

Minutes

Meeting: FCA Board

Date of Meeting: 29 June 2023

Start time: 09:00

Venue: Meeting held in Boardroom and via Microsoft Teams

Members Present: Ashley Alder (Chair) Richard Lloyd
Liam Coleman (for item 8 onwards) Alice Maynard
Bernadette Conroy Nikhil Rathi
Sophie Hutcherson Sam Woods

In attendance: Set out in Annex A

Presenters: Set out in Annex A

1 **Declarations of interest**

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 Mr Woods' continuing interests in certain items under 10.1 and 12 were noted and Mr Woods was recused from the relevant parts of those items. No other interests were declared in the items to be discussed.

2 **Reports from the Chairs of Board Committees (originally item 11)**

- 2.1 The Board noted the report from the Chair of the Policy & Rules Committee meeting held on 8 June 2023. The Committee Chair provided assurance to the Board of the nature of challenge and discussion which had accompanied (a) a proposed Consultation Paper on a Consolidated Tape for Bonds, (b) a proposed Consultation Paper on Commodity Derivatives regulation and (c) a
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proposed Discussion paper on sterling-backed Stablecoin regulation and (d) a potential market investigation referral to the CMA regarding Wholesale Market Data. Item (d) would be considered by PARCO further.

2.2 The Board noted the report from the Chair of the joint meeting of the Audit and Risk Committees held on 15 June 2023. The Committee Chair provided the Board with assurance that it:

- i. was supportive of the Operational Improvements in Supervision, Policy and Competition,
- ii. had met the Complaints Commissioner and discussed her Annual Report (and recommended the FCA's proposed response to the Board), and
- iii. had considered the risk sections of the Annual Report & Accounts and likewise recommended them to the Board for approval.

2.3 The Board noted the report from the Chair of the Audit Committee meeting held on 22 June 2023. The Chair's report provided the Board with assurance related to its interactions with the NAO and on the Financial Statements, Overview, Internal Controls and Principal Risks of the proposed Annual Report & Accounts.

3 Report from the PRA

3.1 Mr Woods briefed the Board on the business of the PRA that was of relevance to the FCA. Mr Woods drew the Board's attention to the consultation on measures to reform Solvency II, launched that morning; and considerations on defined-benefit superfunds.

4 Report from the PSR

4.1 Ms Walsh briefed the Board on the business of the PSR that was of relevance to the FCA. Ms Walsh drew the Board's attention to points raised by the Treasury Select Committee (TSC) on 27 June (as part of its regular accountability hearings into the work of the PSR) relating to bringing forward the launch date of the reimbursement scheme for APP scams to March 2024, and data collection from Visa and Mastercard relating to cross-border interchange fees, and scheme and processing fees. Ms Walsh also flagged that in July the PSR Board would be considering Pay.UK's recommendation on the tender for the delivery of the New Payments Architecture.

5 Report from the Chief Executive

- 5.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. The proposed changes to the mortgage affordability rules. The Board expressed its thanks to the FCA team for working to prepare these rules at pace.
 - ii. The cessation of the USD LIBOR Panel at end-June 2023.
 - iii. HM Treasury's Investment research review and the need for FCA internal governance to work through this to enable a timely FCA response.
 - iv. The FCA Staff Survey results and particular work that is being taken forward in relation to (a) colleagues with disabilities and (b) technical specialist grade colleagues.
 - v. Developments in relation to Odey Asset Management and the FCA's investigative approach. The FCA will be writing to the TSC.

6 Mortgage Affordability Rules (Amendment) Instrument 2023 (originally item 9.2)

- 6.1 Following the CEO's report, the Board was invited to make rules to give effect to the Mortgage Charter. The Board was briefed that these rules are necessary to facilitate the agreement in the Charter, specifically in relation to technical rules that would otherwise potentially impact on customers' credit files and would require banks to undertake affordability assessments after six months.
- 6.2 The Board sought and received assurance that banks could deliver on the proposals in the Charter, with the rule amendments. The Board explored the limits of this proposal, and the risks that consumers might be tempted to reduce their mortgage repayments for six months even if it were not in their long-term financial interests to do so. The Board was assured that the six-months' breathing space that the rules facilitated was a limited period and so that itself limited the overall impact on the repayments a customer could expect to pay over the lifetime of a mortgage. Nevertheless, in line with the New Consumer Duty, the FCA would expect mortgage providers to ensure that customers understood that this option for temporarily reducing mortgage payments was not costless and that it may not be in their best financial interests for them to take it up. The Board was assured these points would be reflected in the communications plans. The Board specifically asked

whether shared-ownership properties would be covered. The Board subsequently received assurance that these would be covered if they satisfied the criteria, for example first charge mortgages.

