for debt advice be ring fenced until after the Independent Review of Debt Advice Funding is published by Peter Wyman CBE in early 2018, and MAS can clarify their proposals.

11.6 The Board accepted the Oversight Committee's recommendation and **approved** the MAS budget for 2018/19 for consultation.

12 Financial Services Compensation Scheme Management Expenses Levy Limit 2018/19

12.1 The Board received the paper setting out the proposed Financial Services Compensation Scheme Management expenses levy limit (MELL) of £77.7m for 2018/19.

12.2 It was noted that this had been considered at the recent meeting between FSCS representatives and the Oversight Committee and that the contingency reserve element of the proposed budget was for any unexpected cases and to ensure that the FSCS was able to continue to exercise its statutory functions.

12.3 The Board **approved** the proposed MELL for consultation

13 FOS Business Plan & Budget 2018/19

13.1 The Board received the proposed business plan and budget for the Financial Ombudsman Service (FOS) for 2018/19 and noted that the proposals had been considered at the recent meeting of the Oversight Committee.

13.2 Plans for 2018/19 were subject to significant uncertainty, particularly around Payment Protection Insurance (PPI) as the impact of the FCA time bar campaign could not be predicted. Once the period for bringing PPI-related claims had ended, it was likely that there would be a more steady state.

13.3 The Board noted that an operational deficit of £62.4m was forecast for 2018/19 and would be funded by drawing from existing reserves, reducing the reserves in line with the planned multiyear reduction.

13.4 The Board **approved** the proposed FOS business plan and budget for 2018/19 for consultation as recommended by the Oversight Committee.

14 Insurance Distribution Directive (IDD) implementation - feedback from CP17/23

14.1 The presenting team reminded the Board that the Insurance Distribution Directive would replace the Insurance Mediation Directive and would apply to firms engaged in all types of insurance provision. The Directive must be transposed by 23 February 2018, though it was noted that there were on-going discussions at EU level regarding a potential delay to the effective date.

14.2 The paper set out the issues raised in the second of three consultation papers. A majority of the responses had been supportive of the proposals and the Board was being asked to agree the approach and near final rules. It was likely that due to timescales approval of the final rules would have to be made by written procedure.

14.3 Discussion took place on the application of the Insurance Product Information Document (IPID), including its scope.

14.4 The Board **agreed** the proposal to maintain the approach to require IPID for retail consumers only. It also **approved** near final rules for publication in the December 2017 policy statement (PS2) and noted the intention to make final rules in January 2018.

15 Financial Advice Market Review implementation part 2

- 15.1 Following a consultation earlier in the year regarding handbook changes, perimeter guidance and non-handbook guidance arising from the experiences of the FCA's Advice Unit, the Board received a summary of the responses ahead of publication of a Policy Statement addressing the issues in the consultation. The proposed changes would come into force from 3 January.
- 15.2 The situations when customers would be eligible to approach the FOS with their complaints were clarified.
- 15.3 The Board **agreed** to make the following:
- Rules and guidance arising from amendments to Article 53 (1) of the Regulated Activities Order
 - Handbook guidance on insistent clients
 - Non-handbook guidance arising from the experiences of the FCA Advice Unit

16 Rules & Guidance to be determined

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

17 Decisions of the Board

- 17.1 The Board **approved**:
- the re-appointment of Gerard Connell to the Board of the FOS for a period of three years, from 12 December 2017 to 11 December 2020
 - the re-appointment of Marlene Shiels as a member of the FCA Smaller Business Practitioner Panel for three years, from 1 March 2018 to 28 February 2021
 - the appointment of Stuart Williams as a member of the FCA Markets Practitioner Panel for three years, from 1 January 2018 to 31 December 2020
 - re-appointment of Mark Chidley as a member of the FCA Consumer Panel for a second term of three years, from 1 February 2018 to 31 January 2021

18 Minutes of Executive Committee meetings.

- 18.1 The Board noted the minutes of the Executive Committee meetings held on 29 September, 2, 3, 4, 17, 25, 26 October, 1, 9 November 2017.

19 Forward Agenda

- 19.1 The Board noted the forward agenda.

