

Financial Markets Law Committee (“FMLC”)

Insurance and Pensions Scoping Forum

Date: 19 November 2019

Time: 2.00pm to 3.30pm

Location: Bank of England, Threadneedle St, London, EC2R 8AH



In Attendance:

Peter Bloxham (Chair)

David Kendall

Adam Levitt

Steven McEwan

Sarah Parkin

James Smethurst

Clare Swirski

Michael Wainwright

Cooley (UK) LLP

Ashurst LLP

Hogan Lovells International LLP

Linklaters LLP

Freshfields Bruckhaus Deringer LLP

Debevoise & Plimpton LLP

Dentons UK and Middle East LLP

Venessa Parekh

Katja Trela-Larsen

FMLC Secretariat

FMLC Secretariat

Guest Speaker:

Katie Banks

Hogan Lovells International LLP

Regrets:

Duncan Barber

George Belcher

Nigel Brook

Katherine Coates

Pollyanna Deane

Beth Dobson

Jennifer Donohue

Matthew Griffith

Charlotte Heiss

Kees van der Klugt

Linklaters LLP

Skadden, Arps, Meagher & Flom LLP

Clyde & Co LLP

Clifford Chance LLP

Simmons & Simmons LLP

Slaughter and May

Algorithm and Extremal Consulting Limited

RCP

Royal & Sun Alliance Insurance Group plc

Lloyd's Market Association

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Benjamin Lyon	Debevoise & Plimpton LLP
Geoffery Maddock	Herbert Smith Freehills LLP
Alison Matthews	Herbert Smith Freehills LLP
Martin Membery	Sidley Austin LLP
Chris Newby	AIG Europe Limited
Victoria Sander	Latham & Watkins LLP
Chris Sage	TransRe
Jonathan Teacher	Swiss Re Management Ltd

Minutes

1. Introductions

- 1.1. Mr Bloxham opened the meeting. He welcomed a new Forum member and a guest speaker.

2. Administration (Venessa Parekh)

- 2.1.1. Ms Parekh delivered a short presentation providing an overview of the FMLC's engagement with public authorities.¹ She explained that FMLC is a charity which does not engage in lobbying; it does, however, interact closely with legislative and regulatory bodies in the U.K. and E.U. She provided examples of recent projects on which the FMLC had liaised with public authorities.

- 2.2. Ms Parekh asked attendees to email the Secretariat should they have any comments on the draft Forward Schedule for 2020.

3. New investment obligations for trustees of occupational pension schemes (Katie Banks)²

- 3.1. Ms Banks drew attention to an investigation by the Competition and Markets Authority ("CMA") which had revealed inefficiencies in the pensions market. Some of the key problems included the lack of transparency in costing and underperformance in the market. The CMA had issued an Order, parts of which had come into force on 10 June 2019. The Order placed to new direct obligations on trustees: (1) setting objectives for investment consultants; and (2) competitive tendering for fiduciary management if more

¹ Please see Appendix I below

² Please see Appendix II below

than 20% of the schemes assets are under fiduciary management. The Department of Work and Pensions had consulted on draft regulations which would replace the CMA Order. The draft Occupational Pension Schemes (Governance and Registration) (Amendment) Regulations 2019 are expected to come into force in April 2020.