- 6.3 The Board **approved** the Mortgage Affordability Rules (Amendment) Instrument 2023 (FCA 2023/29).

7 The Regulators' Response to the Complaints Scheme Consultation

- 7.1 The Board noted that it had received a technical "teach-in" from colleagues recently on this subject, encompassing the Scheme, Consultation, feedback received and proposed approach.
- 7.2 The Board **agreed** to the proposed revisions to the Complaints Scheme and **delegated** final sign-off of the scheme and policy statement to the Chair and CEO, in order to take into account any consequential amendments needed in light of the Financial Services and Markets Act or through consultation with the PRA.

8 FCA Annual Report & Accounts 2022/23

- 8.1 The Board, having heard the views and assurances from the Chair of the Audit Committee, discussed, in particular, the operating results, use of reserves, independent review assurance statement, and principal risks and uncertainties.
- 8.2 The Board **approved** the FCA AR&A and Board D&I reporting.
- 8.3 The Board **delegated** to the FCA Chair, CEO and Audit Committee Chair; and to the PSR Chair, MD and Audit Committee Chair, final approval of any changes to the FCA and PSR AR&As respectively that may be necessitated by the NAO's audit completion report submission to the Audit Committee on 6 July.
- 8.4 The Board **delegated** final sign-off to the FCA Chair and FCA CEO.
- 8.5 The Board **agreed** to running the FCA Annual Public Meeting as a digital event.

9 PSR Annual Report and Accounts 2022/23

- 9.1 The Board, having taken assurance from the PSR Chair and PSR AuditCo, **approved** the PSR AR&A. The Board asked that in future the PSR AR&A be presented in a similar formatting style to the FCA's, where possible.

10 Rules, Guidance and Technical Standards to be determined:

- 10.1 The Board **resolved** to make the following instruments:
- i. Insurance: Conduct of Business Sourcebook (Customers in Financial Difficulty) Instrument 2023 (FCA 2023/23)
 - ii. Handbook Administration (No 65) Instrument 2023 (FCA 2023/24)
 - iii. Perimeter Guidance (Trading Venues) Instrument 2023 (FCA 2023/25)
 - iv. Periodic Fees (2023/4) and Other Fees Instrument 2023 (FCA 2023/26)
 - v. Cryptoasset Financial Promotions Instrument 2023 (FCA 2023/27)
- 10.2 The Board approved Senior Management Arrangements, Systems and Controls (Remuneration Codes) (No 9) Instrument 2023 in principle, albeit that formal rulemaking would follow in writing pending an exchange between the PRA and HM Treasury.

Financial promotion (Approver Permission) Instrument 2023

- 10.3 The Board sought and received assurance that the Financial Services Register would properly reflect the approvals given to authorised firms. The Board understood that the rules on requiring s.21 Approvers to notify the FCA were being adjusted from the position consulted on, to make them more proportionate, following consultation responses. The compulsory jurisdiction of the Financial Ombudsman Service is not being extended to cover this activity; it was noted that this is not a shrinking of the Financial Ombudsman Service's jurisdiction, rather, it is a decision not to extend it.
- 10.4 The Board approved near-final rules, pending provisions of the Financial Services and Markets Act coming into effect, and agreed to a review of the policy within 24 months thereof.

11 Finance report

Foreign Exchange Contracts

- 11.1 The Board considered the proposed approach of the FCA to enter into FX forward contracts, in the context of the small number of FCA supplier contracts which require payment in non-sterling currencies. The Director of Finance confirmed that the purpose of the transactions was to protect the budget by locking in rates.
- 11.2 The Board **granted** authority to the Finance Director / Finance Operations HoD to enter FX forward contracts within the range of values and terms specified.

12 Papers for noting

Written Procedures

- 12.1 The Board **noted** the decisions taken by written procedure since the May 2023 Board meeting, namely the decision to make rules and give guidance in the Long-Term Asset Fund (Amendment) Instrument 2023 and additional policy statement with consultation questions.

Independent Panels Monthly Reports

- 12.2 The Board **noted** the Independent Panels Monthly Reports and in particular noted the concerns raised regarding the extent of the FCA's "policy pipeline"; and also, from the Smaller Business Practitioners Panel, concerns that by regulating cryptoassets, they may become "legitimised" as an asset class.

Independent Panels Annual Reports 2022/23 (FSCP, PP, SBPP, MPP and LAAP

- 12.3 The Board **noted** the Independent Panels Annual Reports. As the Board was about to meet Panel Chairs for an informal lunch, Board members could draw out any points for discussion in that forum.

