

FINANCIAL MARKETS LAW COMMITTEE

BREXIT—ADVISORY GROUP

AGENDA FOR MEETING

Meeting Date: Thursday 14 June 2018

Tea and coffee: 9.30am – 10.00am

Meeting Time: 10.00am – 11:00am

Venue: Bank of England's Moorgate Offices, 20 Moorgate, London EC2R 6DA



Attendees:

Joanna Perkins (Chair)	FMLC
Paul Double	City of London Corporation
Jonathan Gilmour	Travers Smith LLP
Monica Gogna	Dechert LLP
Saima Hanif	3 Verulam Buildings
Natasha Harrison	Boies Schiller Flexner LLP
Professor Trevor Hartley	London School of Economics and Political Science
Jim Ho	Cleary Gottlieb Steen & Hamilton LLP
Ian Jameson	Sumitomo Mitsui Banking Corporation Europe Limited
Rashpal Kaul	Rabobank International
Rachel Kent	Hogan Lovells International LLP
Geraldine Levy	Lloyd's Banking Group
Anne MacPherson	Gibson Dunn & Crutcher LLP
Sinead Meany	Bank of England
Michelle Moran	K&L Gates LLP
Ed Murray	Allen & Overy LLP
Simon Puleston Jones	FIA
Marke Raines	Raines & Co
Professor Arad Reisberg	Brunel University London
Nick Shiren	Cadwalader, Wickersham & Taft LLP
Stuart Willey	White & Case LLP
Rachel Toon	FMLC Secretariat
Thomas Willett	FMLC Secretariat

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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. Update on legislative amendments to the E.U. (Withdrawal) Bill (Paul Double)
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:

- Theresa May and DUP reject provisions in the draft withdrawal treaty to keep Northern Ireland within the customs union.

Donald Tusk has called on Theresa May to provide “specific and realistic” plans to avoid a hard border in Ireland. “The risk of destabilising the fragile peace process must be avoided at all costs. So we will be firm on this”. (8 March 2018)

- Jean-Claude Juncker addressed European Parliament and said the U.K. will “regret its decision”. He repeated the E.U.’s line that “cherry-picking is not going to be possible” and there was “increasing urgency” to negotiate an orderly withdrawal.

He also said the U.K. and E.U. were “very near” to an agreement on citizens’ rights post-Brexit. (13 March 2018)

- Northern Ireland Affairs Committee published a report saying no progress has been made on the Ireland border issues. (16 March 2018)
- 21-month Brexit transition period agreed until 31 December 2020. Negotiators published a draft text of the withdrawal treaty showing areas of agreement and dispute.

Governance and Northern Ireland border still unresolved. (19 March 2018)

- Revised draft guidelines for negotiators say financial services firms in City will have “appropriate access” to E.U. but only on equivalence terms.

City lobbying group rejected equivalence and called on Brussels to consider mutual recognition. (20 March 2018)

- BoE clarifies that passporting continues to operate during transition period. (28 March 2018)
- Theresa May proposed “customs partnership” to unlock Northern Ireland dilemma. (1 April 2018)
- MPs in Exiting the E.U. Committee set out 15 key Brexit tests including open border with Northern Ireland, no tariffs on goods and continued participation in regulatory bodies. (3 April 2018)
- Numerous draft proposals prepared by EC to amend laws and give emergency powers to regulators to deal with a “no-deal” scenario. (18 April 2018)

- U.K. Head of National Audit Office said Britain must pay divorce bill of up to £39 billion “no matter what”. Theresa May had said that an exit bill would only be paid if a deal is secured. (24 April 2018)
- Vice President of financial regulation in EC damped hopes of bespoke financial deal for U.K. He said that equivalence was one way but only if there is close convergence of rules and supervision. (24 April 2018)
- Michael Barnier (chief Brexit negotiator for the E.U.) quashes U.K. hopes of special E.U. market access. He said that claims that the E.U. needs the City of London are false. (26 April)
- Tory ministers revolted over E.U. customs partnership “hybrid” proposal. Cabinet considered a “maximum facilitation” plan.
- May continued to reject the idea of customs union. (2 May 2018)
- Boris Johnson calls customs partnership a “crazy system”. (7 May 2018)
- House of Lords vote to stay in the EEA by approving an amendment saying that remaining in the EEA should be a negotiating objective. (8 May 2018)
- Barnier vows close foreign and security policy partnership with UK such as the fight against terrorism. (14 May 2018)
- May to publish white paper in June ahead of European Council summit. (5 May 2018)
- Scotland withholds consent for Brexit bill. (15 May 2018)
- Cabinet agrees a “backstop” option to match E.U. tariffs after 2020 if there is no deal on the preferred customs arrangements. Government said this would only be for a few months and U.K. would still be able to implement trade deals. In any case, Government confident a different customs arrangement can be agreed. (17 May 2018)
- House of Lords defeat Withdrawal Bill for 15th time, adding further amendments which will next be considered by the House of Commons (at a date which is yet to be announced).
Theresa May announced she will appoint more Tory peers. (18 May 2018)
- Mark Carney warned of impact of disruptive Brexit on monetary policy. (24 May 2018)
- HMRC Chief warns on £20 bn bill for Brexit “maximum facilitation” customs option. The maximum facilitation option has been supported by Boris Johnson and Michael Gove as a light-touch customs border. (24 May 2018)
- The U.K. governments preparations for a “no deal” Brexit in March 2019 have largely ground to a halt, making it almost impossible for Theresa May to walk out of negotiations with the E.U. in the next 10 months, according to people with close knowledge of the situation. (27 May 2018)
- Europe’s biggest industrial companies have warned Theresa May that they will not invest in Britain as long as there is uncertainty over the terms of its departure from the E.U. (30 May 2018)
- Theresa May refused to commit to a date for publishing a “detailed, ambitious and precise” paper on Brexit and the U.K.’s future relationship with the E.U., despite heavy pressure from

the Labour leader Jeremy Corbyn during prime minister's questions. (6 June 2018)

- The U.K. government has published its keenly awaited [note](#) on the proposed Irish backstop in the Brexit negotiations, saying that the arrangement should be “time limited” and it “expects” new arrangements to be in place “by the end of December 2021” (7 June 2018)

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