

## Minutes

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| Meeting:         | FCA Board  |
| Date of Meeting: | 11 and 12 September 2017   |
| Venue:           | 25 The North Colonnade, Canary Wharf, London E14 5HS   |
| Present:         | John Griffith-Jones (Chair) Sarah Hogg<br>Andrew Bailey Jane Platt<br>Catherine Bradley Nick Stace<br>Amelia Fletcher Sam Woods (in part)<br>Bradley Fried Christopher Woolard<br>Ruth Kelly |
| In attendance:   | Set out in Annex A   |
| Apologies:       | Sarah Hogg ( <i>for 12 September only</i> )  |

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### 1 Quorum and Declaration of Interests

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 Jane Platt and Amelia Fletcher declared their respective interests in relation to the agenda item on the investment consulting market investigation. The Board noted that Jane Platt was Chair of the Board of Trustees of LifeSight, a defined contribution pension master trust, and Amelia Fletcher a non-executive Board member of the Competition and Markets Authority (CMA). It was agreed that both non-executive directors could remain in the meeting but not take part in deliberations or the making of the decision.
- 1.3 Catherine Bradley declared her directorship of Groupe PSA in the context of an item in the Chief Executive's report relating to motor finance.
- 1.4 There were no further interests declared by Board members in respect of matters to be considered at the meeting.
- 1.5 The Board noted that the Bank of England had published its review into its approach to conflicts of interest. It was reported that work was being undertaken internally to establish what could be learned from the report's recommendations to strengthen the FCA's current arrangements.

#### ***Business conducted on 11 September 2017***

### 2 Minutes of the FCA Board meeting

- 2.1 The Board **approved** the minutes of the FCA Board meeting held on 19 and 20 July 2017.

### **3 Matters arising**

- 3.1 The Board noted the progress with the matters arising from previous meetings. The Chairman reported that he would follow up the suggestion of benchmarking the FCA against its international counterparts.
- 3.2 Jane Platt reminded the Board that at the July meeting she had queried whether there were any rules or guidance regarding the use of technology during Board meetings.
- 3.3 Sarah Hogg updated the Board on the plans and timetable for the recruitment of the new FCA Chair.

### **4 Minutes of the Oversight Committee meeting**

- 4.1 The Board noted the draft minutes of the Oversight Committee meeting held on 4 July 2017.

#### ***Business conducted on 12 September 2017***

### **5 Report from the Chief Executive**

- 5.1 The Board discussed Mr Bailey's report on developments since the last meeting including:
  - RBS Global Restructuring Group (GRG) – It was reported that a leak enquiry had been commissioned by the FCA in response to the claim by the BBC that it had seen a copy of the Skilled Person's report relating to GRG. The issue of the regulatory perimeter and how this impacted on the actions which the FCA could potentially take was noted. It was intended that a summary of the Skilled Person's report, verified as fair by a QC, should be published promptly.
  - Which? Super Complaint – It was noted that a range of activities were being worked on by the FCA in respect of authorised push payments and the FCA continued to work with the Payment Systems Regulator (PSR) on this matter. Good progress had been made generally.
  - Motor Finance - The Board queried the fairness of some terms in the motor finance industry and it was confirmed that exploratory work would be undertaken to understand the potential harm to consumers as part of wider work on motor sales.
- 5.2 The Board **noted** the Chief Executive's report.

### **6 Report from the PRA**

- 6.1 Mr Woods presented a summary of the key issues on the PRA agenda of relevance to the FCA, including the current themes it was addressing.

### **7 Reports from the Panels**

- 7.1 The Board reviewed and discussed the reports from the Consumer Panel, the Practitioner Panel and the Smaller Business Practitioner Panel.
- 7.2 It was reported that several Board members had recently had dinner with members of the Consumer Panel and that it had been a constructive evening. Panel members had raised a number of issues, including whether the FCA used all the powers it had at its disposal and the implications of PSD2, the Open Banking Initiative and GDPR.

- 7.3 In discussing the FCA initiatives, the Practitioner Panel had raised management stretch as a result of additional work connected with Brexit and the need for careful prioritisation as the business planning round for 2018/19 commenced.
- 7.4 Both the Practitioner Panel and the Smaller Business Practitioner Panel had recognised the challenges posed by the FSCS funding review and supported the overall direction of the work.
- 7.5 The Board noted the monthly reports from the panels.

## **8 EU Withdrawal – update**

- 8.1 The presenting team briefly took the Board through the six work streams which had been set up internally to manage the work associated with the UK's withdrawal from the EU.
- 8.2 It was noted that there would be large volumes of UK primary legislation which would need to be reviewed by HM Treasury and the FCA. Government was currently discussing the timetable for the laying of statutory instruments and there was an internal timetable for relevant FCA work. The Board sought assurance about how the organisation would be resourced if the process became condensed and it was confirmed that resources in relation to Brexit would form part of the business planning round discussions.
- 8.3 The Board was advised that the approach to on-shoring would be limited only to technical 'deficiencies' in the drafting of legislation arising from the UK's withdrawal from the EU.
- 8.4 The potential for an increase in the FCA's scope of activities was noted.
- 8.5 The Board noted the overall progress. Updates to the Board would continue to ensure that it was kept apprised of key developments and the timetable.

