

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

Held on Thursday 21 March 2024 at 12:30pm
via video conference

ATTENDEES

Present	Firm Represented
Hannah Meakin (Chair) Anita Edwards (Committee Secretary)	Norton Rose Fulbright
Brian McDonnell	McDonnell Ellis LLP
Richard Everett	Travers Smith LLP
William Garner	Charles Russell Speechlys
Rob Moulton	Latham Watkins
Peter Bevan	Linklaters
Clive Cunningham	Herbert Smith Freehills
Matthew Baker	Bryan Cave Leighton Paisner
Simon Morris	CMS
Kevin Hart	CLLS

APOLOGIES

- Nick Bonsall – Slaughter and May
- Diego Ballon Ossio – Clifford Chance

A. DISCUSSION OF MATTERS

A.1 Approval of minutes of February meeting

No objections to the minutes of the Committee meeting held on 15 February 2024 were raised.

A.2 Responses submitted since February meeting

It was confirmed that the following responses had been submitted by the Committee since the previous meeting:

- HMT and FCA joint DP23/5: Advice Guidance Boundary Review – proposals for closing the advice gap.
- PRA CP25/23 / FCA CP23/23 – Prudential assessment of acquisitions and increases in control.
- FCA CP23/27 – Reforming the commodity derivatives regulatory framework.
- FCA CP23/24 – Capital deduction for redress: personal investment firms.

A.3 LinkedIn page for the Committee

The Committee discussed the CLLS's intention to set up LinkedIn pages for each of its specialist committees and agreed that Members would consider whether they would like to volunteer to assist with setting up and managing a page for the Committee.

A.4 Potential future event to be hosted by the Committee

Members discussed the possibility of holding an in-person event to raise awareness / the profile of the Committee, with an external speaker and potentially in collaboration with another legal industry group. It was agreed that potential speakers, venues etc would be explored and discussed at the next meeting.

B. DISCUSSION OF PAPERS

B.1 FCA CP24/2: Our Enforcement Guide and publicising enforcement investigations - a new approach

Members discussed their views on the FCA's proposals in CP24/2. Responses are due by 30 April 2024.

It was flagged that the Committee has received a number of external emails asking whether it would be responding to this consultation paper, and Members agreed a response should definitely be submitted.

Members were not generally in favour of the FCA's proposals as set out in the consultation paper. The issue of reputational damage for firms was discussed and it was agreed that this should not be included in the Committee's response to the proposals.

Potential concerns were discussed in relation to the proposals, with some Members noting that the appropriate point for notifying the market of an investigation is at final notice stage, and querying whether the FCA could achieve its desired deterrent effect by announcing investigations on an anonymous basis rather than needing to name individual firms.

Members also noted that retractions never have the same prominence as the announcement of an investigation, and that it is in the public interest for members of the public to know about investigations on an objective basis rather than how they are portrayed by the press if they are to serve a public censure purpose.

It was also noted that Members had not found any examples of other jurisdictions that announce their investigations in this way.

Members agreed that a draft response would be prepared and circulated to the Committee.

B.2 HMT consultation - Private Intermittent Securities and Capital Exchange System (PISCES)

Members briefly discussed this paper, to which responses are due by 17 April 2024. (Following the meeting, the Committee requested and was granted an extension by HMT, until 1 May 2024.)

Again, it was noted that the Committee has been asked by external parties whether it would be responding to this consultation paper, and Members agreed that a response should be submitted.

Members agreed that a draft response would be prepared and circulated to the Committee.

B.3 Law Commission consultation – Draft Bill on digital assets as personal property

Members discussed this consultation paper, to which a draft response has been prepared by the CLLS Financial Law Committee. Responses are due by 22 March 2024. The Committee has been asked whether it would like to support the Financial Law Committee's response to the paper.

It was agreed that the Committee would not support this response due to differing views between Members and a shortage of time to discuss more fully before the imminent deadline for responses.

B.4 PRA CP3/24 – The PRA’s approach to rule permissions and waivers

Members discussed their views on the PRA’s proposals in CP3/24. Responses are due by 30 April 2024.

Members considered the approach being proposed by the PRA and noted that it is not clear how the PRA intends to exercise its new power under section 138BA of FSMA (introduced by FSMA 2023) in relation to waivers. It was agreed that the PRA should be asked to provide further clarity on its proposed approach to and criteria for granting this type of waiver.

Members agreed that a draft response would be prepared and circulated to the Committee.

B.5 PRA CP27/23 – The PRA’s approach to policy

Members briefly discussed this consultation paper, to which responses are due by 8 April 2024.

It was agreed that the Committee would submit a brief response in support of the PRA’s proposals to take a proactive approach to competition and growth.

C. POSSIBLE MATTERS FOR DISCUSSION AT SUBSEQUENT MEETINGS

Members were invited to volunteer to lead the Committee’s response to the following papers, and to discuss initial thoughts on the same.

C.1 FCA and BoE consultation – Changes to UK EMIR reporting requirements: draft questions and answers

C.2 PRA CP28/23 – Leverage ratio treatment of omnibus account reserves and minor amendments to the leverage ratio framework

A Member had volunteered to review this paper and consider whether the Committee should respond to it. Responses are due by 8 April 2024. Following the meeting, it was decided that the Committee would not submit a response to this paper.

C.3 FCA CP24/3 – Quarterly Consultation Paper No. 43 (Chapters 3 and 4)

C.4 Department for Business and Trade consultation – Competition and consumer protection related information sharing

C.5 BoE discussion papers on RTGS operating hours and access policies

C.6 HMT consultation – Improving the effectiveness of the Money Laundering Regulations

It was agreed that the CLLS should consider responding to this paper. Responses are due by 8 June 2024. The Committee noted that it would liaise with the CLLS Corporate Crime & Corruption Committee on this.

D. ANY OTHER BUSINESS

D.1 Any other business

Members discussed the potential to do some proactive work around opportunities to rationalise financial services regulation in the UK post-Brexit. It was agreed that this would be a longer-term project for the Committee, which should begin with compiling a list of suggested areas to rationalise. However, it was also agreed that it would be important to consider these very carefully to ensure there are no unintended consequences of any suggested changes.