20 Any Other Business

- 20.1 The Chairman suggested that once the appointment of the new Chair has been confirmed, the successful candidate should be invited to attend Board meetings as an observer prior to taking up their appointment.

John Griffith-Jones
Chairman

ANNEX A: Attendees

Attending all, or substantially all, of the meeting:

Angela Attah	Deputy Company Secretary
Megan Butler	Director, Supervision, Investment, Wholesale & Specialists
Vickiesha Chabra	Manager, Chairman's Office
Jonathan Davidson	Director, Supervision, Retail and Authorisations
Nausicaa Delfas	Chief Operating Officer
Sean Martin	General Counsel
Simon Pearce	Company Secretary
Mark Steward	Director, Enforcement and Market Oversight

Also attending for the following items:

7	Lee Foulger	Head of Department, EU & Global HoD Office
	Martin Boffey	Manager, GCD EU Coordination Team
9	Richard Fox	Head of Department, PPGI, Strategy & Competition
	Nicholas Holloway	Manager, GCD Investment, Insurance and Redress
	Caroline Wayman	Chief Ombudsman & Chief Executive, FOS
	Annette Lovell	Director of Engagement, FOS
11	Charles Counsell	Chief Executive, Money Advice Service
	Andy Briscoe	Chairman, Money Advice Service
14	Pritheeva Rasaratnam	Manager, Pension Policy, Strategy & Competition
	Marc Maxfield	Manager, Insurance(GI&Life), Strategy & Competition
15	Edward Oxley	Manager, Mortgages, Strategy & Competition
	Graeme McLean	Head of Department, BLD, Strategy & Competition

ANNEX B: Resolution

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

Handbook Administration (MiFID 2) Instrument 2017 (FCA 2017/65)

Conduct of Business Sourcebook (Insistent Clients) Instrument 2017 (FCA 2017/66)

Advising on Investments (Article 53(1) of the Regulated Activities Order) (Consequential Amendments) Instrument 2017 (FCA 2017/67)

Financial Services Compensation Scheme (Extension of Scope to Recognised Investment Exchanges) Instrument 2017 (FCA 2017/68)

Periodic Fees (2017/18) and Other Fees (No 2) Instrument 2017 (FCA 2017/69)

Fees (Consumer Financial Education Body Levy) Instrument 2017 (FCA 2017/70)

Fees (Payment Services) (No 3) Instrument 2017 (FCA 2017/71)

Fees (Payment Systems Regulator) Instrument (No 5) 2017 (FCA 2017/72)

Supervision Manual (Amendment No 23) Instrument 2017 (FCA 2017/73)

MiFID 2 Approved Persons and Senior Managers Forms Amendment Instrument 2017 (FCA 2017/74)

Supervision Manual (Reporting No 7) Instrument 2017 (FCA 2017/75)

Conduct of Business Sourcebook (Packaged Retail and Insurance-based Investment Products Regulation) (Amendment) Instrument 2017 (FCA 2017/76)

MiFID 2 (Deferred Matters) Instrument 2017 (FCA 2017/77)

Banking (Information About Current Account Services) Instrument 2017 (FCA 2017/78)

Client Assets (Indirect Clearing) Instrument 2017 (FCA 2017/80)

Risk Transformation Regulations (Consequential Amendments) Instrument 2017 (FCA 2017/81) (FOS 2017/8)

The Board is approves in principle the making of the following instruments and to agree that they be made at a future date by way of written resolution:

Benchmarks Regulation Amendment Instrument 2017

Enforcement (Packaged Retail and Insurance-based Investment Products Regulations 2017) Instrument 2017

Insurance Distribution Directive (Conduct of Business for Life Policies, Non-Investment Insurance Product Information, Product Oversight, Organisation and Other Requirements) Instrument 2017

The Board hereby approves the making by the Board of the Financial Ombudsman Service Ltd of the following instruments:

Dispute Resolution: MiFID 2 Complaints (Voluntary Jurisdiction) (Financial Ombudsman Service) Instrument 2017 (FOS 2017/6)

Advising on Investments (Article 53(1) of the Regulated Activities Order) (Consequential Amendments) (Financial Ombudsman Service) Instrument 2017 (FOS 2017/7)