## **9 Quarterly Performance Report (Q1 2017/18)**

- 9.1 The Board discussed and noted the following:
- Retail Supervision and Authorisations – The backlog in authorisations continued to decrease. There was more proactive supervision of flexible firms and proposals on the impact of this for fixed firms would be brought to the Board as part of the Delivering Effective Supervision (DES) discussion in October.
  - Enforcement and Market Oversight – New ways of working were becoming embedded. In terms of caseload, significant resource was being expended on historical cases, but the number of case closures is on the increase.
  - Strategy and Competition – On policy implementation the mortgages market study entailed a lot of work and so was moving more slowly than anticipated; some of the EU-related workstreams were RAG rated red but constructive discussions continued to be held at ExCo. Future projects would include the examination of the rent to own market in light of housing association activity.
  - FCA wide – The new Director of Human Resources, William Hague, was introduced to the Board. Work continued to recruit experienced staff to deal with cyber issues and a Chief Information Officer would be in post in October.
  - In terms of finance there was an underspend against budget as a result of lower staff-related costs. The October challenge session, part of half the year forecast process which would include discussion with executive directors, was scheduled and finance and other resources would be redeployed accordingly.

- The backlog of complaints against the FCA was in a better position overall, with approximately 20 having been in the system for more than eight weeks, a significant reduction over the period.

9.2 The Board **noted** the quarterly performance report for Q1 2017/18

## 10 The Insurance Distribution Directive

10.1 The Board was reminded that the Insurance Distribution Directive (IDD) on the sale of insurance products was due to come into effect on 23 February 2018, when it would be implemented into UK law. The IDD builds on the extant European legislation, changing the scope, adding new requirements and updating some of the standards.

10.2 The circulated paper summarised the responses to a consultation launched in March 2017 and it was noted that a second consultation paper had been published in July with a final one due in September 2017.

10.3 The presenting team explained that Board approval of the near final rules was required to be included in the policy statement due to be published on 25 September. This would allow firms as much time as possible to prepare their systems ahead of February 2018, as the proposed final rules were not scheduled to be brought to the Board until January 2018. It was explained that final rules could not be made now due to inter-dependencies between the 'near final' rules and the final policy proposals expected in December 2017 and January 2018. Changes to legislation by HM Treasury are also required before some of the final rules could be made.

10.4 The Board **approved** the rules as 'near-final', to be included in a Policy Statement to be published on 25 September 2017.

## 11 Investment Consulting Market Investigation Reference – Final Decision

11.1 The Board was reminded of the background to the proposal to make a market investigation reference (MIR) to the CMA in response to concerns about the way competition was working in the market for investment consulting services.

11.2 Proposed undertakings in lieu (UIL) had been submitted by some investment consultants but it had been recommended to ExCo that these be provisionally rejected, following which a short public consultation proposing to proceed with the MIR was published in June 2017. 16 of the 19 responses received supported the rejection of the undertakings in the form they were offered.

11.3 Following discussion the Board **agreed** with the recommendation to reject the UIL, and to publish the decision to refer investment consultancy and fiduciary management services to the CMA, setting out the rationale and scope. It was noted that the CMA had up to 18 months to complete their investigation.

## 12 PPI deadline campaign

12.1 The Board was advised that the PPI deadline campaign launched on 29 August 2017. The overall response had been positive: the launch had received widespread press coverage which owed much to the use of a celebrity, and subsequently there had been a huge increase in pages views on the FCA website and 7,000 calls to the contact centre. The following points were also noted:

- Firms had reported an increase in direct consumer activity but their complaints handling processes remained operationally resilient, although there were reports that the quality of some claims were not always good.

- There had also been good support from third sector partners and a huge social media presence, with misconceptions and questions being responded to on Twitter and Facebook.
- Contact centre scripting had been revised to make it clear that the FCA could not handle claims on behalf of consumers.
- Although for the vast majority of customers the deadline for receipt of complaints by banks is 29 August 2019, there had been some press coverage highlighting that there are approximately 5.1m people who have already been contacted by their banks between 2013 and 2015 and for whom an earlier deadline to make a claim will apply.
- There had been a few complaints about the campaign from members of the public and Freedom of Information requests from journalists. Complaints about bad practices and nuisance calls were being signposted appropriately.
- The attempt by We Fight Any Claim Ltd (WFAC) to subject the decision to impose the deadline on claims and the *Plevin* rules and guidance to judicial review had been refused permission by the High Court and WFAC had been ordered to pay the FCA's costs. Although WFAC had applied to the Court of Appeal for permission to appeal the decision, that was on the basis of a narrow point relating to the deadline only and did not affect the FCA's *Plevin* rules and guidance.