- 3.2. Ms Banks then provided an overview of the two new requirements, drawing attention to certain exceptions and sanctions for non-compliance. Focusing on the new obligation in respect of investment consultants, she stated that the definition of “investment consultant” was considered to be very wide in the market. There were concerns that trustees may overlook other advisers who fall within the scope of the definition—for example, the scheme actuary might be captured if their advice covered strategic asset allocation. The requirement that fiduciary management must be subject to a competitive tender process increased the complexity faced by pension trustees. Ms Banks provided a description of the conditions which determined who was a fiduciary management provider.
- 3.3. She then turned to changes made by the Occupational Pension Schemes (Investment and Disclosure) Amendment Regulations 2019 to the requirements for Statements of Investment Principles (“**SIP**”). A SIP is a written statement setting out the trustees’ investment policy for the pension scheme. From 1 October 2019, trustees must update the SIP, setting out policies in relation to (1) financially material considerations, including Environmental, Social and Governance (“**ESG**”) considerations, over the appropriate time horizon of the investment, and (2) the extent to which non-financial matters are taken into account in the selection and retention and realisation of investments. “Non-financial matters” included the views of members and beneficiaries including, but not limited to, their ethical views and approaches to ESG. Ms Banks commented that, in a large group scheme, this was quite a difficult consideration.
- 3.4. The SIP must also comprise a policy on stewardship and engagement, including the exercise of rights attaching to investments and engagement activities in respect of the investments. Finally, Ms Banks provided a timeline of upcoming regulatory deadlines with which trustees in pension schemes must comply.
- 3.5. A Forum member asked whether these new requirements might raise the costs for customers in the pensions market instead of making the market more competitive. Ms Banks acknowledged that such an outcome was possible, although it remained to be seen how the regulations would work in practice. Another Forum member asked if these requirements would lead to an increase in professional, rather than employee,

trustees. Ms Banks said that such a trend was already apparent; many employers could see advantages with professional trustees.

4. Open consultations (Peter Bloxham)

4.1. Prudential Regulatory Authority—‘A framework for assessing financial impacts of physical climate change: a practitioner’s aide for the general insurance sector’

4.1.1. Mr Bloxham invited comments from attendees on the Consultation published by the Prudential Regulation Authority (“PRA”) on a framework for assessing financial impacts of climate change. An attendee commented that the Consultation was more focused on commercial rather than legal questions. From an insurer’s point of view, a key question that the Consultation had failed to address was the scope of liability. The Forum member drew attention to the insurance companies which had gone bankrupt following the recent forest fires in California. He commented that it was possible that Directors’ and Officers’ risk would increase because of a failure to take harm from climate change into account. In response, another member stated that it would be a question of updating the policy’s wording in an appropriate manner.

4.1.2. Forum members discussed the question of whether indemnifying insurers, through government-backed last-resort reinsurance schemes such as Pool Re, would be in the public interest. Attendees agreed that they did not wish to advise the FMLC to respond to this consultation.

4.2. European Insurance and Occupational Pensions Authority—Consultation Paper on a draft opinion which sets out technical advice for the 2020 review of Solvency II.

4.2.1. The European Insurance and Occupational Pensions Authority (“EIOPA”) had issued a consultation paper on a draft opinion setting out technical evidence for the 2020 review of Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (“Solvency II”). Mr Bloxham asked attendees whether they thought there were points on which the FMLC could respond. Forum members discussed the U.K.’s impending withdrawal from the E.U. and whether EIOPA would continue to have influence in the U.K. after Brexit. The Solvency II Review was likely to be carried out over a few years. Another Forum member observed, in response, that alignment with Solvency II was likely to be important even after Brexit in order to facilitate cross-border business.

4.2.2. One Forum member drew attention to a discussion had by this Forum in a previous meeting on the definition of guarantees in Regulation (EU) No 575/2013 on prudential requirements for credit institutions and investment firms (the “**Capital Requirements Regulation**”) and that in Solvency II.³ He commented that it would be useful to draw attention to that point. Mr Bloxham asked other attendees to send any observations they might wish to make in response to the Consultation to the Secretariat over the next week.

5. The definition of a “contract of insurance” (Steven McEwan)

5.1. Mr McEwan began by stating that City law firms were often asked for a legal opinion on the definition of “contract of insurance”. The relevant statutory definition of a “contract of insurance” can be found in The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the “**Regulated Activities Order**”). That definition is quite circular as it refers to a contract of insurance under some other definition (i.e. case law) and also requires that the contract fall within the definition of “contract of long-term insurance” or “contract of general insurance”. Mr McEwan provided an overview of the relevant case law before turning to the guidance provided by the Financial Conduct Authority, which is quite wide.⁴

5.2. Mr McEwan stated that the lack of clarity in respect of the definition of “contract of insurance” gives rise to several uncertainties. Questions arose in respect of whether a party would need to have specific regulatory permission to enter into or carry out a transaction, whether an insurer can enter into the contract consistently with the internal contagion rule, and how the insurable interest requirement may be met. An attendee commented that the latter question had been considered by the Law Commission, albeit that project had focused on life-insurance.

