



# THE CITY OF LONDON LAW SOCIETY

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[cp08\\_23@fsa.gov.uk](mailto:cp08_23@fsa.gov.uk)

By email only

Dear Alex and Christine

## **FSA Consultation Paper CP08/23: Financial Stability and Depositor Protection – FSA responsibilities (the Consultation Paper)**

### **1. THE CITY OF LONDON LAW SOCIETY**

The City of London Law Society (**CLLS**) represents approximately 13,000 City lawyers through individual and corporate membership including some of the largest international law firms in the world. These law firms advise a variety of clients from multinational companies and financial institutions to Government departments, often in relation to complex, multi jurisdictional legal issues.

The CLLS responds to a variety of consultations on issues of importance to its members through its 17 specialist committees. This response to FSA CP08/23 (Financial stability and depositor protection: FSA responsibilities) has been prepared by the CLLS Regulatory Committee. Members of the CLLS Regulatory Committee (the **Committee**) advise a wide range of firms in the financial markets including banks, brokers, investment advisers, investment managers, custodians, private equity and other specialist fund managers as well as market infrastructure providers such as the operators of trading, clearing and settlement systems.

### **2. RESPONSE TO THE CONSULTATION PAPER**

The Committee does not take it upon itself to comment on any policy aspects of the Consultation Paper. Rather, our concern is to ensure that the obligations which would be imposed on firms, the standards of behaviour FSA would expect firms to meet and the likely steps which will be followed by FSA, each in conjunction with the matters discussed in the Consultation Paper, are clear and certain.

In particular, we refer to paragraphs 2.8-2.17 of the Consultation Paper and FSA's "concern about the readiness of firms to deliver the information [we] require in a timely fashion" on the basis of recent experiences (as stated in paragraph 2.11). The "unacceptable" difference between the FSA's interpretation of its Rules, and the manner in which those Rules have been implemented by firms, must be seen in one of two ways: either firms have intentionally set out to breach the Rules or the Rules have been insufficiently clear in what they require. We do not believe the former to have been the case. If FSA has particular requirements as regards the information to be provided to it, we would argue that such requirements should be set out in a Rule and thereby made binding on firms or at least be the subject of more expansive guidance, but in either case the procedures and formalities of consultation must be followed.

It is also important that the industry and its advisers are conversant with the FSA's expectations and confident that there is consistency of approach and so more extensive engagement with the industry on this issue would be most welcome.

We would welcome further dialogue with FSA in connection with the Paper and, specifically, the matters raised above.

Yours sincerely

**Margaret Chamberlain**  
**Chair CLLS Regulatory Committee**

**Members of the CLLS Regulatory Committee:**

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Peter Bevan, Linklaters

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