

## Minutes

<b>Meeting:</b>	FCA Board
<b>Date of Meeting:</b>	25 November 2021
<b>Start time:</b>	10:15
<b>Venue:</b>	Meeting held via Microsoft Teams

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<b>Members Present:</b>	Charles Randell (Chair) Liam Coleman Bernadette Conroy Jeannette Lichner Richard Lloyd	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 Charles Randell, Liam Coleman and Alice Maynard declared an interest in relation to the re-appointment of the Consumer Panel chair and recused themselves from the decision.

### 2 Report from the Chief Executive

- 2.1 Mr Rathi briefed the Board on a number of topical issues, including:
  - i. Engagement with international regulators: The Board were briefed on the CEO's recent visit to the US and his engagement with US counterparts.
  - ii. Career and Grading: The Board noted the recent open letter to Mr Rathi from Unite seeking voluntary recognition and the FCA's response, and the wide-ranging ongoing engagement with staff directly and through the Staff Consultative Committee.

- iii. Resourcing requirements across the organisation and the potential impact on operational performance.

### **3 FCA & Practitioner Panel Survey / Monthly Reports from the Independent Panels**

- 3.1 Mr Sullivan and Mr Grant from Kantar Public briefed the Board on the findings of the FCA and Practitioner Panel Survey. There were no significant changes in the levels of satisfaction from firms or in the perceived effectiveness of the FCA and the results were overall positive. The Board discussed areas that were scored less positively, including helping firms understand the FCA's competition objective, what it is trying to achieve and identifying risks within the market.
- 3.2 The Board sought assurance on the representation of the firms that responded to allow the FCA to give confidence to the findings and suggested more focused engagement with flexible firm representatives to ensure maximum value is obtained from such engagement. It was noted that almost one third of all firms surveyed responded which ensured significant results. The Board also noted the FCA's considerable engagement with the Independent Panels, Consumer Network and Trade Associations which allowed a broader range of views and firms to feed in to various FCA consultations.
- 3.3 The Board **approved** the findings and key messages in the FCA and Practitioner Panel Survey and **approved** the report for publication.
- 3.4 The Board **noted** the reports from the Independent Panels, in particular, that the Panels had highlighted the amount of regulatory changes the FCA was currently implementing and the impact on small and medium firms. The Board were reassured that the Executive would be working closely with the Panels over the next few years to provide healthy support and challenge and were keen to understand further how the FCA planned to position itself on issues relating to small and medium firms as conduct and capital requirements are strengthened.

### **4 Financial Services Bill Update from HM Treasury**

- 4.1 Gwyneth Nurse, Director of Financial Services at HMT joined the Board to discuss matters that were of interest to the FCA.

### **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 increased interest in the debate on amendments to capital requirements to support climate change objectives and ongoing work the FCA and PRA were doing in this space.

### **6 Restricting fees for claims management services (CMCs)**

- 6.1 The Board noted the consultation in January 2021 and final rules being proposed to meet the FCA's duty to make rules for CMCs managing claims relating to financial services and products with a view to securing an appropriate degree of protection against excessive charges.

- 6.2 The Board were advised that CMCs tended to concentrate on one type of claim, and therefore the risk that these rules would see increases in charges for other types of claims through changes in businesses' structure was low. However, the Board noted that the FCA did have existing powers to restrict fees in respect of other types of claims in the other CMC sectors regulated by the FCA. The team advised that the SRA had published a Discussion paper setting out proposals to follow the FCA's approach for claims management firms that are regulated by the SRA instead of the FCA and confirmed that it would monitor CMC activity to mitigate the risk of arbitrage.
- 6.3 The Board were advised that the proposed rules reflected the role CMCs played in raising awareness of potential consumer harm and providing a service to consumers. The Board reflected that it would be incumbent on firms through the New Consumer Duty to improve their communications to consumers on redress and complaints and noted that the FCA was continuing to work closely with FOS and FSCS to raise consumer rights awareness.
- 6.4 The Board **approved** the rules for CMCs as proposed.
- 6.5 Pricing interventions across the FCA were also discussed more broadly. The Board were keen to understand in more detail any current and upcoming pricing interventions that were being worked on, including the conditions under which the FCA would consider removing any price control.

