

## Minutes

**Meeting:** FCA Board

**Date of Meeting:** 16 December 2021

**Start time:** 09:30

**Venue:** Meeting held via Microsoft Teams

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**Members Present:**

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

**In attendance:** Set out in Annex A

**Presenters:** Set out in Annex A

**Apologies:**

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### 1 Declarations of interest

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 No interests declared relevant to the issues discussed.

### 2 Report from the Chief Executive

- 2.1 Mr Rathi briefed the Board on a number of topical issues, including:
  - i. Career & Grading: The Board received briefing on the imminent closure of the staff career and grading consultation.
  - ii. Operational Performance: The Board was briefed on the ongoing efforts to monitor and manage resourcing gaps as well as the multiyear workforce planning strategy to cultivate and harness the requisite skills and talent in support of the FCA's organisational objectives. The Board was assured that the FCA remained a competitive employer, with

its reward offer remaining one of the highest of any UK regulator or enforcement agency, and turnover levels were no higher than pre-pandemic levels.

- iii. Major projects - Document Management Transformation (DMT): The Board received assurances that the DMT project had progressed substantially and was at the final stage of the project. It was also assured that potential data migration and security impact risks were considered low.
- iv. Business priorities dashboard: The Board asked for the development of outcome-based metrics that demonstrate the impact of the FCA in mitigating harm to consumers and preserving market integrity. The Board received assurances that the consumer strategy and financial promotions work had taken external impact reporting and the embedding of behavioural changes required to support culture shifts within the FCA into consideration.
- v. COVID19 - Omicron variant: The Board discussed some of the lessons learned from last year's response to COVID19 and how some of the emergency measures had supported the market and consumers through the impact of the pandemic on the market and individual consumer groups. It was agreed that keeping the market open, consultation with various consumer groups, concerted firm outreach and the use of flexible and agile approaches to working had made a considerable difference in supporting consumers and the industry through the pandemic. The Board noted that continued situation-monitoring, building operational resilience and developing emergency measures may support the FCA's adaptation to changes arising out of the COVID19 pandemic. It also agreed that ascertaining and clearly communicating the FCA's limitations in mitigating potential risks, such as financial crime and fraud, arising out of the impact of the pandemic should be clearly communicated.

### **3 Monthly Reports from the Independent Panels**

- 3.1 The Board reviewed the reports from the Chairs of the Consumer Panel, the Practitioner Panel, the Markets Practitioner Panel and the Smaller Business Practitioner Panel and discussed some of the issues raised in the reports including:
  - i. Diversity and Inclusion
  - ii. Regulatory Changes
  - iii. Future Regulatory Framework
  - iv. New Consumer Duty
- 3.2 The Board noted the continued engagement of members of the regulatory family with the Financial Regulatory Services Initiative Forum (FSRIF) and commended the biannual publication of the Grid.

#### **4 Report from the PRA**

- 4.1 Mr Woods briefed the Board on the business of the PRA that was of relevance to the FCA.
- 4.2 The Board noted the Bank's consultation on withdrawing an additional mortgage test and discussed the implications for the FCA. The Board requested further advice on the application of the affordability test, including on shared ownership mortgages, and whether the FCA's existing rules and risk appetite sufficiently protected consumers.

#### **5 PSR Annual Plan & Budget 2022-23**

- 5.1 The Board was presented with the detailed plans for the PSR's 2022/23 work programme and recommended budget proposal.
- 5.2 The Board discussed some of the major projects being undertaken by the PSR, the proposed budget, work programme and planning assumptions for 2022/23. The Chair, also Chair of the PSR Board, briefed the Board on major continuing projects and some of the challenges of the New Payments Architecture project which had led to the PSR assuming a more intensive role in relation to Pay.UK.
- 5.3 In connection with the discussion on the proposed budget, the Board noted an estimated 15% increase in Budget and sought further assurances on the necessity for this increase and on longer-term budget projections.

#### **6 British Steel Pension Scheme (BSPS)**

- 6.1 The Board was briefed on the evidence collected in support of the FCA's consideration of whether to use powers under S.404 FSMA requiring firms to establish and carry out a consumer redress scheme for British Steel Pension Scheme (BSPS) members.
  - 6.2 The Board discussed the uniqueness of the facts concerning BSPS; whether the conditions necessary to satisfy the tests under S.404 FSMA had been met; and whether it was desirable to make rules for the purpose of securing redress for BSPS members. The Board noted that the data showed a comparatively significantly higher rate of unsuitable transfer advice given to BSPS members than was the case in higher-risk firms in non-BSPS cases.
  - 6.3 The Board considered how exercising its S.404 FSMA powers may impact the insurance market and the potential knock-on effect it may have on PII products. The Board noted the need for further work to assess the impact of establishing a scheme and the development of a more detailed operational plan in readiness for a consultation on exercising its S.404 FSMA powers.
  - 6.4 The Board sought further assurances on the proposed communications approach ahead of any consultation on whether to use its S.404 FSMA powers to require firms to create a redress scheme. The Board agreed to defer its decision until further options were put forward with a view to returning to the matter before the end of the year in line with the timetable shared by the FCA in July with the Treasury Committee.
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## **7 LCF Complaints Time Bar**

