

Minutes

Meeting: Transitional Board of the FCA
Date/Time: 28 February 2013
Venue: 25 The North Colonnade, Canary Wharf, London, E14 5HS

Present: John Griffith-Jones (in the Chair)
Amanda Davidson
Mick McAteer
Sir Brian Pomeroy
Martin Wheatley

In attendance: Set out in Annex A

The attendees of the meeting noted that the Financial Services Act 2012 and supporting secondary legislation provided for the designation of the existing FSA Handbook of rules and guidance, early commencement of relevant rule-making and other powers and for the appointment of “Appointed Persons” by the FSA to discharge both of these functions as if they were the governing body of the FCA. The members of the Transitional Board were appointed as those persons with the prior written approval of the Treasury (under Article 5 of the Financial Services Act 2012 (Transitional Provisions) (Rules and Miscellaneous Provisions) Order 2013) on 21 February 2013.

If done in accordance with statutory requirements, the designated FSA provisions will be treated as having been made, issued, or given by the FCA acting through its governing body. The legislation also enables the members of the Transitional Board to make rules and guidance for the FCA before legal cutover that will be treated as if done by the FCA acting through its governing body.

1. CHAIRMAN

The Transitional Board elected John Griffith-Jones as the Chair.

2. OPERATIONAL ARRANGEMENTS FOR DECISION MAKING

The Transitional Board received the report, and noted that the transitional provision order authorised the Appointed Persons to agree their own operating procedures. The Transitional Board agreed to adopt the proposed operational arrangements.

It was noted that a quorum was present and the meeting proceeded to business. No conflicts of interest were declared.

3. FCA HANDBOOK

The Transitional Board received the report, and noted and discussed the following key points:

- the FCA’s objectives (being the strategic objective of ensuring that the relevant markets function well and the operational objectives of consumer protection, integrity and

competition) and competition duty in section 1B of amended FSMA and the principles of good regulation in section 3B of amended FSMA did not expressly apply to the process of Handbook designation and modification;

- the Executive had given consideration to the FCA's objectives when choosing whether to recommend that a provision be designated by the FCA. Further, there was an overlap between the FSA's objectives and the FCA's new objectives, particularly in relation to consumer protection and integrity. Although it was recognised that the FSA's Handbook had not been framed with the new competition objective in mind, it was noted that the FSA was required to have regard to the need to minimise adverse effects on competition and the desirability of facilitating competition and that the Handbook had been drafted accordingly. The Executive was not aware of any rules in the Handbook that inhibited competition or were contrary to the FCA's competition duty, but would look at how compatible the rules were with the competition and other objectives and that duty as part of the wider review, or sooner if an issue was identified;
- there was more work to be done to set out what the FCA's views were on competition and market integrity;
- the level of quality assurance that the rules had been through, including policy teams, legal teams and external counsel; and
- the Executive was satisfied that the Handbook would be fit for purpose from LCO.

The Transitional Board made the five instruments set out in Annex B and agreed that subsequent technical or drafting amendments be permitted to be made to the text of the relevant instrument, if they were within the scope of the Board's decision, and agreed by the staff member responsible for the instrument and the General Counsel or his representative.

The Transitional Board agreed that:

- the instruments should be published once they had been considered by the PRA Board on 7 March; and
- the designations, modifications and rule-making covered by the instruments should be published in the online version of the Handbook in March 2013, before LCO and before they came into effect.

4. MATTERS REQUIRING A DECISION OF THE BOARD

The Transitional Board approved:

- the appointment of Graham Beale as the Chairman of the Practitioner Panel from 1 April 2013 for a term of two years, subject to agreement from HM Treasury;
- the appointment of Andrew Turberville Smith as the Chairman of the Smaller Businesses Practitioner Panel with effect from 1 April 2013 for a term of two years;
- the appointment of Paul Swann as a member of the Markets Practitioner Panel with effect from 1 April 2013 for a term of three years; and

- the appointment of Paul Swann as the Chairman of the Markets Practitioner Panel with effect from 1 April 2013 for a term of two years.

The meeting closed at 10:45am.

Claire Strong
Deputy Company Secretary

ANNEX A – OTHER ATTENDEES

Sandra Dawson*	<i>FSA Non-executive Director</i>
Karen Kiernan	<i>Associate, Chairman's office</i>
Sean Martin	<i>Acting General Counsel, General Counsel's Division</i>
Simon Pearce	<i>Company Secretary</i>
Claire Strong	<i>Deputy Company Secretary</i>
Lord Turner	<i>FSA Chairman</i>

For item 2:

Technical Specialist	<i>GCD-Retail Conduct</i>
Mike Deveney	<i>Manager, EU & Cross-Cutting Issues</i>
Mark Threipland	<i>Head of Department, GCD-Retail Conduct</i>

ANNEX B

RESOLUTION

The Transitional Board hereby resolves to make the following instruments:

- Legal Cutover (Financial Conduct Authority and Prudential Regulation Authority Handbooks (Glossary)) Instrument 2013
- Legal Cutover (Financial Conduct Authority and Prudential Regulation Authority Handbooks (General Provisions)) Instrument 2013
- Financial Conduct Authority and Prudential Regulation Authority Handbook Designation Instrument 2013
- Financial Conduct Authority and Prudential Regulation Authority Handbook Designation (General Modifications) Instrument 2013
- Financial Conduct Authority and Prudential Regulation Authority Handbook Designation (Particular Modifications) Instrument 2013