## 7 Compensation Framework Review Discussion Paper

- 7.1 The Board were briefed on the review of the Compensation Framework which focused on ensuring the framework continued to be appropriate and proportionate, accounted for the changes in the market and reflected the FCA's regulatory approach. The intended outcome was to establish a clear set of principles that underpinned the purpose, scope and funding of the framework to identify opportunities to improve how it could benefit the market and create confidence for consumers in UK financial services firms. It was noted that a Discussion Paper would be published in December 2021 to seek feedback from stakeholders to inform the development of these principles.
- 7.2 The Board discussed questions on pre-funding, the retail pool, and risk-based levies. It was noted that there is often a delay of a number of years between events happening and claims coming through to the FSCS, which makes it difficult to predict and set levies. The Board suggested the team seek ideas for alternative approaches to funding through the discussion paper to encourage debate. The Board emphasised the need for clear communication including linkages with the New Consumer Duty and managing expectations of when benefits in terms of lower costs may be seen.
- 7.3 The Board **approved** the positioning of the review alongside the FCA's work to reduce harm and reduce levy costs and the approach as set out in the Discussion Paper. The Board also **approved** the outlined scope of the Discussion Paper ahead of its proposed publication in December.

## 8 New Consumer Duty – Proposed Policy

- 8.1 The Board were briefed on the feedback to the first consultation in May on the design and key elements of the New Consumer Duty (NCD) which was intended to set higher and clearer
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expectations for the standard of care that firms provide to retail consumers. The Board discussed the recommendations on the final proposed policy for consultation and the plan to supervise and embed the NCD as part of the FCA's wider Consumer Strategy.

- 8.2 The Board reflected on the importance of clear communication in setting out expectations of firms, the impact on consumers and the connection between the NCD and the Senior Managers Regime which would be a significant shift in expectations and puts the onus on firms to meet higher standards. The importance of setting granular, sector specific outcome measures for the FCA's performance and embedding a strategic supervision and enforcement strategy to achieve those outcomes would be critical to the success of the NCD. The team briefed the Board on the ongoing engagement with the Independent Panels, Consumer groups and industry during the implementation period, and noted that a number of firms were already demonstrating the NCD principles.
- 8.3 The Board **delegated** the final decision on the implementation date to Sheldon Mills to reflect the most recent work identifying the priority standards in each sector against the NCD.

## 9 Economic Crime Levy

- 9.1 The Board noted the Economic Crime Levy is designed to help fund the Anti-Money Laundering reforms outlined in the Government's Economic Crime Plan which will apply to medium and large firms, as defined by the Companies Act 2006, and an additional 'very large' band. The Board had previously agreed to act as a collector of this levy, alongside HMRC and the Gambling Commission, for its respective AML-supervised populations.
- 9.2 The Board questioned the extent of the responsibility and noted that the FCA would need to manage queries from firms (as it was a new levy) and request additional data not available from existing returns in order to calculate the fee alongside the administrative collection service. The Board were assured that the cost of doing this had been built into the costing provided to Treasury. The team confirmed that the FCA would not have rule making powers in relation to this levy and the collection would be carried out under the FCA's FSMA powers, with additional mechanics set out in secondary legislation as currently proposed.
- 9.3 The Board **approved** the recommendation to enforce the Economic Crime Levy which had been agreed to be collected on behalf of HMT and **approved** powers to enforce the levy under the FCA's current framework in FSMA.
- 9.4 The Board also **approved** the transfer of any debt after the collection process to HMRC for enforcement.

## 10 Decisions of the Board

- 10.1 The Board **approved** the re-appointment of Wanda Goldwag as Chair of the Consumer Panel for three months, ending 31 May 2022, to allow time for a replacement to be appointed.
- 10.2 The Board **approved** an increase to the existing Purchase Order for the remainder of the Resource Solutions contract to cover the spend to the end of the current contract in October 2022.

It was confirmed that these additional funds were consistent with the original tender as the tender was only for Resource Solutions management fee, and not the salaries paid as part of that purchase order. The Board sought assurance through the Audit Committee that procurements across the organisation were being effectively managed.

