

Minutes

Meeting: FCA Board

Date of Meeting: 24 November 2022

Start time: 09:00

Venue: Meeting held in Edinburgh / London and via Microsoft Teams

Members Present:

Richard Lloyd (Chair)	Liam Coleman
Alice Maynard	Sam Woods
Bernadette Conroy	Nikhil Rathi
Jeannette Lichner	

In attendance: Set out in Annex A

Presenters: Set out in Annex A

Apologies: None

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 reports from the Chairs of the following committees:
 - i. People Committee meetings held on 3 and 21 November 2022
 - ii. Policy and Rules Committee meeting held on 10 November 2022
 - iii. Oversight Committee meeting held on 15 November 2022
 - i. Board Risk Committee meeting held on 17 November 2022
 - iv. Audit Committee meeting held on 17 November 2022

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 including the Future Regulatory Framework and Solvency II.

4 Report from the PSR Chair

- 4.1 Ms Walsh briefed the Board on the business of the PSR that was of relevance to the FCA including the authorised push payments consultation, New Payments Architecture, FCA and PSR Joint Regulatory Oversight Committee and the PSR budget.

5 Report from the Chief Executive

- 5.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. Senior Leadership Engagement – The Board were briefed on recent speeches and external engagements Executive Directors had been involved in including Nikhil's speech at UK Finance on the New Consumer Duty and various international engagements on cross-border issues. The Board welcomed this engagement and ongoing work to ensure public commitments are fully embedded across the organisation.
 - ii. Operational Performance – The Board sought assurance on the impact that project re-baselining had on the overall portfolio and agreed to oversee this through the Joint Audit and Risk Committee. It was confirmed that any movement away from project baselines would need to go to the Executive Finance and Delivery Committee (EFDC) for scrutiny and approval. EFDC were mindful of project interdependences and reviews the full portfolio to understand the impact when there is an approved amendment. In authorisations, it was noted that dual regulated cases accounted for a higher percentage of cases outside the service level agreement (SLA) due to the increased complexity. The FCA was meeting its SLA in 90% of authorisations cases overall and it was noted that the impact of the FCA's tougher approach to the gateway was also having an impact on performance data.
 - iii. Claims Management Companies (CMC) – The Board discussed the FCA's remit for CMCs, in particular in the context of social housing disrepair. It welcomed further sight of the strategy for CMC regulation, recognising there are circumstances where they provide a service for consumers who would not otherwise seek redress.
 - iv. Colleague Voice – the Board **agreed to delegate** oversight of the internal communications and next stages of the Colleague Voice work to the Chair of the Board and the Chair of the People Committee. The Board would continue to be sighted on progress and on the outcomes of Executive Committee discussions.

6 Future Regulatory Framework (FRF) Prioritisation

- 6.1 The Board were presented with the latest position on the planned FRF file transfers and regulatory reform measures, noting that the FCA was still engaging with a degree of
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uncertainty. The Board welcomed the Economic Secretary to the Treasury's announcement that the Government had decided not to introduce the Public Interest Intervention Power. The Board discussed the amendments due to be tabled at the Report Stage, and welcomed ongoing engagement with HMT.

