

Minutes

Meeting: FCA Board
Date of Meeting: 21 May 2020
Venue: Meeting held via Skype

Present: Charles Randell (Chair) Christopher Woolard
Catherine Bradley (excl. items 4 & 5)
Liam Coleman Tommaso Valletti
Bernadette Conroy Alice Maynard
Jeannette Lichner Sam Woods
Richard Lloyd (excl. items 4 & 5 and until item 14)

Apologies: Sarah Hogg

In attendance: Set out in Annex A

1 Quorum and declarations of interest

- 1.1 The meeting noted there was a quorum present and proceeded to business.
- 1.2 No interests in relation to the items to be discussed were declared.

2 Monthly Reports from the Independent Panels

- 2.1 The Board **noted** the issues raised in the monthly reports from the Independent Panels.

3 Rules and Guidance

- 3.1 Policy Statement: pension transfer advice (contingent charging)
 - i. The Board was briefed on the outcome of the consultation on proposed measures seeking to improve the quality of defined benefit (DB) pension transfer advice. The prevalence of contingent charging within the DB advice market was noted, as was the potential consequential incentive for advisers to recommend a transfer from a DB to a defined contribution (DC) pension.
 - ii. It was noted that the proposed measures, including a ban on contingent charging, sought to deliver a framework that supports consumer decision making when considering a transfer by making it more likely that the advice they receive is objective, of suitably high quality and subject to more transparent charging. This was balanced against minimising the unwanted impact on the minority of consumers who would
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benefit from a transfer, but would find it difficult to afford advice without a contingent charge.

- iii. The implications of Covid-19 were considered, including the potential for more consumers to be seeking a transfer in order to smooth income shocks related to Covid-19. The limited number of schemes offering a partial transfer was also reflected on.
- iv. The impact of the proposed measures on business models was discussed. The extended implementation period, with the ban on contingent charging to take effect from 1 October 2020, sought to allow firms sufficient time to make the necessary organisational changes, taking into account the challenges posed by Covid-19.
- i. In conclusion, the Board recognised the importance of clear and objective consumer communications, and of ongoing engagement with The Pensions Regulator. The proposed enhanced regime of regulatory returns, to support the supervision of compliance and the identification of consumer detriment, was also welcomed.

3.2 Policy statement and final rules: extension of Senior Managers & Certification Regime (SM&CR) to benchmark administrators

- i. The Board was briefed on the outcome of the consultation to extend the SM&CR to benchmark administrators that do not undertake any other regulated activities.
- ii. The concerns of price reference agencies (PRAs) regarding the tension between application of financial services regulation and their journalistic activities were considered. Whilst the proposals sought to proceed with the application of the Conduct Rules, as drafted, the Board noted the further guidance on individual Conduct Rules 4 and 5 in response to the concerns raised.
- iii. It was reported that extension of the SM&CR was due to come into effect on 7 December 2020, and that no postponement, in light of Covid-19, was considered necessary.

3.3 The Board **resolved** to make the following instruments:

- i. Conduct of Business Sourcebook (Pension Transfers (No 3) Instrument 2020 (FCA 2020/21)
- ii. Individual Accountability (FCA-Authorised Benchmark Firms) Instrument 2020 (FCA 2020/23)
- iii. Payment Services Regulations 2017 (Payment Account) Instrument 2020 (FCA 2020/24)
- iv. Supervision Manual (Reporting No 14) Instrument 2020 (FCA 2020/22)

4 **Compensatory payments under the Complaints Scheme**

- 4.1 The Board was briefed on proposals to consult on the approach to compensatory payments under the complaints Scheme (the Scheme), including the treatment of existing complaints during this period.
- 4.2 The Board was supportive of the proposal to consult, along with the PRA and Bank of England, who would be closely engaged, and were keen for this work to commence without delay.

4.3 When considering the treatment of existing complaints, the Board recognised the benefits of providing transparency on the current approach. The Board therefore welcomed the publication of a statement clarifying this approach and the intention to consult.

4.4 The Board **agreed**:

- i. to consult on revising the Scheme
- ii. that in the interim a statement, clarifying the current approach to paying compensation and the intention to consult, be issued.

