

**FCA Authorisations Division and APCC Liaison Meeting Minutes, Wednesday  
16<sup>th</sup> January 2019, 11.30am – 1pm at the offices of the FCA, 12 Endeavour  
Square, London, E20 1NJ**

---

**Attendees:**

**FCA:**

Nick Mears	FCA
Kim Heffernan	FCA
Mike Baker	FCA
Karen Avis	FCA
Tim Lowe	FCA
Fiona Mackinnon Miller	FCA (by phone)
Gillian Lavabre	FCA
Paul Ullah	FCA
Gavin Davies	FCA
Rina Maher	FCA
Richard Baker	FCA

**APCC:**

James Borley	APCC Member and Authorisations Working Group Leader
Russell Facer	APCC Director and Authorisations Working Group Member
Ben Mason	APCC Member and Authorisations Working Group Member
Jude Bahnan	APCC Member and Authorisations Working Group Member
Gary Kershaw	APCC Member and Authorisations Working Group Member
Andy Welch	APCC Member and Authorisations Working Group Member
Bev Robertson	APCC Minute Taker

**Agenda:**

**Introductions**  
**Approach to Authorisations**  
**Crypto**  
**CMCs**  
**Brexit**  
**AR Networks**  
**Phoenixing**  
**Departmental updates**  
**SMCR**  
**AOB**

## 1. Approach to Authorisation

- 1.1 Rina Maher provided feedback on the final 'Our Approach to Authorisation' paper, Key messages are that they are looking at how firms meet the minimum standards and supporting firms who are applying for authorisation. They have focused resource on areas where there is the greatest risk of harm and also serve the public interest. The CP asked four questions and received 19 responses and contained a lot of feedback. It was noted that most firms who responded were representing smaller firm applicants. The feedback was supportive, but some areas needed more clarity. Respondents were looking for plainer language in the handbook and the FCA recognise the benefits of improving this. The challenge is that no two applications are the same so its difficult to focus on specific areas, but more information will be provided in the future, although no timescales are currently confirmed for this. The FCA is monitoring feedback and can respond to areas where they are inconsistent, and this will continue to be invested in to make good quality regulatory decisions.
- 1.2 Authorisations are looking to provide a level of support to all firms via handbook updates, and through inhouse upskilling for staff. AMAH (Asset Management Authorisation Hub) was launched and now there's an insurance hub as well. The number of 'complete' applications has increased and the 'Track my application' functionality is working well. They've published guidance on 'ready, willing and organised' to assist firms. They've also increased training for staff in 'service mindset' which helps better understand firms, from a customer perspective.
- 1.3 Authorisations revised their 'public commitments' to firms with some improvements. Handovers have been reviewed and streamlined. Applicants will be notified within a week of when the application is complete. Firms must meet minimum standards and won't be authorised unless meeting threshold conditions, in a bid to protect consumer interests.
- 1.4 Rina also discussed 'phoenixing' and FCA are looking at this more closely at the gateway. They've also provided more information on Conduct Risk and SMCR. The FCA advised they will do pre-authorisation meetings with firms if the FCA feels this is beneficial and will assist the process, but there could be other tools available that might be more suitable to the firm. The FCA will provide further updates on their 'Delivering Effective Authorisations' project and this formally finishes in March.

## 2. Crypto

- 2.1 Karen Avis provided some commentary on the FCA's approach to crypto assets, in the context of the Cryptoassets Taskforce report The FCA did advise they would provide a regulatory perimeter guide on this topic. This has not been published yet<sup>1</sup> but will be out in the next few weeks, along with a CP around the 'prohibition' of providing crypto to retail customers. Average determination times are an unknown due to the complexity of each application. The FCA are monitoring financial promotions for Crypto and ensuring consumers aren't confused by these.
- 2.2 The APCC are looking for guidance on what is in scope and outside of scope. The FCA advised further cost benefit analysis will be undertaken.
- 2.3 Ben Mason is to provide the FCA with further information around Crypto and Consumer Credit firms. Ben is to take up with Kim or Karen directly. The APCC expressed concern that for some firms the route to market will be very slow; can this process be evolved or improved?

