

Stakeholders' Newsletter

ISSUE 50

1 FEBRUARY 2019

New publications:

The FMLC has recently commented on the following draft legislation:

- the draft Financial Services and Markets Act 2000 (Amendment) (E.U. Exit) Regulations 2019 ([here](#));
- the draft Insolvency (Amendment) (EU Exit) Regulations 2018 ([here](#)); and
- The Financial Services (Implementation of Legislation) Bill ([here](#)).

Contacting the Secretariat Email:

contact@fmlc.org

Telephone: +44 (0)20 7601
5118

Paper on Brexit—Emissions Allowances

The U.K.'s withdrawal from the E.U. raises various issues of legal uncertainty relating to the E.U. Emissions Trading Scheme (the "E.U. ETS") and the European emissions allowances ("EAUs"), whether the U.K. leaves the E.U. ETS from the date of exit (as is expected in the event of a hard Brexit) or stays in the E.U. ETS until the end of 2020.

In this paper, the FMLC examines these issues of legal uncertainty, including: (i) the effect of a hard Brexit on existing contracts relating to over-the-counter transactions in EAUs; (ii) the legal nature of U.K. emissions allowances ("U.K. EAUs") should a separate U.K.-only emissions scheme be established; and (iii) the regulation of EAUs, U.K. EAUs, and activities related to such allowances, during any transition period or following a hard Brexit. The FMLC also considers the impact that Brexit may have upon the U.K.'s participation in the E.U. ETS, in particular upon U.K. account holders in the Union Registry. Finally, the FMLC examines some of the ways by which the uncertainties identified might be mitigated, including through clarification by the European Commission and industry associations, various forms of contingency planning by market participants and possible legislative action by the U.K. and the E.U.

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

New Securities Markets Scoping Forum

The FMLC has established a new Scoping Forum for horizon-scanning purposes with respect to the securities markets.

Scoping Forums are an important component of the FMLC's "radar" function. Scoping Forums serve to (1) establish a pool of expertise available to the FMLC; (2) enable full discussion among interested parties with a view to facilitating collective legal risk assessment; (3) guide the FMLC and establish priorities for the expenditure of resources; and (4) recommendations to the FMLC as to specific issues to be addressed

The new Forum will consider concerns relevant to the securities markets, including the concerns of issuers. It will discuss the aspects of MiFID II and MAR which impact on issuers and underwriters, the Prospectus Regulation and PRIIPS, non-MiFID primary markets conduct, and securitisation issues (excluding trading and clearing). It will also examine secondary securities markets issues not covered by the FMLC's other forums.

Like the FMLC's other Scoping Forums, it is anticipated that the Forum will meet every quarter.

Scoping Forums accommodate up to two representatives from each organisation. If you and/or a colleague would like to join, please do contact Virgilio Diniz at: projects@fmlc.org.

Registered Charity Number: 1164902.