

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

Held on Tuesday 9 February 2021 at 12.30pm
via conference call

ATTENDEES

Present	Firm Represented
Karen Anderson	Herbert Smith Freehills LLP
Peter Bevan	Linklaters LLP
Simon Crown	Clifford Chance LLP
Richard Everett	Travers Smith LLP
Mark Kalderon	Freshfields Bruckhaus Deringer LLP
Anthony Ma	Grant Thornton UK LLP
Brian McDonnell	McDonnell Ellis LLP
Simon Morris	CMS Cameron McKenna Nabarro Olswang LLP
Rob Moulton	Latham & Watkins LLP
Julia Smithers Excell	White & Case LLP
Kevin Hart	City of London Law Society

1. MINUTES OF PREVIOUS MEETING

The minutes of the meeting of the Committee held on 19 January 2020 were approved.

2. HMT PHASE II CONSULTATION ON THE REGULATORY FRAMEWORK REVIEW

It was noted that an updated version of the Committee's response had been circulated in advance of the meeting.

It was agreed that members would provide final comments by the end of the week so that the final version of the response could be prepared and submitted before the consultation period closed.

3. PRA EVALUATION OF THE SENIOR MANAGERS AND CERTIFICATION REGIME

The Committee discussed the key follow up actions and recommendations of the evaluation paper, including the PRA seeking further feedback on the benefits of further articulating the link between SMCR and remuneration adjustments, supporting the use of time-limited approvals and clarifying expectation related to misconduct reporting in notification and regulatory references.

While the members noted that the paper was a helpful overview into how the SMCR was operating, it was agreed that the Committee would not submit a response.

4. HMT CONSULTATION AND CALL FOR EVIDENCE ON UK REGULATORY APPROACH TO CRYPTOASSETS AND STABLECOINS

The members considered the proposals in the consultation paper, noting that the approach appeared proportionate and well-defined.

The members discussed the suggestion in the consultation paper that due to the digital, decentralised and cross-border nature of stable tokens, firms which actively marketed to UK consumers may be required to have a UK establishment and be authorised in the UK. The members were concerned that this could limit UK investors' access to these instruments and, whilst acknowledging concerns about AML/CTF, noted that this approach to territoriality was not consistent with the approach taken for other financial instruments and payment services.

It was agreed that the Chair would pass on the questions that the members had raised on this point to a separate trade association which was preparing a response to this paper.

5. **FCA CONSULTATION ON A NEW UK PRUDENTIAL REGIME FOR MIFID INVESTMENT FIRMS**

The members briefly discussed the detailed rules set out at Appendix 1 of the consultation paper. The members in particular considered the FCA's exercise of discretion to require firms to hold capital against accumulated losses in addition to initial capital requirements on authorisation, and whether it would be helpful to have further guidance on this point.

It was agreed that the Committee would not submit a response.

6. **HMT CALL FOR EVIDENCE ON THE OVERSEAS FRAMEWORK**

The members discussed the proposals in the call for evidence, in particular the UK MiFIR third country regime and the Overseas Persons Exclusion (OPE).

The members considered that the OPE was a hugely important provision to the operation of the UK regulatory framework and had been relied on successfully by overseas persons for many years. Changes to the exclusion could have widespread unintended consequences.

It was therefore agreed that a member would prepare a response for the Committee's review in advance of the next meeting.

7. **OTHER CONSULTATIONS TO WHICH THE COMMITTEE MAY WISH TO RESPOND**

The Committee discussed the **PRA consultation paper on international banks: the PRA's approach to branch and subsidiary supervision** and the **HMT call for input on the review of the UK funds regime** which were currently open for consultation. It was decided that the Committee would not submit a response to either paper.

8. **AOB**

7.1 **Committee membership**

The Chair welcomed Julia Smithers Excell to the Committee.

7.2 **Law Commission Proposed 14th Programme of Reform**

Members were invited to submit specific proposals (via the Chair) for the Law Commission's consideration as it prepares its 14th Programme of Reform.



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Karen Anderson

Chair, CLLS Regulatory Law Committee