5.3. Forum members discussed the policy considerations behind the broad definition. They commented that other jurisdictions, including New York, Canada and Australia had specific definitions. One way to mitigate against this problem would be to provide a list of contracts of financial products which are not captured by the definition of a contract of insurance. Another possible solution would be to empower regulators through statute to provide clarity.

³ See FMLC, *Minutes of Insurance Scoping Forum meeting* (20 November 2018), available at: <http://fmlc.org/wp-content/uploads/2019/07/ISSF-MINUTES.pdf>.

⁴ Please see Appendix III below

5.4. Forum members discussed the implications of any such solution on the definition of derivative contracts and activities carried out by banks. They agreed that, although this question was complex, it would be useful for the FMLC to undertake further analysis and make recommendations.

6. PRA policy statement and supervisory statement on credit risk mitigation (Michael Wainwright)

6.1. Mr Wainwright turned to a policy statement published by the PRA following its consultation on credit risk mitigation. He stated that the PRA had provided guidance on exclusion clauses, the requirement to make payment in a “timely manner”, and legal advice. The PRA had acknowledged that insurance contracts can exclude certain risks, for example nuclear risk, but the implications of exclusion clauses in a cyber-risk context were unknown. The definition of the term “timely manner” in respect of payments had been widely discussed by the forum at past meetings. Mr Wainwright observed that the PRA’s guidance removed the implication that the phrase required the payment to be made in a short period of time. The implication of the term “timely manner” in the new guidance seemed to be a requirement for a foreseeable or confirmed date of payment. Finally, Mr Wainwright drew attention to the PRA’s guidance in respect of legal opinions. The guidance indicated that legal opinions should be focused on enforceability.

7. Any other business

7.1. A Forum member drew attention to the Financial Services Future Regulatory Framework Review as a possible topic for discussion at a future meeting.

Did you know that although the FMLC is a charity and not a lobbying organisation...it has engaged significantly with public authorities?

Venessa Parekh, Research Manager



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The FMLC's charitable remit

According to its charitable remit, the FMLC has a tripartite mission:

- to *identify* relevant issues (the **radar** function);
- to *consider* such issues (the **research** function); and
- to *address* such issues (the **public education** function).

FMLC's engagement with public authorities

- The FMLC is NOT a lobbying organisation, but it has engaged significantly and effectively with public authorities;
- The engagement with public authorities is a natural adjunct to its radar, research and public education functions of identifying, considering and addressing issues of legal uncertainties;
- A few examples of topics on which the FMLC has corresponded with public authorities and has achieved effective outcomes and impact are set out in slides below.

U.K. withdrawal from the E.U. based on a free trade agreement not covering financial services – evidence to the House of Lords E.U. Financial Affairs Sub-Committee

- As an extension of work conducted by an FMLC Working Group examining whether a withdrawal from the E.U. based on a free trade agreement not covering the provision of financial services would have any legal ramifications for existing financial contracts, Professor Hugh Beale (University of Warwick) and Simon Firth (Linklaters LLP) gave evidence on the topic of post-Brexit contractual continuity to the House of Lords E.U. Financial Affairs sub-committee.



Colloquium on crypto-assets with the Chief of Staff of the U.S. Securities and Exchange Commission

- On 21st June 2019, the FMLC was delighted to welcome Michael Gill, Chief of Staff and Chief Operating Officer of the U.S. Commodity Futures Trading Commission (the “CFTC”), as keynote speaker at a colloquium on regulating crypto-assets. In the U.S., regulation of crypto-assets has evolved into a multifaceted, multi-regulatory approach and oversight is split between several federal and state authorities. The CFTC has responsibility over crypto-assets used in derivatives contract, or if there is fraud or manipulation involving crypto-assets traded in interstate commerce. Mr. Gill provided an overview of the development of crypto-assets and of the approaches taken by U.S. regulators in evaluating them. He outlined the CFTC’s priorities in considering whether and how crypto-assets should be regulated.



