

FINANCIAL MARKETS LAW COMMITTEE

BREXIT—ADVISORY GROUP

AGENDA FOR MEETING

Meeting Date: Wednesday 21 March 2018

Tea and coffee: 9.30am – 10.00am

Meeting Time: 10.00am – 11:00am

Venue: Bank of England, Threadneedle Street, London EC2R 8AH



Attendees:

Joanna Perkins (Chair)	FMLC
Rob Aird	Ashurst LLP
Clare Dawson	Loan Market Association
Jennifer Donohue	Algorithm and Extremal Consulting Limited
Paul Edmonson	CMS Cameron McKenna Nabarro Olswang LLP
Kate Gibbons	Clifford Chance LLP
Saima Hanif	ThirtyNine Essex Street
Professor Trevor Hartley	London School of Economics and Political Science
Alexander Hewitt	Dentons UK and Middle East LLP
Jim Ho	Cleary Gottlieb Steen & Hamilton LLP
Bruce Johnston	Morgan Lewis Bockius LLP
Mark Kalderon	Freshfields Bruckhaus Deringer LLP
Rashpal Kaul	Rabobank International
Nathaniel Lalone	Katten Muchin Rosenman UK LLP
Dorothy Livingston	Herbert Smith Freehills LLP
Benjamin Lyon	Debevoise & Plimpton LLP
Anne MacPherson	Gibson Dunn & Crutcher LLP
Ian Mathers	
Brian McDonnell	Addleshaw Goddard LLP
John McGrath	Sidley Austin LLP
Sinead Meany	Bank of England
Simon Puleston Jones	FIA
Marke Raines	Raines & Co
Professor Arad Reisberg	Brunel University London
Nick Shiren	Cadwalader, Wickersham & Taft LLP
Frederick Sturm (Guest Speaker)	CME Group

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Simon Turek (Observer)

CME Group

Venessa Parekh

FMLC Secretariat

Rachel Toon

FMLC Secretariat

AGENDA

The aim of this meeting is to take soundings on how best the FMLC can, in the weeks, months and years ahead, usefully explore, analyse and document the legal uncertainties which may potentially arise from the U.K.'s vote to leave the E.U. and thereafter assist the British Government, industry representatives, market participants and the wider public in addressing those uncertainties.

1. Introduction
2. The Brexit Experience for a Third Country Exchange (Frederick Sturm)
3. Update on FMLC's work on Brexit (Joanna Perkins)
4. Plenary discussion on recent Brexit-related developments (see below)
5. Any other business

APPENDIX 1

Questions for Members of the Advisory Group

1. It is probably safe to assume that the FMLC will comment on any secondary legislation put forward under the European Union (Withdrawal) Bill in so far as it relates to the financial services sector. Do you have any considerations to bring to our attention as we look ahead to this future work programme?
2. Are Members of the Advisory Group aware of any other high-level aspects of secession and transition (e.g. trade arrangements with the E.U. or with third countries; treaty withdrawal, amendment or signature; constitutional questions; or Article 50 processes) which the FMLC should address?
3. There have been a number of other Brexit developments since the last Advisory Group meeting:
 - a. U.K. and E.U. reached a “divorce” deal, enshrining special rights for 4m citizens and paying €40bn to €60bn in financial settlement. The agreement appears to commit that the U.K. will keep Northern Ireland’s regulatory regime aligned with E.U. in case of no deal, calling it a “all-island economy”. (8 December)
 - b. Theresa May and Jean-Claude Juncker announced that the terms of the U.K.-E.U. separation deal have been agreed. Theresa May said the deal was good for both Leavers and Remainers. (11 December)
 - c. E.U. leaders agreed to move Brexit talks into their second phase, and called on the U.K. to provide more clarity on the kind of deal it wants. (15 December)
 - d. Cabinet ministers met for their first formal discussion on Britain’s future trade relationship with the E.U. This was the first time that cabinet ministers have had the chance to discuss the future relationship. (18 December)
 - e. Brussels urged the E.U.’s 27 member states to pay more money into the bloc’s joint budget, which is facing a black hole of up to €13bn after Brexit (8 January)
 - f. Theresa May met with Emmanuel Macron regarding plans for the U.K. to spend an extra £44.5m tightening border security at the French port of Calais. Mr Macron demanded the extra British funding as part of the deal would sees the U.K. carry out border checks in Calais, ahead of an Anglo-French summit that

both sides expected to be dominated by discussions on Brexit (18 January)

- g. David Davis urged the E.U. not to use a two-year transition period to impose laws on Britain against its will, saying he wanted to build a new relationship “where respect flows both ways” (26 January)
- h. HM Government delayed publication of a key policy paper on immigration, postponing it until just months before Britain leaves the E.U. (2 February)
- i. Theresa May called for new U.K.-E.U. security treaty as she offered a concession on ECJ role in European Arrest Warrant after Brexit (17 February)
- j. Labour backed staying in E.U. customs union. Jeremy Corbyn said this would avoid the need for a “hard border” in Northern Ireland and ensure free-flowing trade for business.

AND

The first full draft of Britain’s historic E.U. exit treaty was unveiled by Brussels.

- The E.U. stood firm over Northern Ireland border—the draft treaty omitted compromise language secured by Theresa May. The E.U. stipulated that Britain must commit to the possibility of Northern Ireland staying in the E.U. customs union under the authority of the European Court of Justice.
- The treat established the ECJ as top dispute resolution body for disagreements relating to Withdrawal Agreement.
- An end date for the transition arrangement was set as 31 December 2020.

(25 February)

- k. U.K. announced that it would seek permission from E.U. during transition to agree trade deals that cover areas of E.U. law, even if they come into effect later. It was agreed that the U.K. would

be allowed to represent itself at WTO during transition. (28 February)

1. Theresa May set out proposals for a future British trading relationship with the E.U. She warned that the E.U. and U.K. will require some access to each other's markets and promised that Britain would not try to undercut the E.U. in areas such as regulation and state aid, saying that U.K. regulators would work closely with their continental counterparts. (2 March)
- m. The E.U. forcefully rebuffed Theresa May's vision for post-Brexit trade arrangements, laying out a narrow view of future relationships with the U.K. and warning of the "negative economic consequences" of her choices. (7 March)

Are members of the Advisory Group of the opinion that there are aspects of these developments that the FMLC should explore?