

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

Held on Tuesday 14 December 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	Deloitte
Brian McDonnell	McDonnell Ellis LLP
Hannah Meakin	Norton Rose Fulbright LLP
Rob Moulton	Latham & Watkins LLP
Julia Smithers Excell	White & Case LLP
Kevin Hart	CLLS

1. MINUTES OF PREVIOUS MEETINGS

The minutes of the meetings of the Committee held on 9 November 2021 were approved, subject to one amendment suggested by a member.

2. HMT: CONSULTATION ON REGULATION OF BUY-NOW PAY-LATER

A member gave a brief summary of the proposals in the HMT's consultation paper on the regulation of buy-now pay-later. It was noted that the proposals went to the question of how to regulate those activities which sat beyond the "*perimeter*" and the balance of responsibility between businesses and consumers.

The Committee agreed that the proposals needed to be considered in the context of the FCA's recent proposals, in particular, in respect of the proposed Consumer Duty. However, it was agreed that the Committee would not prepare a separate response at this time, although the Committee noted that they could add any comments to the extent relevant to their response to HMT's consultation paper on the future regulatory framework review.

3. HMT: CONSULTATION PAPER ON FUTURE REGULATORY FRAMEWORK REVIEW

A member briefed the Committee on the proposals contained within the consultation paper on the future regulatory framework review. It was noted the proposals included a secondary objective to have regard to international competitiveness and a regulatory principle for sustainable growth, climate change and a net zero economy. The Committee discussed how the proposals in regard to designated activities similarly sought to address those activities that sit beyond the "*perimeter*".

The Committee noted replacing retained EU laws with new UK legislation gave rise to the risk that even without changes to the primary text, the UK approach to interpretation could lead to inconsistency or inadvertent change.

The Committee also discussed the proposals in the consultation paper regarding the oversight of regulators by Parliament and more generally. The IRSG's call for an independent body to oversee regulators was noted: the Committee supported the notion of some level of further independent oversight.

Finally, a member gave a brief summary of the designated activities regime proposed in the consultation paper. The Committee discussed certain concerns in regard to the operation of the proposed regime and agreed in particular that it was not clear which activities would fall within the regime. It was noted that the way in which the proposals treated all non-regulated activities in the same way was potentially over-simplistic.

It was agreed that the Committee would respond to the consultation and that a member would circulate a draft response ahead of the next Committee meeting in January 2022.

4. FCA: DISCUSSION PAPER ON SUSTAINABILITY DISCLOSURE REQUIREMENTS AND INVESTMENT LABELS

A member gave a brief summary of the proposals set out in the FCA's discussion paper on sustainability disclosure requirements and investment labels. It was noted that the principle risk appeared to be one of inconsistency with the current requirements of the Sustainable Finance Disclosure Regulation ("**SFDR**"); in particular, the discussion paper contained additional requirements to be imposed in the UK, including certain product level metrics, which do not exist under the SFDR.

It was agreed that a member would circulate a brief summary of those issues but that the Committee would not prepare a formal response at this stage.

5. OTHER CONSULTATIONS TO WHICH THE COMMITTEE MAY WISH TO RESPOND

It was agreed that a member would circulate a brief summary of the proposals in the PRA's consultation paper on operational resilience and operational continuity in resolution ahead of the response deadline of 14 January 2022.

It was agreed that the Committee would discuss the FCA's current consultation on a new Consumer Duty at the next Committee meeting and that a member would consider the proposals further in preparation.

It was suggested the Committee discuss at a future meeting the FCA's consultation paper on improving the Appointed Representatives regime and HMT's call for evidence to gather information on how market participants use the Appointed Representatives regime and how effectively the regime works in practice. Two members agreed to consider the proposals further in order to lead the discussion.

The CLLS representative at the meeting referred to the draft Online Safety Bill and the Joint Committee report on the same. It was noted that due to the range of the proposals contained in the draft legislation, a number of other committees were likely to be considering it. However, it was agreed that the Committee would discuss it further at a future meeting.

6. AOB

6.1 In-person meetings

It was agreed that due to recent changes in government guidance in regard to working from home, January's meeting would be held virtually and the next in-person meeting would be planned for February, subject to further government guidance.

6.2 Resignation of member from the Committee

The Chair noted that a member was resigning from the Committee and thanked the member for their contributions to the Committee during their tenure. The vacancy would be advertised for; the CV of one interested candidate was circulated to the Committee for consideration.



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Karen Anderson

Chair, CLLS Regulatory Law Committee