

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

Held on Tuesday 11 May 2021 at 12.30pm
via conference call

ATTENDEES

Present	Firm Represented
Karen Anderson	Herbert Smith Freehills LLP
Stephanie Biggs	Travers Smith LLP
Richard Everett	Travers Smith LLP
Anthony Ma	Grant Thornton UK LLP
Brian McDonnell	McDonnell Ellis LLP
Hannah Meakin	Norton Rose Fulbright 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 13 April 2021 were approved.

2. HMT CONSULTATION PAPER ON THE EXPANDED RESOLUTION REGIME FOR CCPS

A member who had considered the consultation paper briefed the Committee. It was agreed that while the proposals were important, the content had been considered in detail by other trade associations.

One member familiar with the work being carried out on this paper by the International Swaps and Derivatives Association (ISDA) noted that it may be helpful for the Committee to submit a brief response in support of ISDA's request for clarification on the scope of the reference to early termination of participation by a clearing member.

It was agreed that a letter of support would be prepared and circulated to the members for review.

3. FCA SECOND CONSULTATION ON A NEW UK PRUDENTIAL REGIME FOR MIFID INVESTMENT FIRMS

The members discussed several of the proposals in the consultation paper.

In respect of the new requirements on governance, the members noted the new requirement for firms to establish risk, remuneration and nomination committees, but agreed that at this stage it would not be appropriate to request specific guidance on the scope of the terms of reference of such committees.

It was also noted that in respect of the requirements on remuneration, there may be some challenges for groups with firms that were subject to multiple remuneration requirements, in particular assessing which requirement would be the strictest.

Other concerns discussed by the members included the absence of transitional relief for the preparation of the ICARA, the effective hard-wiring of the requirement for firms to hold 110% of their own funds requirement and the scope of the definition of LLP members' eligible capital.

It was agreed that two members would collate the concerns discussed by the Committee and prepare and circulate a draft response for comment.

4. **VIRES FOR PURPORTED EXTENSION OF FCA'S MORTGAGES AND CORONAVIRUS: PAYMENT DEFERRAL GUIDANCE AND TAILORED SUPPORT GUIDANCE**

A member had circulated a draft letter setting out the Committee's concerns on the FCA's guidance in advance of the meeting. It was noted that the guidance could create uncertainty among consumers about the extent to which the FCA is able to regulate activities outside of the regulatory perimeter, and the ability of the FCA to enforce payment deferral in respect of all unregulated mortgage activity.

A member also noted that the guidance could also encourage unregulated business to be hived out of regulated firms as a way of circumventing the guidance, which could have negative repercussions on competition.

It was agreed that the members would review and provide comments on the draft response.

5. **LAW COMMISSION PROGRAMME OF REFORM**

The members briefly discussed whether there were any additional topics that the Committee wanted to propose as being suitable for reform. It was agreed that the topic of most interest was the UK statute book. It was agreed that members would consider the key points to be raised in a response.

It was also agreed that the Chair together with the Secretary would review the Law Commission's format for responses and consider the best way for the Committee to submit its comments.

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

The Committee discussed the papers currently open for consultation, and it was agreed that a member would review the **FCA consultation paper on strengthening financial promotion rules for high-risk investments and firms approving financial promotions** and the **HMT consultation paper on regulation of non-transferable debt-securities (mini-bonds)** to consider whether the Committee should submit a response.



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Karen Anderson

Chair, CLLS Regulatory Law Committee