

Minutes

Meeting:	FCA Board
Date of Meeting:	23 February 2023
Start time:	13:00
Venue:	Meeting held in Boardroom and via Microsoft Teams

Members Present:	Ashley Alder (Chair) Alice Maynard Bernadette Conroy Jeannette Lichner	Liam Coleman Nikhil Rathi ¹ Richard Lloyd Sam Woods
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 Interests were declared in the following items to be discussed:
 - i. Mr Alder declared a specific interest in relation to the London Metal Exchange (referenced at item 4 of the agenda) arising out of his former role at the HK SFC as the supervisor of Hong Kong Exchanges & Clearing, its parent company. The Board **agreed** that this did not constitute a conflict of interest for this meeting.
 - ii. Ms Lichner declared an interest in relation to the London Institute of Banking and Finance (referenced at item 8.1vi of the agenda) due to being a visiting professor. The Board **agreed** that this did not constitute a conflict of interest.

¹ Mr Rathi stepped out of the meeting between 15:00 and 15:15.

2 Reports from the Chairs of Board Committees

- 2.1 The Board noted the report from the Chair of the Policy and Rules Committee (P&RCo) meeting held on 09 February 2023. Key topics discussed at P&RCo included Access to Cash, and the development of an internal governance framework for the delivery of the Future Regulatory Framework and Regulatory Reform.
- 2.2 The Board noted the report from the Chair of the Joint Audit and Risk Committees (JARCo) meeting held on 16 February 2023. Key topics discussed at JARCo included a Security Programme update, and decisions of the Executive Finance and Delivery Committee (including monitoring how these bring benefits to the FCA). The JARCo Chair informed the Board that work was underway to repurpose JARCo to focus on monitoring performance reporting.

3 Report from the PRA

- 3.1 Mr Woods briefed the Board on the business of the Prudential Regulation Authority (PRA) that was of relevance to the FCA, including an update on Solvency II, Basel 3.1 standards and a credit union case that the PRA was currently managing.

4 Report from the Chief Executive

- 4.1 Mr Rathi briefed the Board on a number of topical issues, including:
- i. London Metal Exchange (LME) – the Board was briefed on key developments including that the FCA would imminently be issuing a joint statement with the Bank of England and to announce the commencement of an enforcement investigation into LME’s systems and controls.
 - ii. Appointed Representatives (AR) – the Board was advised on HM Treasury’s position on the AR regime and, further to its decision in January 2023 to make a statement on ARs in the Perimeter Report, the Board **agreed** to delegate authority to the Chief Executive Officer to approve the relevant text and timing of the Perimeter Report statement.
 - iii. The Board noted that the FCA continued to work on the reform of the Primary Markets regime, and in particular, rules in relation to Related Party Transactions where there had been wide ranging feedback from market participants following the recent discussion paper.
 - iv. Client Earth statements regarding judicial review - the Board was briefed on statements made by an organisation called “Client Earth” regarding judicially reviewing the FCA in relation to a prospectus issued by Ithaca and approved by the FCA.
 - v. Amigo – the Board was briefed on developments including that the FCA had not imposed a financial penalty on the firm, to enable it better to meet its redress liability.
 - vi. Annual Report and Accounts 22/23 – the Board noted possible execution risk due to potential National Audit Office operational delays.
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5 Strategic Prioritisation and Planning FY23/24

- 5.1 The Board was briefed on the FCA's FY23/24 Business Plan. Key points raised by the Board during the course of discussion included:
- i. the need for more nuanced messaging of the top four prioritised commitments for FY23/24, to be clear that the FCA would apply discipline when prioritising the resource needs of those four commitments above other demands;
 - ii. challenge from the Board regarding efficiency gains, noting in particular that "under-spending" is not in and of itself an efficiency gain – efficiencies must be identified, and funds released from the system, and where redeployed done so in a transparent manner, not automatically for further growth. The Board highlighted the importance of internal communications to enable FCA colleagues to support efficiency gains, including from more effective use of data and technology;
 - iii. the need to be cognisant of the impact of external changes such as the Secondary International Competitiveness and Growth Objective and the Future Regulatory Framework on the FCA's Business Plan. The Board advised the team that it would welcome further briefing on these considerations;
 - iv. value for money work was underway which would support identification of projects the FCA could pause / stop; and
 - v. acknowledgement that budget and headcount increases were driven in part by an ongoing expansion of the FCA's remit and delivery of the FCA's strategy.
- 5.2 The Board **approved**:
- i. the plans for 13 public commitments including prioritised commitments receiving additional investment in year;
 - ii. the parameters the budget is based on and the budget and headcount envelopes; and
 - iii. the level of budget deficit and the efficiency savings required.
- 5.3 The Board asked to be provided with further assurance on the steps being taken to ensure that any risk of a budget deficit in FY24/25 is adequately addressed, including: details of de-prioritised work; projects that will be funded in-year; and the lead indicators for the strategy and the metrics to measure delivery against outcomes.