Pensions Value for Money consultation response

- 12.4 The Board **noted** the paper, and explored questions around enforcement of VFM, potential unintended consequences and the duties of a trustee. In due

course any rulemaking will return to the Board via the Policy & Rules Committee.

Future of the Core Investment Advice Regime (CIAR)

12.5 The Board considered the CIAR in the context of the feedback received by the FCA to CP22/24, and in the context of the Advice-Guidance Boundary Review, noting that core advice proposals may pose commercial viability challenges.

12.6 FCA & Practitioner Panel Survey 2022/23

12.7 The Board considered the results, and in particular discussed with the Executive the potential drivers of the levels of satisfaction with supervisors. The FCA model expects senior management in portfolio firms to interact with mid-level supervisory staff. There is training for supervisors on interacting with firms, largely 'on the job'. Some of the turnover of supervisors represents normal staff turnover, some of it is conscious policy e.g.our requirement that staff do not supervise a single firm for more than 4 years to ensure consistent independence of our regulatory oversight. The Board also noted that turnover itself may be less of a problem where there is a good quality handover from one supervisor to a successor.

12.8 The Chief Operating Officer commented that some of the survey questions do not directly lend themselves to a subsequent "action" and that for future iterations of the survey, the FCA should work with Panels to ensure that it is clear what the survey is seeking to achieve.

13 Decisions of the Board/Board committee

Minutes of Previous meeting

13.1 The Board **approved** the minutes but asked that in future drafts for approval, any marginal commentary regarding proposed redactions is resolved before submission.

Action log

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

Independent Panel appointments

- 13.3 The Board **approved** the following Panel appointments:
- i. The appointment of Clare Woodman as Chair of the FCA Markets Practitioner Panel from 1 August 2023 to 31 July 2026
 - ii. The appointment of Matt Hammerstein as Chair of the FCA Practitioner Panel from 1 August 2023 to 31 July 2026
 - iii. The appointment of Mandy Gradden as Chair of the FCA Listing Authority Advisory Panel from 1 August 2023 to 31 July 2026
 - iv. The re-appointment of Mark Austin as a member of the FCA Listing Authority Advisory Panel from 1 August 2023 to 30 November 2024

The FCA's response to the Complaints Commissioner's annual report 2022/23

- 13.4 The Board was reminded that this had been discussed in the Joint Audit and Risk Committee meeting and that the meeting Chair had provided assurance in her report. The Board noted that the report was broadly positive.
- 13.5 The Board **approved** the FCA's response, for publication, and **delegated authority** for the Chair and CEO to approve any subsequent amendments in light of the Financial Services & Markets Act or other matters.
- 13.6 Consultation Paper: UK Consolidated Tape Framework
- 13.7 The Board was reminded that this had been discussed in the Policy & Rules Committee and that the Committee Chair had provided assurance in his report. The Board discussed the choice of a single provider and the tender process. The Board noted that there are different, open, questions in relation to a consolidated tape for equities.
- 13.8 The Board **approved** the proposed consultation (on bonds) and discussion paper text (on equities).

Access to cash: approach to new cash purpose

- 13.9 The Board explored the new cash purpose. The Board noted that the new cash purpose is about access to cash, not access to bank branches. Banks are subject to separate FCA guidance when proposing to close a branch. The Board received assurance that the FCA will be monitoring the implementation of this policy, including resourcing implications for the FCA, as well as the rule-making itself.

- 13.10 The Board **agreed** with the proposed approach, and that the FCA should proceed to consult on its proposals.

Perimeter Report Update

- 13.11 The Board **approved** the proposed updates to the Perimeter Report and its publication alongside the Annual Report. The Board in particular noted that the question of whether Limited Permission Brokers should remain within the perimeter was to be considered further.

Amendments to Terms of Reference of the Oversight Committee

- 13.12 The Board **approved** the amendments proposed.

Annex A: Attendees, presenters and observers

In attendance:

Aidene Walsh – PSR Chair
Emily Shepperd – Executive Director, Authorisations
Jessica Rusu – Executive Director, Chief Data, Information and Intelligence Officer
Sarah Pritchard – Executive Director, Markets
Sheree Howard – Executive Director, Risk and Compliance Oversight
Sheldon Mills - Executive Director, Consumers and Competition
Stephen Braviner Roman – Executive Director, General Counsel
Steve Smart – Executive Director, Enforcement and Market Oversight
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:

Item 5 - Report from the Chief Executive and Item 6 - Mortgage Affordability Rules (Amendment) Instrument 2023	David Geale – Director
Item 10 – Finance Report	Craig Chapman - Director