12.2 It was noted that the next phase of the campaign would include billboards on public transport and in shopping centres. There would also be a new TV advertisement on how the FCA can help. Monitoring and evaluation was in train and meetings would continue with consumer bodies and industry.

12.3 Noting the early response to the PPI deadline campaign, the Board congratulated the team. The importance of sustaining the messaging and encouraging consumers to act as soon as possible rather than focusing on the deadline was stressed.

12.4 It was agreed that the Board should receive periodic updates when there was statistically reliable feedback or issues of concern, with the first in six months' time.

### **13 Rules & Guidance to be determined**

13.1 The Board received a presentation on the revised Payment Services Directive as background to the making of the Payment Services Instrument 2017.

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

### **14 Decisions of the Board**

14.1 The Board **approved**:

- the re-appointment of Andy Briscoe as Chairman of the Money Advice Service until June 2019 or the date that the new Single Financial Guidance Body goes live, whichever is earlier;
- the revision of the Code of Conduct for Members of the FCA's Regulatory Decisions Committee and Competition Decisions Committee Panel and the PSR's Enforcement Decisions Committee and Competition Decisions Committee;
- the appointment of Les Matheson as a member of the FCA Practitioner Panel for three years, from 1 October 2017 to 30 September 2020; and

- the appointment of Michelle Scrimgeour as a member of the FCA Practitioner Panel for three years, from 1 October 2017 to 30 September 2020.

## **15 Minutes of Executive Committee meetings**

- 15.1 The Board noted the minutes of the Executive Committee meetings held on 20 & 28 June and 11 July 2017

## **16 Forward Agenda**

- 16.1 The Board noted the forward agenda.

**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                                    |
| Jonathan Hayward  | Independent Audit Ltd (observer on 12 September)           |
| Sean Martin       | General Counsel  |
| Simon Pearce      | Company Secretary  |
| Mark Steward      | Director, Enforcement and Market Oversight                 |

### **Also attending for the following items:**

|    |                      |   |
|----|----------------------|---|
| 8  | Stephane Amoyel      | Technical Specialist, EU Planning & Coordination            |
|    | Martin Boffey        | Manager, GCD EU Coordination Team                           |
|    | Lee Foulger          | Head of Department, EU & Global                             |
| 9  | David Godfrey        | Director, Finance   |
|    | William Hague        | Director, Human Resources                                   |
|    | Alex Roy             | Manager, Strategy Development                               |
| 10 | David Geale          | Director, Policy  |
|    | Pritheeva Rasaratnam | Manager, Advice Unit  |
| 11 | Tina Archer          | Manager, Consumer Contracts                                 |
|    | Venetia Jackson      | Technical Specialist, GCD Investment, Insurance and Redress |
|    | Philip Salter        | Director, Retail Lending                                    |
|    | Mark Threipland      | Head of Department, GCD Investment, Insurance and Redress   |
| 12 | Robin Finer          | Head of Department, Wholesale & Investments Competition     |
|    | Mary Starks          | Director, Competition and Economics                         |
| 13 | Andrew Whyte         | Director, Communications                                    |
|    | Christopher Preston  | Manager, Event Supervision - Complex Events 2               |
|    | Emma Stranack        | Head of Department, Business & Consumer Communications      |
|    | Mark Threipland      | Head of Department, GCD Investment, Insurance and Redress   |
| 14 | Andrew Laidlaw       | Manager, Banking and Payments                               |
|    | Karina McTeague      | Director, Retail Banking                                    |

Jody Whitehorn

Manager, GCD Banking, Credit and Competition

Relevant associates also attended the meeting



## **ANNEX B: Resolution**

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

Handbook Administration (No 47) Instrument 2017 (FCA 2017/50)

Training and Competence Sourcebook (Qualifications Amendments No 16) Instrument 2017 (FCA 2017/51)

Conduct of Business (Disclosure Amendment) Instrument 2017 (FCA 2017/52)

Pension Schemes (Disclosure of Transaction Costs and Administration Charges) Instrument 2017 (FCA 2017/53)

Payment Services Instrument 2017 (FCA 2017/54)

Listing Rules (Corporate Governance Code) Instrument 2017 (FCA 2017/55)

Fees (Payment Services) Instrument 2017 (FCA 2017/56)

***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:***

Payment Services Instrument 2017 (FOS 2017/4)

***The Board hereby approves the publication of the following:***

Non-Handbook directions for excluded firms

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

Risk Transformation Regulations 2017 (Consequential Amendments) Instrument 2017

Insurance Distribution Directive (Non-Investment Insurance Contracts Conduct of Business, Knowledge and Redress) Instrument 2017