6 Consultation on FCA fee-rates 2023/24

- 6.1 The Board discussed and **approved**:
- i. the increase to be applied to the FCA's ongoing regulatory activities (ORA) budget and requested clear messaging of the rationale for the rate increase;
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- ii. to freeze minimum, flat and application fees;
- iii. the distribution of scope change and other project costs across fee-blocks – in particular to: recover project costs directly from funeral plan firms over a longer period; exclude fee-block A.9 from recovery of the costs of consumer duty; include fee-block A.9 in recovery of the costs of the pensions dashboards; and recover the costs of work on the Future Regulatory Review from all firms; and
- iv. the delegation to the Senior Credit Committee of the authority to take decisions under the FEES relieving provisions.

7 Rules, Guidance and Technical Standards to be determined

- 7.1 The Board **resolved** to make the following instruments:
- i. EMIR Rules (Procedures for Ensuring Data Quality) Instrument 2023.
 - ii. FCA Standards Instrument: Technical Standards (EMIR Reporting and Data Quality and Miscellaneous Amendments) Instrument 2023.
 - iii. Technical Standards (EMIR Registration of Trade Repositories and Miscellaneous Amendments) Instrument 2023.
 - iv. FCA Registration Function Under the Co-Operative and Community Benefit Societies Act 2014 Guide Instrument 2023.
 - v. Enforcement Guide (Amendment) Instrument 2023.
 - vi. Training and Competence Sourcebook (Amendment No 11) Instrument 2023.
 - vii. Handbook Administration (No 63) Instrument 2023.
- 7.2 The Board noted that the amendments in item 7.1(vii) arose purely from a change of corporate structure of a training provider, as opposed to any substantive change in the FCA's requirements, and suggested that the General Counsel should explore whether an alternative approach to drafting or structuring the FCA's rules could avoid the need for such rule-changes in future.

8 Decisions of the Board

Minutes of previous meeting

- 8.1 The Board **approved** the minutes of the meeting held on 26 January 2023.

Action Log

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

Review of the Senior Managers and Certification Regime

- 8.3 The Board discussed and **approved** the:
- i. proposed overarching objective and key aims for the Senior Managers and Certification Regime (SM&CR) review, recognising the distinction between “operational efficiency” aspects of the regime, and its “substantive standards”;
 - ii. proposed approach and use of the review to raise potential enhancements to the regime but requested some refinements to the messaging to: i) reflect that this is a collaborative review between the FCA and the Prudential Regulation Authority, ii) outline how the regime is used in practice by the FCA, in particular in supervision; and, iii) highlight the importance of the regime in preventing misconduct arising, for example through the clarity of accountability that it brings – this arose further to the Board noting that there had been some discussions externally around the effectiveness of the regime which had pointed to few instances of enforcement against individuals. The Board noted that the SM&CR regime had been drawn on by international counterparts as they formulated similar regimes in their jurisdictions. The Board was assured that, in addition to wider stakeholders, views of front-line FCA colleagues who operate the regime had been and would continue to be sought throughout the review. The Board advised that the discussion paper should invite views on regulatory references and conduct rules. The Board observed that, in due course, the FCA should reflect on its own application of the SMR within the FCA in relation to the issues raised in the review; and
 - iii. proposed approach in relation to the time it takes to approve SMF applications.

Appointment of new RDC Deputy Chairs

- 8.4 The Board **agreed** to delegate authority for decision-making on the candidates for appointment as Deputy Chairs of the Regulatory Decisions Committee to a sub-committee of the Board comprised of: Mr Alder, Mr Lloyd and Ms Conroy.

