



Meeting to discuss coordinated response to Brexit-related Statutory Instruments: Note for Record

Date: Thursday, 11 October 2018

Time: 1pm to 2.30pm

Location: Bank of England, Threadneedle Street

Attendees:

Charles Clark (dial-in)
David Ereira
Michael Thomas
Joanna Perkins
Venessa Parekh
Chhavi Sinha

Brexit Law Committee
CLLS Financial Law Committee
IRSG
FMLC
FMLC
FMLC

Note for Record

1. Since the last Coordination meeting, HM Government has published various statutory instruments (“**SI**s”) under the European Union (Withdrawal) Act 2018. Out of these, ten draft SIs and five no-deal technical notices/Guidance are of particular relevance to the financial services and are available to review. This meeting was held to discuss ways in which the key organisations in the City might coordinate and make recommendation to HM Government.
2. The meeting began with a discussion on work undertaken individually by each organisation. Michael Thomas explained that UK Finance and the CityUK have established various working groups to look into the draft SIs. UK Finance has allocated the review of individual SIs to specific law firms. He observed, however, that despite the review processes being carried out at this moment, it was likely that a second review would be needed just before March 29 (the date the U.K. will officially leave the E.U. if no transitional period is agreed) in the form of a reconciliation exercise amongst various changes and pieces of retained law.
3. Dr Perkins updated attendees on the Committee’s discussion and resolution, taken during a recent FMLC meeting, to continue to work on coordinating the review of Brexit-related Statutory Instruments. She further mentioned that the FMLC Secretariat is currently working on the Bank Recovery and Resolution SI and will also undertake work on the SIs related to alternative investment fund managers (“**AIFM**”), undertakings for collective investments in transferable securities (“**UCITS**”), the Markets in Financial Instruments Regulation (“**MiFIR**”) and the Benchmarks Regulation. Dr Perkins mentioned that the FMLC Secretariat is in close contact with HM Treasury.
4. The Secretariat will also continue to circulate the Register of statutory instruments as and when new SIs are published and encouraged attendees to urge their memberships to get in touch with information or if they wanted to participate in a review. Mr Thomas observed that many firms and experts had not been able to participate in the review mentioned above. It would be useful to hear their views. David Ereira noted that the CLLS Financial Law Committee’s membership would be keen to review the SIs and that it would be beneficial to reach out to them to encourage engagement.
5. Dr Perkins suggested that Lord Thomas can write to the CLLS to encourage their involvement and the FMLC Secretariat will write a general stakeholder email to invite more participation in the review of SIs. Dr Perkins also requested attendees to urge any experts who have not yet had the chance to review SIs to write to the Secretariat. She also suggested that she will write to Ms. Livingston requesting her to encourage participation by anyone who hasn’t been able to comment on the SIs through other avenues.
6. A general discussion was held on the difficulty of reviewing the changes proposed by the SIs in the absence of consolidated versions of the relevant legislation. Attendees also discussed the impact of a transitional period on the SIs: any domestic and/or retained law would have to be amended to take account for (1) changes in E.U. law during the transitional period, and (2) the specific provisions of the Withdrawal Agreement.
7. Attendees agreed to meet again in four weeks.