

## Minutes

<b>Meeting:</b>	FCA Board
<b>Date of Meeting:</b>	25 May 2023
<b>Start time:</b>	09:00
<b>Venue:</b>	Meeting held in Boardroom and via Microsoft Teams

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<b>Members Present:</b>	Ashley Alder (Chair) Alice Maynard Bernadette Conroy Liam Coleman	Nikhil Rathi Richard Lloyd Sophie Hutcherson
<b>In attendance:</b>	Set out in Annex A	
<b>Presenters:</b>	Set out in Annex A	
<b>Apologies:</b>	Sam Woods	

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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 the Chairs of Board Committees

- 2.1 The Board noted the report from the Chair of the Risk Committee meeting held on 11 May 2023 and took assurance on the topics covered by the sub-committee. Key topics discussed at Risk Committee included: operational and implementational challenges created by the policy undertaking under Future Regulatory Framework (FRF) means there is a risk to the FCA's ability being able to fully grasp the opportunity the FRF presents; the FCA's approach to managing documentation and evidence; and the risk of consumer harm arising from firms in the Payments Portfolio.
- 2.2 The Board noted the report from the Chair of the People Committee meeting held on 18 May 2023 and took assurance on the topics covered by the sub-committee. Key topics discussed at the People Committee included: an update on the Strategic Workforce Planning review (which will be brought to the Board in due course); people-related MI; and the importance of linking this MI up with the strategic workforce planning.
- 2.3 The Board noted the report from the Chair of the Audit Committee meeting held on 19 May 2023 and took assurance on the topics covered by the sub-committee. Key topics discussed at Audit Committee included an update on the financial statements, noting that these

remained on track; the revised Conflicts of Interest policy; and how the FCA can systematise the way that it “learns lessons” from events even where it will not be carrying out formal reviews.

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

- 3.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. National Audit Office (NAO) – the Board heard that the NAO wished to undertake a review of the FCA’s overall effectiveness and readiness to meet the challenges of the future, in particular, cryptoassets and artificial intelligence. The Board noted that this was likely to be resource intensive.
  - ii. Diversity & Inclusion Consultation Paper (CP) – work on the data, and with the PRA, is ongoing; this will be brought to Board in due course (likely June or July).
  - iii. US debt ceiling – the Board was assured that contingency planning was underway in the event the US debt ceiling is breached. This included a people plan and a communications plan to ensure channels of communication between key regulators and institutions are open, and to understand their contingency planning. Market abuse monitoring had been increased and a playbook of policy interventions for worst case scenarios was in place. The Board suggested that the playbook be shared with the Payment Systems Regulator.

### **4 Finalising rules for broadening retail and pensions distribution of the long-term asset fund**

- 4.1 The Board considered the proposed Policy Statement on applying rules for broadening retail and pensions distribution of the long-term asset fund (LTAF).
- 4.2 During the course of discussion, the following key points were noted by Board members:
- i. it was unlikely that venture capital tax treatment would extend to LTAFs. It was noted that it is for HM Treasury (and HM Revenue and Customs) to determine the tax treatment of LTAFs;
  - ii. it was recognised that broadening LTAFs for retail and pensions distribution would increase risk to a degree for those consumers. The Board was comfortable with this, given that consumer protection expectations on firms are clear under the Restricted Mass Market Investment regime which requires firms to include risk warnings and make an appropriateness assessment when marketing to retail investors on an unadvised basis. The FCA is developing a supervisory approach around this;
  - iii. while the Board determined not to broaden distribution to retail and pension investors only on an advised basis (as this would exclude a large portion of the market and could push investors into higher risk investments where advice is not required to be sought), Board members acknowledged that a wider discussion around the significance of an “advice gap” for retail investors was necessary in due course, and

- iv. the FCA is mitigating against any potential impact of illiquid assets on those investors reaching retirement age, by requiring illiquidity notifications to be sent to investors nearing retirement.
- 4.3 The Board **agreed** with the proposal to broaden LTAF distribution to restricted retail investors, Self-Invested Personal Pensions and self-select defined contribution schemes.
- 4.4 The Board considered whether the Policy Statement should consult on the question of whether LTAFs should be carved out of the Financial Service Compensation Scheme (FSCS).
- 4.5 The Board was cognisant of minimising undue delay to the commencement of the rules to broaden LTAF distribution and so **agreed** the following:
- i. there was appetite for the LTAF Policy Statement to be published inviting views from stakeholders on FSCS exclusions provided that further work was undertaken to ensure that, notwithstanding the fact the LTAF rules have a July 2023 commencement date, the expected date of product launch (December 2023) allows sufficient time for the FCA to: a) analyse views, b) conclude its thinking on possible FSCS exclusions, and c) clarify the intended position externally as necessary ahead of the product launch date, and
  - ii. a decision on the LTAF Policy Statement and final rules would be taken by the Board via the written procedure process post completion of the further work requested.