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

- 11.1 The Board of the Financial Conduct Authority resolved to **approve** in principle the making of the following instrument and agreed that it be made at a future date:
- i. Moving application forms from the Handbook
- 11.2 The Board of the Financial Conduct Authority **resolved** to make the following instruments:
- i. Perimeter Guidance (Payment Services) Instrument 2021 (FCA 2021/44)
  - ii. Technical Standards on Strong Customer Authentication and Common and Secure Methods of Communication (Amendment) (No 2) Instrument 2021 (FCA 2021/45)
  - iii. Changes to Decision Making for Statutory Notice Procedure Instrument 2021 (FCA 2021/46)
  - iv. Money and Pensions Service (Consequential Amendments) Instrument 2021 (FCA 2021/47)
  - v. Conduct of Business Sourcebook (Communications in relation to Authorised Fund Benchmarks) (Amendment) Instrument 2021 (FCA 2021/48)
  - vi. Investment Firms Prudential Regime (No. 2) Instrument 2021 (FCA 2021/49)
  - vii. Investment Firms Prudential Regime (Consequential Amendments) Instrument 2021 (FCA 2021/50)
  - viii. Technical Standards (Financial Conglomerates Directive) (Amendment) Instrument 2021 (FCA 2021/51)
  - ix. Claims Management (Fees Rules) Instrument 2021 (FCA 2021/52)
  - x. Claims Management Instrument 2021 (FCA 2021/53)
  - xi. Conduct of Business Sourcebook (Final Nudge to Pensions Guidance) Instrument 2021 (FCA 2021/54)
  - xii. Listing Rules (Primary Market Effectiveness) (Dual Class Share Structure) Instrument 2021 (FCA 2021/55)

- xiii. Listing Rules (Primary Markets Effectiveness) (Minimum Market Capitalisation) Instrument 2021 (FCA 2021/56)
- xiv. Listing Rules (Primary Markets Effectiveness) (Shares in Public Hands) Instrument 2021 (FCA 2021/57)
- xv. Listing Rules (Primary Markets Effectiveness) (Reform and Modernisation) Instrument 2021 (FCA 2021/58)
- xvi. Conduct of Business Sourcebook (Amendment) Instrument 2021 (FCA 2021/59)
- xvii. Technical Standards (Markets in Financial Instruments Regulation) (Best Execution) Instrument 2021 (FCA 2021/60)

**12 Reports from the Chairs of Board Committees**

- 12.1 The Board noted the report from the Chair of the Joint Audit and Risk Committee on the meeting held on 2 November, the Audit Committee on 19 October and Remuneration Committee meeting held on 29 September 2021.

**13 Any other business**

There being no further business the meeting closed.

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

**In attendance:**

Megan Butler – Executive Director, Transformation  
 Stephanie Cohen – Executive Director, Chief Operating Officer  
 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  
 David Scott – Executive Director, Interim General Counsel  
 Daniel Thornton – Director, Enforcement and Markets Oversight  
 Andrea Bowe – Director, Chief of Staff  
 Simon Pearce – Director, Company Secretary  
 Ian Runacres – Manager, Chairman’s Office

**Presenters and observers:**

<b>Item 3 – FCA &amp; Practitioner Panel Survey</b>	Richard Monks – Director Paul Feeney (PP Chair) Sam Sullivan (Kantar Public) Stuart Grant (Kantar Public)

<b>Item 4 – Financial Services Bill Update</b>	Gwyneth Nurse – HM Treasury Rohan Lee – HM Treasury Alex Smith – Head of Department David Raw – Director
<b>Item 6 – Restricting fees for claims management services</b>	Nisha Arora – Director Charlie Gluckman – Head of Department Leslie Neubecker – Technical Specialist Sam Duffett - Manager
<b>Item 7 – Compensation Framework Review Discussion Paper</b>	Nisha Arora – Director Charlie Gluckman – Head of Department Jonathan Pearson - Manager
<b>Item 8 – New Consumer Duty – Proposed Policy</b>	Nisha Arora – Director Ian Searle – Head of Department Rob Gruppetta – Head of Department Robin Finer – Head of Department Jason Pope – Technical Specialist
<b>Item 9 – Economic Crime Levy – Enforcement Regulations</b>	David Godfrey - Director Joe Genova – Head of Department Cara Goodbody - Manager Clive Gordon – Head of Department
<b>Item 10 – Decisions of the Board</b>	Sandra Patton – Director Kevin Trainor – Head of Department Lorna Chater - Manager