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15 November 2011

Financial Regulation Strategy
HM Treasury
1 Horse Guards Road
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financial.reform@hmtreasury.gsi.gov.uk

Dear Sirs

Issue 157: FMLC Paper – A New Approach to Financial Regulation

As noted in the letter to HM Treasury dated 12 September 2011 from the Financial Markets Law Committee (the “FMLC”) regarding HM Government’s proposals for the reform of the framework of financial regulation in the UK, the role of the FMLC is to identify issues of legal uncertainty or misunderstanding, present and future, in the framework of the wholesale financial markets which might give rise to material risks, and to consider how such issues should be addressed.¹

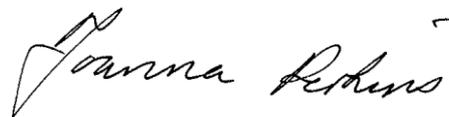
It is not the role of the FMLC to question the policy underlying the proposals for reform. However, as highlighted in the appendix attached to the letter dated 12 September 2011, the FMLC has identified a number of issues in HM Treasury’s consultation paper titled “A new approach to financial regulation: the blueprint for reform” that could in the future raise some serious issues, both conceptual and practical, for the UK markets. It is therefore the view of the FMLC that such issues should be addressed in the proposed legislation.

In the letter dated 12 September 2011, the FMLC noted that it would provide HM Treasury with a comprehensive paper on the issues set out in the appendix. The FMLC now encloses for HM Treasury’s consideration the FMLC paper titled “A New Approach to Financial Regulation”. The paper expands upon the areas of concern touched upon in the appendix and is, likewise, divided into the following sections: co-ordination between the regulatory authorities; enforcement; regulatory processes, permission and regulated activities; passporting; listing and extra-territoriality; rules and guidance; administrative discretion and other powers; and systemically important infrastructure.

The FMLC would be happy to discuss any of the comments made in the enclosed paper. Please do not hesitate to contact the FMLC Secretariat with any questions.

¹ The FMLC is housed and partially sponsored by the Bank of England, but is entirely independent. Any views the FMLC expresses are its own and are not those of the Bank of England.

Yours faithfully

A handwritten signature in black ink that reads "Joanna Perkins". The signature is written in a cursive style with a large, stylized initial 'J'.

Joanna Perkins
FMLC Director

Enc: FMLC paper titled "A New Approach to Financial Regulation".