

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

Held on Tuesday 8 March 2022 at 12.30pm
via conference call

ATTENDEES

Present	Firm Represented
Karen Anderson	Herbert Smith Freehills LLP
Matthew Baker	Bryan Cave Leighton Paisner LLP
Richard Everett	Travers Smith LLP
William Garner	Charles Russell Speechlys LLP
Angela Hayes	DAC Beachcroft LLP
Nick Bonsall	Slaughter and May LLP
Anthony Ma	Deloitte UK
Brian McDonnell	McDonnell Ellis LLP
Hannah Meakin	Norton Rose Fulbright LLP
Kevin Hart	CLLS

1. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 8 February 2022 were approved.

2. FCA: CONSULTATION PAPER ON STRENGTHENING OUR FINANCIAL PROMOTION RULES FOR HIGH RISK INVESTMENTS, INCLUDING CRYPTOASSETS

The Committee discussed the FCA's consultation paper on 'Strengthening our financial promotion rules for high risk investments, including cryptoassets'. It was noted that the suggestions contained in the consultation paper were broadly sensible.

The Committee discussed in further detail the ban on financial promotions containing monetary or non-monetary inducements incentivising investment, including incentives paid in cryptoassets. The Committee also considered the proposal to require a 24 hour "*cooling off period*" before a direct offer financial promotion was communicated, and potential uncertainty as to what information, short of a financial promotion, could be provided to a prospective investor to allow them to express an interest in an investment before the cooling off period begins.

In respect of the role of authorised firms approving financial promotions, a question was raised as to how many firms are likely to have the risk appetite, or be in a position to self-certify themselves as

having the requisite expertise, to approve financial promotions for cryptoassets. The competence and expertise requirements could, at least in the short term, prove to be a barrier to entry when the current regulatory sentiment appeared to be to encourage growth in this area.

It was agreed that the Committee would prepare a draft response ahead of the deadline for response of 23 March 2022.

3. CSDR: BREXIT ONSHORE INFELICITY

The Committee discussed the draft letter to HM Treasury that had been circulated prior to the meeting, which explained that in removing material not in force by the end of the implementation period, provisions in the original CSDR designed to bring into effect the settlement discipline provisions in articles 6 and 7 separately from (and later than) the main body of the regulation had been removed. This appears to have had the effect of bringing articles 6 and 7 into force, ahead of their equivalents in the EU, and contrary to HMG and FCA's expressed intention not to implement the settlement discipline provisions of the CSDR.

It was agreed that members would circulate comments on the draft letter, following which it would be finalised and sent to HM Treasury.

4. FCA: QUARTERLY CONSULTATION PAPER ON AMENDMENTS TO THE FCA HANDBOOK

The Committee discussed the FCA's quarterly consultation paper on amendments to the FCA Handbook. It was noted that the proposal to amend the MiFID II RTS and the related guidance was largely helpful.

A member queried whether proposed revisions to the definitions in the Conduct of Business Rules would create any potential issues in respect of day-to-day advice or related cost implications for firms. It was agreed that the Committee would consider the consultation paper further and circulate any comments ahead of the deadline for response of 11 April 2022.

5. PRA: CONSULTATION PAPER ON UPDATES TO PRA RULES AND SUPERVISORY EXPECTATIONS UNDER THE CAPITAL REQUIREMENTS REGULATION

The PRA's consultation paper on updates to PRA rules and supervisory expectations under the Capital Requirements Regulation was raised. It was noted that the deadline for response was 2 May 2022 and therefore, it was agreed that the Committee would discuss in further detail at the next Committee meeting.

6. AOB

6.1 Applications to the Committee

The Committee discussed the further applications it had received and it was agreed that the Chair would contact each applicant to confirm the outcome of their application.

6.2 In person meetings

The Committee discussed the possibility of returning to meeting in-person. It was agreed that the Committee would aim to meet in person at the beginning of every quarter, with the first in-person meeting being April 2022.



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Karen Anderson

Chair, CLLS Regulatory Law Committee