## 3. An update on CMCs

---

<sup>1</sup> Now published <https://www.fca.org.uk/news/press-releases/fca-consults-cryptoassets-guidance>

- 3.1 Mike Baker provided an update on the CMC transition team and policy developments. Policy statement has been published. PS18/23, and they opened the ‘temporary permission’ application window at the beginning of January and 150 registrations had been received to date. The FCA are expecting 750 in total before the end of March.
- 3.2 Mike provided some key points from the Policy Statement. Where a CMC advertises a ‘no win/no fee’, the firm needs to set out the fees that *might* occur; this applies to Lead Generators as well. They need to point out that customers can make claims themselves and this needs to be noted. Key information must be on one page and not across multiple pages. Call recording is required going forward. Broadly supported by the respondents, this includes texts, emails etc for a period of 12 months from final contact with the customer. Even if passing the information on to another CMC. The Prudential Requirements are similar to how they consulted: -
- CMCs with a TNR of £1m or more, need to hold a minimum of £10k
  - CMCs with less than £1m, it is a minimum of £5k. Fixed overheads requirement will require the CMC to have two months of CMC’s total expenditures, and they have reviewed what can be included in these requirements.
  - Client money oversight requirements – firms must hold £20k capital and have an oversight person, as well as undertaking daily reconciliations and must pay the money out the customers as soon as they can.
- 3.3 It was agreed that Mike would attend the CMC working group, and then make a decision around merging this into the Authorisations meetings going forward or have a mini meeting at the end of the Authorisations meeting.
4. **Brexit**
- 4.1 Gavin Davies provided an update on Brexit and advised the FCA are now accepting application from inbound EEA firms for the Temporary Permissions Regime. This opened on 7<sup>th</sup> January and closes at the end of March<sup>2</sup>, there has been a brisk uptake. The FCA are preparing for a hard exit and it will be ‘business as usual’ where possible.
- 4.2 The FCA are looking to provide guidance on ‘approach to branches’ and they hope to give guidance on how this will look.
5. **Appointed Representative (AR) networks**
- 5.1 The APCC highlighted Consumer Credit and Capital Markets ARs, , where we believe the AR model is being used differently to that of the standard IFA/GI model (where it seems to work well and with the true intention of the model). It’s the growing networks where they appear to not have the correct Principal oversight in place, and it’s almost ‘permissions for sale’. The APCC asked for the FCA’s view on this and is there likely to be further work done on this particular area. The APCC are concerned that there is little expertise in some network models and no due diligence of the ARs.
- 5.2 The GI model works well, for other sectors the FCA can’t refuse an AR registration, but they can have input into the Controlled Functions that are applied for afterwards and they are looking into that. Many ARs don’t have Controlled Functions added and this is on the FCA’s radar. The FCA are going to undertake work in this space. They are looking at the models in other markets. The APCC to provide feedback where concerns are made known to them or member firms. This is likely to be in P2P and investment. This will continue to remain on the agenda.

---

<sup>2</sup> Now extended to 11 April <https://www.fca.org.uk/brexit/temporary-permissions-regime>

## 6. Phoenixing

6.1 Within the 'Approach To Authorisations' paper; the FCA are focussing on financial advisers, as this can cause greater harm for consumers. For firms attempting to avoid paying liabilities to consumers, there will be greater scrutiny, and working more closely with FOS and FSCS and looking in greater detail; some firms might take longer to go back through the gateway. The applicant firm should provide clarity and rationale for setting up again, and this will delay applications if they don't. If the firm is looking for the same permission and proposing the same individuals, the FCA will look more closely. If other firms are aware, they need to whistleblow to the FCA. The APCC asked if firms can transfer liabilities, FCA can't force this to happen, but if firms do, they sometimes have issues with getting PI cover. The FCA need to check the ability to pay those claims and this would need a rule change; if the FCA were to impose a transfer of liability, then PI insurers might be more open to provide cover.

6.2 The FCA also look at the cancellation process and Supervision alerts, as well as Approved Persons applications and any Change in Control requests. An application for cancellation can be refused if it's just to avoid paying liabilities. APCC offered additional meeting to provide more feedback; Gary Kershaw and Russell Facer to take offline.