5 Report from the Prudential Regulatory Authority (PRA)

5.1 Mr Woods briefed the Board on the business of the PRA that was of relevance to the FCA.

6 Report from the Chief Executive

6.1 Mr Woolard briefed the Board on a number of topical issues, including:

- i. Business Interruption Insurance: Discussions were underway with relevant insurers to produce a framework agreement to agree the basis on which parties to the case will participate in and expedite proceedings. In parallel, policyholder action groups were also being engaged to ensure their position is put forward in the public interest.
- ii. Brexit: The FCA's advice on equivalence assessments had been prepared and submitted to HM Treasury.

7 Macro-economic implications of the Covid-19 pandemic

7.1 The Board was **briefed** on the latest macro-economic outlook, with a focus on the impact on households, stemming from Covid-19. Key issues discussed included the extent to which the vulnerability profile of consumers had changed, the dependency between Government fiscal policy and consumers remaining financially resilient and the implications of further support for borrowers impacted by Covid-19.

7.2 The Board considered ongoing issues of access to and use of consumer credit and indebtedness and the importance of continued engagement with the Bank of England. It was noted that the macro-economic outlook would be adjusted to reflect the evolving impact of Covid-19 with updates regularly reported to the Board.

8 Further support for consumers impacted by Covid-19

8.1 The Board was **briefed** on the impact of Covid-19 for consumers, including on their financial resilience. It was noted that whilst the original support for consumers had sought to provide a temporary bridge to other forms of help, analysis suggested that of those who had taken a payment deferral, many would be unable to resume full repayment at the end of the deferral period. The need for ongoing support for consumers therefore remained and the FCA would seek to revise its guidance accordingly. Proposals would aim to ensure that consumers continue to benefit from the necessary levels of protection and support and that markets continue to work well.

8.2 The Board was **briefed** on proposals to revise the guidance on the fair treatment of mortgage borrowers impacted by Covid-19. The proposals sought to balance issues of consumer protection, competition and market integrity and were based on the following principles:

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- i. Anyone who continued to need help receives it
 - ii. The current scheme should remain available to people who are only impacted at a later date
 - iii. Those who can afford to resume repayment should do so
 - iv. The current ban on repossessions of homes be extended for a further three months
- 8.3 The proposals were welcomed by the Board. The Board recognised the importance of clear, supporting consumer communications and in particular those between firms and their customers as payment deferrals come to an end. The expectation that firms contact their customers to explore their ability to resume payment and the options available if they were unable to do so was welcomed. The Board also noted that implementation of the proposals would be supervised through regular and proactive engagement with firms.
- 8.4 The impact of the proposals on firms, particularly in relation to cashflow, was considered in the light of the potential for rising levels of bad debt, particularly for non-bank lenders. The Board noted the ongoing engagement with the PRA, regarding the prudential treatment of payment deferrals. The ongoing masking of credit files, including the limitations of applying this in the longer-term, was also discussed.
- 8.5 In conclusion, the Board **agreed** to consult on guidance on the fair treatment of mortgage borrowers impacted by Covid-19.

9 High-risk Investments: update and strategy for the reduction of online harms to consumers

- 9.1 The Board was **briefed** on the evolving range of consumer harm arising from online channels and informed of the FCA's activities in this area. This was recognised to be a key area of focus as captured within the FCA's consumer investment business priority. These activities were supported by a collaborative supervisory approach, including engagement with the specialist Financial Promotions Team, to ensure they were proportionate, informed and effective.
- 9.2 Whilst online channels were noted to be just one route by which consumers found their way into high-risk investments, the immediacy of the issues and the high potential for consumer harm was acknowledged, particularly in light of the environment created by Covid-19. The Board therefore considered how ongoing communication with online platform operators could best support work in this area.
- 9.3 The limitations of the current legislative framework were recognised and the Board was supportive of ongoing engagement with HM Treasury, the Competition and Markets Authority, the Advertising Standards Authority and the Office of Communications to pursue reform.
- 9.4 The Board was **briefed** on proposals to consult to make the Temporary Product Intervention (TPI) permanent, including enhanced disclosure requirements for financial promotions. The Board reflected on broader issues relating to high-risk investments for retail investors whilst acknowledging that the TPI was focussed on speculative illiquid securities.
- 9.5 The Board **agreed** to consult on proposals to make the TPI permanent and encouraged the team to consider how to orchestrate a discussion on broader questions around high-risk investments.