Review of Brexit “onshoring” legislation

- In recent months, the FMLC has focused on reviewing statutory instruments published in draft by HM Treasury under the European Union (Withdrawal) Act 2018. These instruments incorporate and amend (i.e., “**onshore**”) the E.U.’s legal and regulatory framework for financial services.
- The FMLC Secretariat was invited by HM Treasury to review draft versions of this legislation and, to facilitate a quick response to such secondary legislation, the Secretariat has organised meetings amongst leading organisations in the City, comprising representatives from the Brexit Law Committee, (the legal wing of the IRSG), the CLLS Financial and Regulatory Law Committees and the Law Society, to discuss coordinated responses.
- The FMLC has also published papers on the statutory instruments onshoring regulations relating to bank recovery and resolution, investment funds and their managers, markets in financial instruments, corporate insolvency, securitisation and the Benchmark regulation.

ESMA update on its Q&A on MAR in response to a letter from the FMLC

- On 5 September 2017, the FMLC received a response from the Financial Conduct Authority (“FCA”) on its paper that explores uncertainties as to the financial instruments that fall within the scope of the Market Abuse Regulation (“MAR”). The letter states that the FMLC’s analysis and recommendations stemming from this paper were circulated to the FCA policy team, who works with the European Securities and Markets Authority (“ESMA”) in its development of its MAR guidance materials. The letter flags that ESMA has updated its Q&A on MAR on 1 September 2017 to include a new Q&A 9 on market soundings, which seeks to provide guidance on some of the issues highlighted in the FMLC paper.

Summary and Conclusion

- The FMLC seeks to accomplish its radar, research and public education remits while also engaging with public authorities;
- Although the FMLC is NOT a lobbying organisation, it has charitable remits which are aligned with engagement with public authorities; engagement which serves to accomplish the charity's objectives of radar, research and public education.

Proposed 2020 Forward Schedule



- Monday 9 March 2.00pm to 3.30pm (U.K.)
- Monday 8 June 2.00pm to 3.30pm (U.K.)
- Monday 7 September 2.00pm to 3.30pm (U.K.)
- Monday 23 November 2.00pm to 3.30pm (U.K.)



FMMLC

Katie Banks

November 2019

Investment changes



Investment changes: agenda

- Competition and Markets Authority (CMA) Market Investigation
 - Setting objectives for your investment consultant(s)
 - Competitive tenders for fiduciary managers (where more than 20% of scheme assets under FM)
- Changes to the trustees' SIP
- Publishing new information on a website

Competition and Markets Authority investigation

New requirements for trustees

CMA market investigation

- Direct obligations on trustees:
 - Setting objectives for investment consultants (IC)
 - Competitive tendering for fiduciary management (FM) if more than 20% scheme assets under FM
- CMA Order in force 10 June 2019
- Part 3 (FM) and part 7 (IC) apply from 10 December 2019
- July 2019: DWP consultation on draft regulations
 - Expected in force 6 April 2020
 - Will replace obligations under CMA Order
- July 2019: tPR consultation on draft guides
- 10 Dec 2019 – 5 April 2020: window when CMA Order applies

IC and FM requirements: exceptions and compliance

Exceptions:

- public sector schemes; executive pension plans; certain small schemes, in house providers

Sanctions for non-compliance

- Report to CMA within 14 days
- CMA may enforce through directions or civil proceedings
- tPR: fines up to £50,000 (£5,000 for individuals) expected from 6 April 2020

Setting objectives for investment consultants

Investment consultants: setting objectives

- OPS trustees prohibited from taking investment advice after 10 December 2019 until have set objectives for their investment consultant
- Who is an investment consultant?
 - Provider of “investment consultancy services”, including advice:
 - On making or retaining investments
 - Required before preparing / revising SIP
 - On strategic asset allocation
 - On manager selection
- tPR draft guide: other advisers may be caught, eg scheme actuary if advise on whether strategic asset allocation is appropriate for liabilities