- 7.1 The Board was briefed on several options for setting a time bar on London Capital & Finance Plc (LCF) complaints, under the Complaints Scheme.
- 7.2 The Board noted that the 12 months complaint period had been written into the Complaints Scheme and complainants could be reasonably expected to have had enough knowledge to raise a complaint following the publication of the Gloster report. The Board discussed the exceptional aspects of the LCF case and the merit in departing from its standard practice by announcing the complaints time bar and adopting a discretionary extension of 3 months within which to accept complaints.
- 7.3 The Board agreed that, given the exceptional circumstances surrounding London Capital & Finance Plc (LCF), it would allow complaints to the FCA about LCF to be accepted until 17 March 2022 noting that complaints notified after this would be accepted only if there were exceptional circumstances for the delay. The Board also agreed to depart from its standard practice in the case of London Capital & Finance Plc (LCF) by making a public announcement in advance.

## **8 Developing an FCA Strategy for Crypto assets**

- 8.1 The Board was briefed on the proposed strategy for the FCA to play a more significant role in the regulation of crypto assets, including the further regulations that may be needed to support the FCA's limited existing powers.
- 8.2 The Board discussed how regulating aspects of the crypto assets market would need to support the FCA's objectives of consumer protection and market integrity and the difficulties of avoiding a "halo effect" through FCA involvement. It also considered the challenge in attempting to regulate more decentralised financial activities. The Board also noted the importance of international regulatory cooperation in this area.
- 8.3 The Board discussed the regulatory approach in the short term and invited a further update on the regulatory approach being developed to mitigate immediate risks arising out of activities in crypto asset. The Board also recognised the extent to which the approach was limited by the current regulatory powers given to the FCA by Parliament.
- 8.4 The Board approved the recommended approach to the FCA's role in regulating Crypto assets.

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

- 9.1 The Board resolved to make the following instruments:
- i. Listing Rules (Disclosure of Climate-Related Financial Information) (No 2) Instrument 2021 (FCA 2021/61)
  - ii. Disclosure of Climate-Related Financial Information (Asset Manager and Asset Owner) Instrument 2021 (FCA 2021/62)
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- iii. Application Fees (Amendment) Instrument 2021 (FCA 2021/63)
- iv. LIBOR Transition Miscellaneous Instrument 2021 (FCA 2021/64)
- v. Value Measures Reporting and Monitoring (Amendment) Instrument 2021 (FCA 2021/65)
- vi. Technical Standards (Electronic Reporting Format) (No 2) Instrument 2021 (FCA 2021/66)
- vii. UK Emission Trading Scheme (No 2) Instrument 2021 (FCA 2021/67)
- viii. Supervision Manual (Reporting No 17) Instrument 2021 (FCA 2021/68)

## **10 Decisions of the Board/Board committee**

- 10.1 The Board approved the minutes of the meeting held on 11<sup>th</sup> November 2021.
- 10.2 The Board agreed to approve the minutes of the meeting of the Board that took place on 30 November 2021 by written procedure.
- 10.3 The Board approved the actions for closure and the actions proposed for deferral under the action log.
- 10.4 The Board approved the FSCS MELL for 2022/23 for consultation jointly with the PRA in January 2022.
- 10.5 The Board approved the reappointment of Stuart Williams as a member of the Markets Practitioner Panel, for a period of 3 years, with effect from 1 January 2022, to 31 December 2024.

## **11 Reports from the Chairs of Board Committees**

- 11.1 The Board noted the verbal reports by the Chairs of the Remuneration Committee, Oversight Committee, Audit Committee and Risk Committee.

## **12 Papers for noting**

- 12.1 The Board noted the following:
  - i. Cyber & Information Resilience – Organisational Update.
  - ii. Forward-Looking policy instruments and Economic Outlook.

There being no further business the meeting closed.

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

### **In attendance:**

Andrea Bowe – Director, Chief of Staff  
 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  
 Emily Shepperd – Executive Director, Authorisations  
 Mark Steward – Executive Director, Enforcement and Market Oversight  
 Simon Pearce – Director, Company Secretary  
 David Scott – Interim Director, General Counsel  
 Ian Runacres – Manager, Chairman’s Office

### **Presenters and observers:**

<b>Item 6 – PSR Annual Plan &amp; Budget 2022/23</b>	None
<b>Item 8 – British Steel Pension Scheme (BSPS)</b>	Debbie Gupta - Director Kate Collyer – Director David Cross – Head of Department Nick McGruer – Head of Department Andrei Medvedev - Manager
<b>Item 9 – LCF Complaints Time bar</b>	Robin Jones – Director Martin Boffey – Head of Department Alison Russell – Head of Department
<b>Item 10 – Developing an FCA Strategy for Cryptoassets</b>	David Raw - Director James Shafe – Head of Department Helene Oger-Zaher - Manager Victoria McLoughlin - Manager