7 Operationalising the new secondary international competitiveness and growth objective

- 7.1 The Financial Services and Markets Bill (FSM Bill) was introduced to Parliament on 20 July 2022. The FSM Bill included a new secondary 'international competitiveness and growth' objective (SICGO) for both the FCA and the PRA. The Board noted the paper which set out the FCA's interpretation of the SICGO within the context of its primary objectives and how it would be operationalised across the FCA, including reporting on compliance and the external communication strategy.
- 7.2 The Board emphasised the need for all communication to have a clear and consistent narrative that the SICGO is a secondary objective and should not outweigh or disproportionately dilute the FCA's primary objectives or the interventions the FCA would take under those objectives. The Board recommended that any communication should reemphasise the hierarchy of the FCA's objectives, noting that strong standards in the UK are a key driver of international competitiveness. The Board also noted that there were many areas where the FCA had taken a global leadership role, particularly in supporting innovation and driving competition and this work should continue.
- 7.3 Internally, the Board were assured that work was ongoing to ensure staff were clear on the distinction and weighting of the new objective and how staff should apply it to their work. The Board recommended finding synergies with and modifying existing guidance where possible to support staff in embedding the SICGO. With regard to reporting on compliance with the SICGO, the Board preferred reporting through existing mechanisms, including the annual report, accompanied by a targeted communication which would explain the impact the FCA had on international competitiveness and growth. It was recognised that there was also a series of global factors and wider domestic policies which affect growth and competitiveness and that it would need to be clearly explained what is within the FCA control under this secondary objective and where the FCA contributes. The Board were keen for the FCA to learn from other regulators that have similar objectives and ensure the work being done aligned with international standards.
- 7.4 The Board discussed the transitional approach for work that would be consulted on between now and the Bill receiving Royal Assent. Policies which were being consulted on now and would likely come into force after Royal Assent would reflect the SICGO in policy development.
- 7.5 The Board welcomed further engagement on the reporting and communication strategy and **approved** the recommended interpretation of the new SICGO, the approach to the new reporting requirement and the proposed approach to implementing the SICGO across the FCA.

8 Defined Benefit Pension Redress

- 8.1 The Board discussed the post consultation proposals to make rules implementing a consumer redress scheme for the British Steel Pension Scheme (BSPS) and make rules and guidance about how firms must calculate redress for consumers transferred from a defined benefit to a defined contribution pension scheme following non-compliant advice.
- 8.2 In relation to the BSPS consumer redress scheme, the Board noted the legal risks, including the risk of being legally challenged. The Risk Committee had discussed the risks in detail and obtained assurance on the mitigants. It reported it was satisfied that based on the principles of aiming to redress the harm it was comfortable the work had been done to minimise the risks as far as possible, and the residual risks were accepted.
- 8.3 The Board sought assurance on the practicalities of the proposal to stop the clock on the time period for carrying out the scheme steps should a complainant refer their complaint to the FOS. It was noted that the provision was intended to stop the clock for firms until a determination had been reached by the FOS on whether the firm had applied the scheme rules appropriately, should the FOS determine the firm had done so it would take the case back and the clock would carry on. It was also noted that should a legal challenge be brought, the court might suspend the scheme. This would not affect the time bar (unless the court decided to quash the rules) but would delay delivery of the scheme until the legal challenge had been resolved. The FCA could request to expedite a hearing to minimise any delay.
- 8.4 The Board **noted** the updated cost benefit analysis (CBA) of options, **noted** the consultation responses and proposed response and **agreed** to make the BSPS consumer redress scheme rules with the proposed amendments to the rules consulted on. The Board also **noted** that, subject to the Board agreeing to implement a scheme, the FCA would consult on extending the separate asset retention rules.
- 8.5 As part of considering the proposal to make rules and guidance about how firms must calculate redress for pension transfer cases, the Board discussed the pension redress proposals, in particular assessing suitability and ensuring that firms have the right tools to make the assessment, and the redress calculator. The Board noted firms would be required to use a redress calculator so that consumers could have confidence in calculations made by firms and allowing the FCA to review and ensure the correct inputs had been put into the calculator as required. The Board welcomed the ongoing discussions with the FOS and FSCS to ensure each party in the scheme was operating well and the regulators were aligned on those firms most at risk. The Board were assured that based on the evidence gathered, the proposals would not have any further significant impact the PII market.
- 8.6 The Board **agreed** to the changes to the consultation proposals on the general methodology of augmentation and frequency for updating the economic assumptions and **agreed** that the default form of redress should remain a cash lump sum, due to the practical and legal issues associated with requiring redress in other forms (e.g. an annuity). It also **agreed** that the FCA should not implement a more cautious pre-retirement discount rate (noting representations from BSPS stakeholders on the Ogden discount rates). The Board **agreed** to make the pension redress rules.
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9 Rules, Guidance and Technical Standards to be determined

