



Brexit Coordination Lunch: Note for Record

Date: Friday, 29 June 2018

Time: 1pm to 2.30pm

Location: Bank of England, Threadneedle Street

Attendees:

Karen Anderson
Alexandra Cardenas
Charles Clark
Robert Elliot
David Ereira
Michael Thomas
Joanna Perkins
Venessa Parekh

CLLS Regulatory Law Committee
Law Society
Brexit Law Committee
Brexit Law Committee
CLLS Financial Law Committee
IRSG
FMLC
FMLC

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Note for Record

1. Dr Perkins began by recounting what is known about the anticipated publication of secondary legislation under the European Union (Withdrawal) Bill relevant to financial services. Civil servants had indicated that there were about 900 pieces of relevant E.U. legislation which would be transposed into U.K. law; 120 statutory instruments (“SIs”) would be published to clarify any questions or deficiencies in this retained law or make amendments to ensure their smooth functioning. HM Treasury expected to begin to publish draft statutory instruments in the beginning of August for consultation with interested experts and to lay the drafts before Parliament for approval in October.
2. Dr Perkins recounted that, at the moment, the statutory instruments were being drafted to prepare for a scenario in which the transitional period is not agreed and the U.K. ceases to be a Member State on 30 March 2019. If a transitional period is agreed, future legislation would withdraw or amend this secondary legislation as necessary. It is intended that the U.K. will continue to receive all E.U. law through the transitional period.
3. Dr Perkins asked whether and how, in view of the large volume of legislation expected, the organisations represented in the room might coordinate so as to have most impact and prevent any overlap in reviewing the statutory instruments and communicating to government.
4. Mr Elliot and Ms Cardenas provided an update on the Brexit Law Committee and the CLLS’s efforts to engage with HM Government on the review of statutory instruments. Experts from both Committees had been approached individually for advice but no concrete action was planned upon the publication of the SIs. Working Groups on capital and MiFID II have also been set up by CityUK.
5. A brief discussion ensued on the expected publication schedule of the SIs and whether and how the public would be notified of new drafts given the substantial volume. Attendees acknowledged that it was likely that all law firms would wish to conduct their own review of the SIs.
6. Attendees acknowledged the conflicting positions and aims of different sections of the financial markets. They agreed that while it would be challenging to balance each group’s priorities, any response to the Brexit SIs would have most impact if each organisation played to their strengths and best leveraged existing relationships—thus, for example, in certain situations the BLC’s existing relationships with various government departments might make it a natural spokesperson for certain issues while questions of illegality or technical uncertainties were the FMLC’s area of expertise.
7. Attendees agreed:
 - To make reasonable efforts to share information and coordinate responses so as to prevent overlap
 - To raise any general questions about HM Government’s Brexit policy and process now so that resources and time need not be spent on this later.
 - To have another meeting in a month, by which time more would be known about the SIs and more concrete decisions could be made.