10 Decisions of the Board

- 10.1 The Board **approved** the minutes of the meetings 23 & 30 April 2020 and 4 May 2020.
- 10.2 The Board **approved** the appointment of Liam Coleman as Chair of the LCF Review Committee from 22 May 2020.
- 10.3 The Board **approved** the appointments of Natasha de Teran and Julie Hunter as members of the Consumer Panel, for terms of three years each, with effect from 1 June 2020.
- 10.4 The Board **approved** the following appointments:
- i. The reappointment of Mark Austin as a member and appointment as the new Chair of Listing Authority Advisory Panel, for a two-year term, with effect from 1 August 2020
 - ii. The reappointment of Andy Chapman as a member of the Smaller Business Practitioner Panel, for a two-year term with effect from 1 June 2020
 - iii. The reappointment of Dermot McDonogh as a member of the Markets Practitioner Panel, for a three-year term with effect from 1 June 2020.
- 10.5 The Board **authorised** Dr Liza Lovdahl Gormsen as the FCA's Procedural Officer (PO).
- 10.6 Approval of the Modern Slavery and Human Trafficking Statement for the financial year ending 31 March 2020 was postponed allowing questions raised at the meeting to be addressed.

11 Papers for noting

- 11.1 The Board **noted** the following:
- i. the progress with the matters arising from previous meetings
 - ii. the Q4 2019/20 'FCA Run' Performance report. The Board **noted** that on this occasion, detailed discussion of this item had been delegated to the Board Risk Committee.
 - iii. Draft Annual Report & Accounts of the Payment Systems Regulator Ltd for the year ended 31 March 2020.

12 Any other Business

- 12.1 There being no further business, the meeting closed.

Charles Randell
Chairman

ANNEX A: Attendees*

Attending for all, or substantially all of the meeting:

Megan Butler	Executive Director, Supervision – Inv., Wholesale and Specialist
Jonathan Davidson	Executive Director, Supervision – Retail & Authorisations
Nausicaa Delfas	Executive Director, International
Sheree Howard	Executive Director, Risk and Compliance Oversight
Sean Martin	General Counsel
Sheldon Mills	Interim Executive Director, Strategy & Competition
Georgina Philippou	Chief Operating Officer
Simon Pearce	Company Secretary
Mark Steward	Executive Director, Enforcement and Market Oversight
Andrew Whyte	Director, Communications

Attending for the following items:

3.i	Bianca Garwood	Manager, Pensions and Decumulation Policy
	Nike Trost	Manager, Markets Policy
	Edwin Schooling Latter	Director, Markets Policy
	Debbie Gupta	Director, Life Insurance & Financial Advice
	Katherine Browne	Head of Department, Investment Intermediaries & Scams
	Kenneth McArthur	Manager, Regulatory Processes & Risk
	Ritchie Thomson	Manager, Multi-Firm Team, Investment Intermediaries & Scams
3.ii	Edwin Schooling Latter	Director, Markets Policy
4	Pritheeva Rasaratnam	Head of Department, Investigations, Complaints & Assurance
	Jeannette Bateman	Senior Manager, Risk & Independent Reviews
	Martin Boffey	Head of Department, GCD International
7	Kate Collyer	Interim Director of Competition and Chief Economist
	Karen Croxson	Head of Department, Economics – Research
	Graeme Reynolds	Deputy Chief Economist, Head of Economic & Financial Analysis
	Chris Gee	Manager, Competition & Economics
	Neil Marshall	Senior Manager, Retail Competition
8	Nisha Arora	Director, Consumer & Retail Policy
	Karen Croxson	Head of Department, Economics - Research
	Anthony Daughton	Manager, Competition Finance
	Sarah McKenzie	Head of Department, Consumer Strategy & Policy
	Charlotte Matthews	Manager, Covid Credit
	Miranda De Savorgnani	Manager, Credit Team
	Ian Searle	Manager, Payments Policy
	Richard Sutcliffe	Head of Department, Redress & Retail Lending
9	David Blunt	Head of Department, Conduct Specialists
	Matt Brewis	Director, General Insurance & Conduct Specialists
	Lucy Castledine	Head of Department, Supervision Taskforce
	Matt Evans	Technical Specialist, Investment, Insurance & Redress, GCD
	Debbie Gupta	Director, Life Insurance and Financial Advice
	Beatrice Schady	Manager, Unauthorised Business
	Alex Roy	Head of Department, Consumer Distribution Policy

* Relevant associates were also in attendance