



The City of London Law Society

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Response by the City of London Law Society's Insurance Law Committee to the consultation paper by the Ministry of Justice entitled "Rome I – should the UK opt in?"

The City of London Law Society ("CLLS") represents approximately 12,000 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 Government consultations on issues of importance to its members through its 17 specialist Committees. A working party of the CLLS Insurance Law Committee, made up of solicitors who are experts in their field, have prepared the comments below in response to the Proposals.

This response represents the views and opinions of the Insurance Law Committee of the CLLS. The members of the Committee are Ian Mathers of Allen & Overy (Chairman); Martin Bakes of Herbert Smith; Christian Wells of Lovells; Michael Mendelowitz of Norton Rose; Stephen Lewis of Clyde & Co; Geoff Lord of Kennedys; Kenneth McKenzie of Davis Arnold Cooper; James Bateson of Norton Rose; Martin Mankabady of Lawrence Graham; Richard Spiller of Edwards Angell Palmer & Dodge; Paul Wordley of Holman Fenwick & Willan; Glen James of Slaughter & May; Terry O'Neill of Clifford Chance; Michelle Bramley of Freshfields; Catherine Hawkins of Berrymans Lace Mawer; Charles Gordon of DLA Piper; Anna Tipping of Linklaters; and David Wilkinson of Dewey & Le Boeuf.

We refer to the above consultation paper, which attached the final text of a Regulation on the law applicable to contractual obligations ("Rome I"); and we understand that this has now been adopted by the EU Justice and Home Affairs Council.

We previously expressed some reservations about certain provisions in earlier texts of the draft Regulation, and in particular a provision similar to Article 7(1) of the Rome Convention concerning the application of overseas mandatory rules. Those reservations have now been substantially reduced and we congratulate the UK negotiating team on its role in securing valuable improvements to the text. We also agree that parties to cross-border insurance contracts, like other contracts, have much to gain from a single system of applicable law rules (including one which applies to contracts within the United Kingdom). As regards the special rules in Article 7 relating to direct insurance contracts, we note that these very largely consolidate provisions presently contained in the EU life and non-life Directives but there is a requirement in Article 27 for the Commission to conduct a further study of

this area in due course together with an assessment of the impact of any amended rules which they may propose. We agree that this is a satisfactory approach.

Accordingly, our responses to the questions raised in the paper are as follows:

Question 1: Is it in the national interest for the Government, in accordance with Article 4 of the UK's Protocol on Title IV measures, to seek to opt in to the Regulation? If not, please explain why.

Yes.

Question 2: Should the Rome 1 rules apply throughout the UK if the UK opts in to the Regulation? If not, please explain why.

Yes.

Question 3: Do you agree with the Partial Impact Assessment at Annex A of the consultation paper? If not, please explain why.

In substance, yes. The assessment does not deal expressly with direct insurance contracts; however we expect that the consolidation mentioned above is likely to have minimal impact upon parties' costs, most likely an overall reduction through making the rules more accessible.

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