## **5 Debt Packagers Policy Statement: Feedback from consultation and proposed decision**

- 5.1 The Board considered the proposed Policy Statement on applying rules to ban debt packager firms receiving remuneration from debt solution providers.
- 5.2 During the course of discussion, the following key points were noted by Board members:
- i. the team provided the Board with assurance that any consequential risk on capacity in the debt advice sector from introducing the ban should be minimal and absorbable, and
  - ii. the Board was comfortable with the rationale for setting the implementation period at four months, and concluded that this, along with the mitigating steps the team proposed the FCA take during that period, was sufficient to appropriately balance the interests of firms with the urgent need to protect consumers from the harm.
- 5.3 The Board **approved** the rules to effect the prohibition on debt packagers accepting referral fees.
- 5.4 The FCA Board **agreed** to a four-month implementation period which balances the risk of harm to consumers while taking into account the impact on firms.
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**6 Cryptoasset financial promotions: Policy Statement, near final rules, guidance consultation and implementation strategy**

- 6.1 The Board considered the proposed Policy Statement on applying near final rules to cryptoasset financial promotions of authorised persons and registered crypto businesses.
- 6.2 During the course of discussion, the following key points were noted by Board members:
- i. the team was asked to consider the appropriateness of referring to cryptoassets as investment products,
  - ii. the team was encouraged to use the FCA's available tools to demonstrate that the FCA is assertively supervising and enforcing against the rules,
  - iii. the rules should allow the population of s21 approvers to grow in a proportionate way. The team was engaged with the unregistered firms that were likely to come forward for registration, and
  - iv. mitigations were in place to manage any risks arising from: i) having to de-prioritise other projects in order to resource this work, and ii) the financial promotion regime potentially leaving some consumers unable to access services if firms cannot legally communicate financial promotions to UK consumers.
- 6.3 The Board **approved** the:
- i. proposed near final rules and Policy Statement for authorised persons and registered crypto businesses,
  - ii. publication of the Policy Statement on cryptoasset financial promotions, and
  - iii. proposed implementation strategy.

**7 Rules, Guidance and Technical Standards to be determined**

- 7.1 The Board **resolved** to make the following instrument:
- i. Consumer Credit (Debt Packager Remuneration from Debt Solution Providers) Instrument 2023.
- 7.2 The Board **resolved** to make the following near final instrument:
- i. Cryptoasset Financial Promotions Instrument 2023.
- 7.3 The Board **agreed** that the following instrument should be resolved via written procedure in line with the decision taken at item 4 of this agenda:
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- i. Long-Term Asset Fund (Amendment) Instrument 2023.

## **8 Finance report**

### Information, Technology & Disclosure (ITD) Project – Electronic Disclosure Platform Contract Extension

- 8.1 The Board **approved** the electronic disclosure roll out investment case, including the proposed extension to the contract and increase to the contract ceiling limit, having been assured by the team that the upgrade from version 9.3 to version 11 was not a substantive change.
- 8.2 The Board **noted** the potential risks arising during the contract term and **approved** the contingency proposed. The Board reiterated its view that contingency funding should be allocated to projects as part of the initial drawdown request but only released by EFDC as necessary.

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

### Minutes of Previous meeting

- 9.1 The Board **approved** the minutes of the meeting held on 27 April 2023.

### Action log

- 9.2 The Board noted the action log and **approved** the closure of completed actions.

### Board Committee membership

- 9.3 The Board **agreed** to defer a decision on Board Committee membership until further conversations had taken place.

### Independent Panel appointments

- 9.4 The Board **approved** the following Panel appointments:
    - i. Appoint Karen Zachary as a member of the FCA Smaller Business Practitioner Panel from 29 May 2023 to 31 May 2026
    - ii. Appoint Mark Rayward as a member of the FCA Smaller Business Practitioner Panel from 29 May 2023 to 31 May 2026
    - iii. Appoint Cristina Nestares as a member of the FCA Practitioner Panel from 26 May 2023 to 31 May 2026
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- iv. Appoint David Lindberg as a member of the FCA Practitioner Panel from 26 May 2023 to 31 May 2026
- v. Appoint Paul Stockton as a member of the FCA Practitioner Panel from 1 July 2023 to 30 June 2026
- vi. Appoint Charlie Walker as a member of the FCA Listings Authority Advisory Panel from 1 June 2023 to 30 November 2024
- vii. Reappoint Michael Findlay as a member of the FCA Markets Practitioner Panel from 1 June 2023 to 31 May 2026
- viii. Reappoint Julie Hunter as a member of the Financial Services Consumer Panel from 1 June 2023 to 31 May 2026
- ix. Reappoint Natasha de Teran as a member of the Financial Services Consumer Panel from 1 June 2023 to 31 May 2026

#### Financial Services Compensation Scheme ("FSCS") Director appointment and reappointments

- 9.5 The Board **approved** the following appointment / reappointments:
- i. Alyson Levett be appointed as a non-executive director ("NED") of FSCS and Audit Committee Chair for a period of three years, from 1 July 2023 to 30 June 2026
  - ii. Helen Parker be reappointed as a NED of FSCS for a period of one year, from 1 July 2023 to 30 June 2024
  - iii. Fiona Kidy be reappointed as an executive director of FSCS for a period of three years, from 1 July 2023 to 30 June 2026
  - iv. Baroness (Nicky) Morgan of Cotes be reappointed as a NED of FSCS for a period of three years, from 1 September 2023 to 31 August 2026
  - v. Wendy Williams CBE be reappointed as a NED of FSCS for a period of three years, from 1 September 2023 to 31 August 2026
  - vi. Cathryn Riley be reappointed as a NED of FSCS for a period of three years, from 1 February 2024 to 31 January 2027, subject to the Redress & CMC Policy team receiving the appropriate assurance from the FSCS nearer the time
- 9.6 The Board **agreed** that the Oversight Committee should discuss the risk of all the terms ending at the same time, as well as reflecting on the gender diversity of the appointments.