## 7. FCA updates

### 7.1 APPM

They've launched new online portal for registration of mutual societies. Comms are coming out Jan/Feb for that but live on the website<sup>3</sup>. APPM will have some changes in next 6/12 months and details to follow. In terms of the SMCR for insurance firms, this went live in Dec 18 – the FCA are experiencing a spike in approved persons cases as firms review internally. It expects to see a similar spike for Solo Regulated firm approved persons in December 2019 and thereafter. The FCA are trying to get firms to review their senior manager and certification requirements well ahead of December. There will be key comms, and the FCA will keep the APCC advised. The FCA asked for feedback from the APCC via Bev Robertson.

### 7.2 Wholesale.

This department have been concentrating on Temporary Permissions Regime and Brexit-related work, onshoring ESMA level firms, and working with the 'Authorisations to Supervision' team, (this team completed a review on P2P and will do a review with Financial Advisors, but not every single one). Also getting ready for the busy cancellations season soon, as FCA head toward the end of the fees financial year. The FCA asked for firms to be reminded of the deadline for not getting charged for next year's fee, and to apply sooner rather than later. The FCA advised that AIFMD applications go onto Connect<sup>4</sup> from beginning Feb, no longer paper based.

### 7.3 Contact Centre

The FCC are looking to remove lower value calls and transactional calls. The Connect registration for new firms will now continue to use the original connect registration issued for the application process. They are looking to do more outbound calling on behalf of Supervision. The Gabriel reset password has also been updated to avoid firms having to call.

They intend to improve staff 'speed to competency,' getting staff fully trained and upskilling. Harder for Contact Centre to retain staff internally as many staff go onto other departments once

---

<sup>3</sup> <https://www.fca.org.uk/firms/online-mutual-society-portal>

<sup>4</sup> <https://www.fca.org.uk/firms/aifmd/uk-aifm>

trained. They advised further Connect changes in the next few months and the APCC will notified accordingly.

The APCC suggested that being able to add additional users at inception would be useful and this was taken away. Part of the focus will be on Consumer Credit so they would be trained on end to end process so they can question rather than just transact.

#### 7.4 Lending Intermediaries

The FCA provided a regulatory update, as Wonga went into administration, the FCA have looked at High Cost Lending, and concerns of phoenixing. Re-lending was a problem, and can leave a firm with too many liabilities, and redress paid due to irresponsible lending. Case officers at the gateway will ask more questions of higher cost lenders, including whether their affordability assessments are appropriate. Questions will be asked around when would a firm not re-lend? Business Plans and Policies are silent in this regard so the FCA asked that firms should be reminded of the need to expand on these.

Operationally – lead times are down, end of Jan Credit and Lending space, all applications have a 21 days allocation time.

The FCA have seen a significant number of withdrawals of applications as firms are not ready, willing and organised. The FCA asked members to encourage firms to consider this, and that firms need to be able to apply and indeed respond at the time of the application not at the time of a case officer picking up the application. The FCA will provide feedback if there are any APCC members who are named on incomplete applications.

The APCC asked for any SLAs from the department, and why the KPIs/MI (in particular, average determination times) are no longer clearly identified by sector and application type. Ben to feed info to Bev for onward transmission to the FCA. Where we would like additional information of sectors, and sub sectors.

The FCA advised the Track my Application will provide more MI to the applicant firm in this regard.

#### 7.5 Payment Services

SPI re-registration period has closed; they received 424 applications, 389 approved, 24 withdrew and 11 still open, and some revoked. 140 firms didn't submit applications and have been revoked. Several reminders were issued to these firms, and Supervision will check they are no longer active.

Limited Network Exclusions/Electronic Communications: the FCA still receiving some applications. ECEs - 19 on the Register, and two annual audits. LNEs – there are 15 applications, and two concluded and some have been removed as they are incorrect applications.

ECEs – there are no issues being seen but encouraging firms to review if they can remain within the threshold requirements. LNEs – firms need to provide as much application information as early as possible. Current wait time for applications to be allocated is longer than they would like it to be but they are trying to transition back into a BAU state and it's expected this will increase the speed of allocations.

#### **8. SMCR**

The FCA asked for feedback on blockers around SMCR and the APCC will provide this.

Any Other Business – Nick is to provide feedback on separate emails that have been issued to the FCA since the meeting was scheduled.