

“Onshoring” Statutory Instruments Comment Series: Securitisation

The draft Securitisation Amendment (EU Exit) Regulations 2019 will ensure that the new securitisation regime, as set out in Regulation (EU) 2017/2402 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation (the “Securitisation Regulation”), and which took effect in the U.K. from 1 January 2019, continues to operate effectively in the U.K. following Exit Day in the event of a no deal Brexit.

In this paper, the FMLC has highlighted legal uncertainties arising from the draft statutory instrument related to: (i) E.U. legislative references, including cross-references to E.U. Directives; (ii) the geographical scope of the onshored securitisation regime, particularly with respect to the risk retention requirement; (iii) due diligence requirements for institutional investors; and (iv) transitional provisions and guidelines for the U.K. securitisation regime.

Read or download the paper [here](#).

Spring Colloquium—Voluntary Ombudsman Scheme

In the wake of the 2008 financial crisis, accounts emerged of disputes between small and medium enterprises (“SMEs”) and large financial institutions. Given the power imbalance between large financial institutions and SMEs, there is consensus that a low-cost and independent system is needed for arbitrating serious disputes between financial organisations and vulnerable companies, such as those with a turnover of a few million pounds a year. A Review was commissioned into the complaint and alternative dispute resolution landscape for the U.K.’s SMEs. The Review recommended the establishment of a new voluntary ombudsman scheme (“VOS”) for small to medium enterprises with a turnover between £6.5 to £10 million. A U.K. Finance steering committee, under the chairmanship of Lewis Shand-Smith, has been established to build the dispute resolution service (“DRS”) and a skeleton target operating model of that service.

The banking industry has expressed some concerns with the VOS proposal, particularly in relation to the eligibility test suggested to determine which complaints might come before the DRS and with the fair and reasonable test which will be applied in decision-making. To scope out the views of interested parties, the FMLC will be holding a colloquium in June. The Secretariat will circulate invitations shortly.

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