#### Conflicts of Interest Policy Review

- 9.7 The Board:
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- i. **Approved** the Conflict of Interest policy, requesting minor amendments to update the policy to consistently refer to both the FCA and PSR throughout the document.
- ii. **Agreed** to delegate maintenance of the list of activities that are within scope of the policy to Executive Director - Risk & Compliance Oversight, Executive Director - Consumers & Competition, General Counsel and the Ethics Officer, subject to annual approval of the policy by the FCA Board ahead of annual staff attestation.

Modern Slavery & Human Trafficking Statement for the year ended 31 March 2023

- 9.8 The Board **approved** the voluntary publication of the "Modern Slavery and Human Trafficking Statement for the financial year ending 31 March 2023" (Annex A) alongside the Annual Report & Accounts in July 2023.

FCA Net Zero Transition Plan

- 9.9 The Board **agreed** to:

- i. Publish a net zero transition plan in July 2023; and
- ii. The Executive Committee's delegation of sign-off of the final publication to the Chief Operating Officer and the Director of Environmental, Social and Governance.

- 9.10 The Board **noted** that the plan was heavily dependent on decarbonisation of the grid (scope 2) and the FCA's supply chain (scope 3).

- 9.11 The Board **noted** the importance of the Equality and Diversity impact assessment reflecting on the positive impacts of the proposal as well as any negative impacts, for example, improvements to air quality for vulnerable groups.

## **10 Papers for noting**

Written Procedures

- 10.1 The Board **noted** the decisions taken by written procedure since the April 2023 Board meeting.

Independent Panels Monthly Reports

- 10.2 The Board **noted** the following Independent Panels Monthly Reports:

- i. Financial Services Consumer Panel
  - ii. Markets Practitioner Panel
  - iii. Practitioner Panel
  - iv. Smaller Business Practitioner Panel
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- 10.3 The Board discussed the key points arising in the reports, in particular:
- i. the Compulsory Jurisdiction of the Financial Ombudsman Service relating to s21 - the Board requested that the FCA liaise with the Consumer Panel to outline the rationale behind the FCA's position,
  - ii. the continuing need for a Consumer Duty Champion (CDC) on firm boards until at least 31 July 2024 - the Board requested that the FCA liaise with the Practitioner Panel to clarify the role and responsibility of the CDC,
  - iii. and the Smaller Business Practitioner Panel's focus on advice guidance.
- 10.4 The Board noted that a number of the reports were supportive of the Senior Managers and Certification Regime.

There being no further business the meeting closed.



**Annex A: Attendees, presenters and observers**

**In attendance:**

Aidene Walsh – PSR Chair  
 Emily Shepperd – Executive Director, Authorisations  
 Sarah Pritchard – Executive Director, Markets  
 Sheldon Mills – Executive Director, Consumers and Competition  
 Sheree Howard – Executive Director, Risk and Compliance Oversight  
 Stephen Braviner Roman – Executive Director, General Counsel  
 Therese Chambers – Executive Director, Enforcement and Market Oversight  
 Miles Bake – Director, Company Secretary  
 Graeme McLean – Head of Department, Chief Executive Office  
 Dave Eaton – Manager, Chair’s Office

**Presenters and observers:**

<b>Item 1 - Declarations of interest</b>	No attendees
<b>Item 2 – Reports from Chairs of Board Committees</b>	No attendees
<b>Item 3 - Report from the Chief Executive</b>	No attendees
<b>Item 4 - Finalising rules for broadening retail and pensions distribution of the long-term asset fund (LTAF)</b>	Camille Blackburn - Director Greg Sachrajda – Director Nike Trost– Head of Department Mhairi Jackson - Manager
<b>Item 5 - Debt Packagers Policy Statement: Feedback from consultation and proposed decision</b>	Roma Pearson - Director John Wightman – Head of Department Miranda de Savorgnani – Manager
<b>Item 6 - Cryptoasset financial promotions: Policy Statement, final rules, guidance consultation and implementation strategy</b>	Matthew Long – Director Lucy Castledine – Interim Director Jane Moore – Head of Department Jayson Probin – Technical Specialist Nick Smith - Manager
<b>Item 7 - Rules and Guidance and Technical Standards to be determined</b>	No attendees
<b>Item 8 – Finance Report</b>	Craig Chapman - Director
<b>Item 9 – Decisions of the Board</b>	No attendees
<b>Item 10 – Paper for Noting</b>	No attendees

Other relevant associates were also in attendance.