

FMLC's engagement with issues of legal uncertainty arising from Brexit

In June 2016, the United Kingdom voted to withdraw from the European Union, commencing a period of political and legal uncertainty as both parties began to plan for the disentanglement and negotiate a future relationship. To briefly recap some very well-known facts: on 29 March 2017, the U.K. notified the E.U. of its withdrawal under Article 50 of the Treaty on European Union, beginning the two-year notice period; in July 2017, a Bill, titled the European Union (Withdrawal) Bill, was introduced into the House of Commons, aimed at repealing the European Communities Act 1972 and incorporating into U.K. law all applicable E.U. law; in December 2017, a 21-month "transitional" or "implementation" period was agreed between the U.K. and E.U., during which the U.K. will continue to abide by E.U. rules and benefit from its membership, while simultaneously continuing its dialogue with the E.U. to agree a post-withdrawal relationship.

In the years since the referendum, the FMLC has strived to be prescient in its analysis of the legal, operational and market uncertainties arising from Brexit and, in keeping with its remit, has suggested mitigants or solutions by which these complexities might be resolved. The FMLC's Brexit Advisory Group, a group of experts in financial markets law established the day after the referendum, meets quarterly to advise the Committee on its work-programme. Four research papers have been published, each comprising substantial analysis of the issues of legal uncertainty in relation to specific sectors of the financial markets. The FMLC has also written regularly to HM Government, responding to developments in the domestic preparations for withdrawal. An events programme has complemented these publications. A full account of the Committee's work on Brexit can be found [here](#).

The next stage of the process is anticipated to be the publication of [draft] statutory instruments by HM Government under the powers conferred to it by the European Union (Withdrawal) Bill (once enacted) to enable the proper functioning of E.U. laws which have been transposed into the U.K. statute book, including any corrections to laws that would otherwise no longer operate appropriately once the U.K. has left the E.U. It has been announced that a significant number of such statutory instruments will be published by HM Treasury in relation to the financial services and, as the end of the Article 50 notice period rapidly approaches, the timeline for any comment or consultation on these drafts is likely to be compressed.

As HM Government undertakes this substantial task over the next few months, the FMLC stands ready to respond speedily to any legal uncertainties which might arise. In its meeting on 31 May 2018, the Committee resolved to meet on an *ad hoc* basis, in addition to its scheduled bimonthly meetings, should the volume of the draft statutory instruments and gravity of the legal complexities require the Committee's full attention. The FMLC is committed to ensuring legal certainty for the financial markets through and after the Brexit process and is keen to hear from market participants or representatives of HM Government where its contributions might have most impact.

Should you wish to draw the Committee's attention to an issue of legal uncertainty, please write to the Secretariat at research@fmlc.org

Contacting the Secretariat

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