- 9.1 The Board **approved** in principle the joint PRA and FCA Standards Instrument: The Technical Standards (Bilateral Margining) Instrument 2022 pending approval by the PRA. Final approval would be sought by the Board by written procedure.
- 9.2 The Board **resolved** to make the following instruments:
- i. Prudential Standards for Investment Management Firms (Amendment) Instrument 2022
 - ii. Conduct of Business Sourcebook (Annuitant Mortality Amendment) Instrument 2022
 - iii. Consumer Credit and Mortgages (High Net Worth) Instrument 2022
 - iv. Non-workplace Pensions Instrument 2022 – the Board sought additional assurance on how the design of the default option and lifestyle consideration would work in practice and that this would be clarified in the guidance to accompany the rule.
 - v. British Steel Pension Scheme Consumer Redress Instrument 2022
 - vi. Pension Transfer Redress Instrument 2022

10 Decisions of the Board

- 10.1 The Board **approved** the minutes of the meeting held on 28 October 2022.
- 10.2 The Board **noted** the action log and **approved** the closure of completed actions.
- 10.3 The Board **noted** the progress made against actions from last year's Board Effectiveness Review and **agreed** the proposal to the approach for the 2022 self-evaluation.
- 10.4 The Board **approved** the following Panel appointments:
- i. Rob Clifford as a member of the FCA Smaller Business Practitioner Panel from 25 November 2022 to 30 November 2025.
 - ii. Sean Hagerty as a member of the FCA Practitioner Panel from 1 December 2022 to 30 November 2025.
- 10.5 The Board **approved** the updated Risk Management Framework (RMF), the latest updates to the RMF's (technical) component parts (split between minor and material updates), and **delegated** authority for future governance oversight in relation to changes made to the design, build and implementation of the RMF to the Board Risk Committee. Further delegation by the Risk Committee to individuals or to a sub-committee of the Risk Committee was not approved.
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- 10.6 The Board **noted** plans to publish a Prior Information Notice (PIN) in late November 2022 to inform potential suppliers of the FCA's intent to establish a Digital Services Framework agreement. The Board **approved** delegation of authority for approval of changes to standard contractual terms including limited liabilities to the Executive Committee.
- 10.7 The Board **approved** the FCA Small Business, Enterprise and Employment Act 2015 annual report 2021/22 and **agreed** to delegate authority to the CEO to finalise the document for publication.

11 Papers for noting

The Board noted the following papers:

- i. Independent Panels Reports - Distribute list of panel meetings – positive engagement
- ii. Proposed changes to the PSR's fees

Update on the FCA's response to the Cost of Living crisis. The Board noted the importance of continuing to articulate the extent of the FCA's role and welcomed assurance that the FCA was undertaking additional stress testing for possible worst-case scenarios.

There being no further business the meeting closed.

Annex A: Attendees, presenters, and observers

In attendance:

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
 Mark Steward – Executive Director, Enforcement and Market Oversight
 Steven Braviner Roman – Executive Director, General Counsel
 Miles Bake – Director, Company Secretary
 Aidene Walsh – PSR Interim Chair
 Graeme McLean – Head of Department, Chief Executive Office
 Ian Runacres – Manager, Chairman’s Office

Presenters and observers:

Item 1 - Declarations of interest	No attendees
Item 2 – Reports from the Chairs of Board committees	No attendees
Item 3 – Report from the PRA	No attendees
Item 4 – Report from the PSR Chair	No attendees
Item 5 - Report from the Chief Executive	No attendees
Item 6 – Future Regulatory Framework Prioritisation	David Raw – Director Martin Boffey – Head of Department Greg Sachrajda – Head of Department Alex Smith – Head of Department
Item 7 – Operationalising the new secondary international competitiveness and growth objective	Graeme Reynolds - Director Alex Smith – Head of Department Peter Lukacs – Head of Department Annette Egginton – Manager
Item 8 – Defined Benefit Pension Redress a) British Steel Pension Scheme b) Pension Redress	a) Nick McGruer – Head of Department Jon Pearson – Manager Virens Batta – Manager Clare Vicary – Technical Specialist b) Charlie Gluckman - Manager Jon Pearson – Senior Manager James Tallack – Technical Specialist
Item 9 - Rules and Guidance and Technical Standards to be determined	No attendees

Item 10 – Decisions of the Board	No attendees
Item 11 – Papers for noting	No attendees

Other relevant associates were also in attendance.