PSR FY23/24 Annual Plan and Budget

- 8.5 The Board was briefed on the PSR Annual Plan and Budget FY23/24 and noted a factual correction to the paper regarding the People Committee decision on final pay arrangements for April 2023. This followed on from certain Board members having attended a pre-Board discussion with the PSR on 16 February 2023 to work through the PSR Annual Plan and Budget in detail.
- 8.6 The Board **approved** the PSR’s annual plan and budget for FY23/24.

Bank of England, FCA, PRA and PSR MoU – 2022 review

- 8.7 The Board reviewed the MoU and **agreed** that no changes be made to the Bank of England, FCA, Prudential Regulation Authority and Payment Systems Regulator Memorandum of Understanding.

Annual Finance Policies Review and NAO audit plan timetable

- 8.8 The Board **approved** the amendments to the Finance Policy and the Travel and Expenses Policy.
- 8.9 The Board heard that the PSR had been adhering to the FCA finance policy whilst work was underway to develop a PSR finance policy.

Approach to the FCA Annual Report and Accounts 2022/23

- 8.10 The Board **approved** the proposed approach to the Annual Report and Accounts 2022/23. The Board was content not to have a workshop on this, but requested early sight of the foreword and contents page.

Independent Panel Appointments

- 8.11 The Board **approved**:
- i. The appointment of **Hans-Christoph Hirt** as a member of the Listing Authority Advisory Panel, for a period of three years, with effect from 01 March 2023.
 - ii. The reappointment of **Richard Haas** as a member of the Markets Practitioner Panel, for a period of three years, with effect from 01 February 2023.

Updates to FCA Board and Board Committee Membership

- 8.12 The Board **approved** the following appointments:
- i. **Mr Lloyd** to return to his role as Senior Independent Director, and be designated as Deputy Chair, with immediate effect.
 - ii. **Mr Alder** to be appointed a member of the Policy and Rules Committee, with immediate effect.
 - iii. Following Ms Lichner's departure in April 2023, **Mr Alder** to be appointed Chair of the Oversight Committee.

Executive Director Recruitment

- 8.13 The Board noted the departure of the Executive Director, Governance to become CEO of the Pensions Regulator. The Board also considered and **agreed** options for the replacement of
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the Executive Director of Enforcement and Market Oversight following an open internal and external competition and **agreed** that the FCA's Chief Executive Officer would take this forward.

9 Papers for noting

9.1 The Board noted the following:

- i. Independent Panels Reports – the Board discussed the issue raised in the Consumer Panel report regarding resourcing challenges and noted that the Company Secretary and the Executive Director of Consumers and Competition would take this forward with the Chair. The Board heard that the Practitioner Panel had welcomed that the FCA had acted on feedback it had provided with regards to the asset management discussion paper.
- ii. Operationalising the secondary international competitiveness and growth objective (SICGO) – the Board welcomed the cross-collaboration between the FCA and the Prudential Regulation Authority on this work and noted the importance of SICGO messaging and metrics within the context of the FCA's Business Plan.
- iii. Analysis, Research and Evaluation: Economic analysis to support approval of the Strategic & Financial Plan for 2023/2024.
- iv. Economic Secretary to the Treasury (EST) letters in relation to the Future Regulatory Framework.

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 (absent between 14:05-14:22)
 Miles Bake – Director, Company Secretary
 Aidene Walsh – PSR Chair
 Graeme McLean – Head of Department, Chief Executive Office
 Dave Eaton – 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 Chief Executive	No attendees
Item 5 - Strategic Prioritisation and Planning FY23/24	Kate Collyer – Director Craig Chapman - Director Jane Cowland - Head of Department Peter Liddiard - Head of Department
Item 6 - Consultation on FCA fee-rates 2023/24	Jane Cowland - Head of Department Alexander Smith – Head of Department Joe Genova – Head of Department Meghan Beller - Manager
Item 7 - Rules and Guidance and Technical Standards to be determined	No attendees
Item 8 – Decisions of the Board	8.3: Alexander Smith – Head of Department Peter Curtis-Valino - Manager Andy Freeman – Head of Department Dominic Cashman - Director
Item 9 - Papers for noting	No attendees

Other relevant associates were also in attendance.