

Stakeholders' Newsletter

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FMLC Paper on the Robustness of Financial Contracts

Recent FMLC Publications

Letter on the Assignment
of Claims

[\(Read / download the
letter here\)](#)

Letter on the Proposal to
Amend Moratorium
Powers

[\(Read / download the
letter here\)](#)

Letters on "Legacy" E.U.
Secondary Legislation

[\(Read / download the
letter here\)](#)

Upon Brexit, if a new future relationship between the U.K. and the E.U. is not agreed, U.K. firms will lose their ability to access the E.U. single market on the basis of the "passporting" rights by which a significant degree of access is currently ensured. As a result, unless an exemption is available under local law, U.K. firms will be limited in their ability to provide financial services to E.U. clients without gaining permission from the European Commission, other E.U. bodies or national regulators under the Third Country regimes provided in E.U. legislation.

Market participants have been preoccupied with the question of whether the performance of existing or "legacy" financial contracts will continue unaffected or whether Brexit will make the performance of certain obligations under existing contracts illegal, impractical or impossible on the grounds of a loss of regulatory permissions. The European Commission, in a recent Communication, stated that issues of contractual continuity were unlikely to emerge. This FMLC paper analyses in depth the question of legacy contracts and highlights the potential for legal uncertainty to arise particularly when the contracts in question trigger the performance of ancillary obligations. As ever, the FMLC has also proposed mitigants by which some clarity can be provided.

[\(Read / download the paper here\)](#)

FMLC Colloquium: 25 September

The FMLC will host a colloquium on the topic of "Incorporating E.U. Law into the U.K. Domestic Framework: Financial Services Statutory Instruments" on 25 September 2018 at the Bank of England. As readers will be aware, the European Union (Withdrawal) Act 2018 ("**Withdrawal Act**"), together with the repeal of the European Communities Act 1972 (as of Exit Day) and the incorporation into domestic law of all directly applicable E.U. law will bring Brexit into effect. The Withdrawal Act gives HM Government the ability to modify and adapt this incorporated or "retained" E.U. law as necessary to resolve any deficiencies. A number of draft statutory instruments have already been published.

This event, to be held six months before Exit Day, is intended to provide insight into the preparations being undertaken by HM Government, the financial services regulatory authorities and market participants in preparation for Brexit. To that end, the FMLC is proud to welcome speakers working closely on planning for Exit Day on behalf of HM Treasury and financial services firms in the U.K. and E.U.: Lee O'Rourke (HM Treasury), William Wright (New Financial) and Jane Hanrahan (Treasury Legal Advisors).

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