

**Minutes of Meeting of the
City of London Law Society Regulatory Law Committee (the "Committee")**

Held on Tuesday 13 June 2017 at 12.30pm
at Exchange House, 12 Primrose Street, London EC2A 2EG

ATTENDEES

Present	Firm Represented
Karen Anderson (chair)	Herbert Smith Freehills LLP
Peter Bevan	Linklaters LLP
Simon Crown	Clifford Chance LLP
Richard Everett	Travers Smith LLP
Robert Finney	Holman Fenwick Willan LLP
William Garner	Charles Russell Speechlys LLP
Tamasin Little	Reed Smith LLP
Brian McDonnell	Addleshaw Goddard LLP
Simon Morris	CMS Cameron McKenna LLP
Rob Moulton	Latham & Watkins LLP
Stuart Willey	White and Case LLP

1. MINUTES OF PREVIOUS MEETING

The minutes of the meeting of the Committee held on 9 May 2017 were approved.

2. MIFID II PRODUCT GOVERNANCE RULES IMPACT ON CAPITAL MARKETS

The Committee discussed at length the views of trade associations on impact of the MiFID II product governance rules on capital markets, both in the equity and debt context.

In the equity capital markets context, it was noted that trade associations had found the more liberal approach to proportionality in the ESMA Final Report on guidelines on MiFID II product governance helpful, although the new case studies were of limited use. There is still uncertainty surrounding the target market for more complex or unusual shares such as preference shares or GDRs.

The Committee noted that in most share issues, there were already several layers of governance and liability attaching to those parties involved. It seemed appropriate for MiFID II product governance requirements to be applied more proportionally, by contrast to complex structured products where there might generally be less oversight and governance.

It was noted that the market position was slightly less developed in the debt capital markets context. The Committee noted that there are not the same levels of governance in the context of debt issuances, but it was also less likely that retail clients would have access to the products.

It was noted that more broadly, standardisation efforts were ongoing in the UK and in other EU jurisdictions. There were various trade bodies producing helpful guidance and templates for firms to use.

It was decided that while there were still some areas of uncertainty in relation to the application of the product governance regime to capital markets, the Committee would not at this stage respond.

3. FCA SUPERVISION REVIEW REPORT ON ACQUIRING CLIENTS FROM OTHER FIRMS

The Committee discussed an issue relating to the interaction of the existing law of assignment and novation with the FCA's stated view in this report on the validity of a contract when a new firm undertakes services for clients.

While in practice no member of the Committee had come across an instance of the FCA proceeding on the basis of the position apparently advanced in the paper, it was decided that a member would draft a letter requesting that the FCA clarify the statement made in the report.

4. HMT GUIDANCE ON SANCTIONS

This issue will be discussed at the next meeting.

5. EC CONSULTATION PAPER ON CONFLICT OF LAWS RULES FOR THIRD PARTY EFFECTS OF TRANSACTIONS IN SECURITIES AND CLAIMS

The Committee discussed the paper, in particular the broader scope of this consultation. It was noted that a trade association had established a working group to consider the issues raised in the paper.

A member would attend the trade association's working group call and consider whether there were any issues on which the Committee should respond.

6. FCA DISCUSSION PAPER ON DISTRIBUTED LEDGER TECHNOLOGY

The Committee briefly discussed the paper, and while it was noted that it raised some interesting issues, the Committee would not submit a response.

7. EBA CONSULTATION PAPER ON RTS ON SIMPLIFIED OBLIGATIONS UNDER BRRD

The Committee discussed the scope of the paper, and in particular how the RTS would interact with existing approaches from other central banks, such as that followed by the Bank of England. It was decided that a member would consider whether the Committee should draft a response, in particular if it was felt the draft RTS were not consistent with other regimes.

8. AOB

8.1 Use of defined terms in FCA MiFID II implementation

The Committee discussed the FCA's use of a defined term in the draft FCA Handbook text and whether it was applied in a consistent manner with the original EU legislation. It was decided that a member would contact the FCA to highlight the Committee's concerns.



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Karen Anderson
Chair, CLLS Regulatory Law Committee