Competitive tenders for fiduciary managers

Fiduciary management: competitive tenders

- Trustees must hold competitive tender (CT) where (broadly) 20% or more of scheme assets under FM
- Where CT requirement applies, trustees must hold CT before:
 - Appointing a new FM provider; or
 - Allocating further assets to existing FM provider
- For CT, trustees must invite and use **reasonable endeavours** to obtain **bids** from **three or more unrelated FM providers** and must **evaluate** bids received
- Trustees must confirm in writing to successful provider that was selected as result of CT

Who is an FM provider?

FM provider if meets both Conditions 1 and 2

- **Condition 1:** the provider is appointed to manage the scheme assets by being:
 - a fund manager to whom the trustees have delegated investment powers under section 34 Pensions Act 1995, or
 - someone to whom the trustees have delegated any discretion to make investment decisions (including decisions about appointing a fund manager);
- **Condition 2:** the provider (or a person connected to the provider) provides IC services to the trustees at the time of the appointment to manage the scheme assets, or within 12 months prior or subsequent to the date of appointment

Changes to the SIP

- Financially material considerations
- Non-financial matters
- Stewardship and engagement
- Policy on asset managers

SIP: financially material considerations and non-financial matters

Comply from 1 October 2019



"**Financially material considerations**" includes (but is not limited to) **environmental, social and governance** considerations (specifically including **climate change**), which the trustees of the trust scheme consider **financially material**

"**Non-financial matters**" are the views of the members and beneficiaries including (but not limited to) their **ethical views** and their view in relation to **social and environmental impact** and **present and future quality of life** of the members and beneficiaries

SIP: stewardship and engagement

- **From 1 October 2019** SIP must have a policy on:
 - Exercise of rights attaching to investments, including voting rights
 - Engagement activities in respect of the investments, including when and how the trustees engage with "**relevant persons**" about "**relevant matters**"
 - "**relevant persons**" includes an investment manager, shareholder or issuer of debt or equity (**from 1 October 2020**, includes another stakeholder)
 - "**relevant matters**" include performance, risks, corporate governance etc (**from 1 October 2020**, includes relevant person's capital structure and management of actual or potential conflicts of interest)
- DC schemes with more than 100 members – must include stewardship policy in the SIP for their default fund

SIP: policy on asset managers – from 1 October 2020

Comply or explain

How incentivise
manager to align
strategy with trustees'
policies

How incentivise
manager to base
decisions on
medium/long-term
financial and non-
financial performance

Alignment of
performance review with
trustees' investment
policies

Monitoring of turnover
costs

Length of arrangement

Publication on a website

Publication on a website: additional requirements

DC schemes (not AVC only)

- SIP (with link to SIP in annual benefit statement) **from 1 October 2019**
- Implementation statement (with link to statement in annual benefit statement) **from 1 October 2020**
- Hybrid schemes: publish SIP for both DB and DC benefits **from 1 October 2019**

DB schemes

- SIP **from 1 October 2020**
- Report on exercise of rights, engagement and voting behaviour **from 1 October 2021**

Timeline and actions for trustees

Summary and timeline 1

1 October 2019

- Changes to SIP and annual report requirements (financial and non-financial matters; stewardship and engagement) in force
- DC: publish SIP on a website, with link from annual benefit statement



10 December 2019

- Investment consultant objectives and fiduciary management requirements in force under CMA Order



Later in 2019

- Consultation on Pensions Regulator draft code of practice on effective governance
- Consultation on Pensions Regulator draft guidance on climate-related practices
- Publication of finalised revised Stewardship Code



2019/20

- Consultation response on requirement for policy on illiquid assets (large DC only)?

Summary and timeline 2

6 April 2020

- DWP investment consultant and fiduciary management regulations expected in force



1 October 2020:

- SIP requirements (asset managers and extended stewardship) in force
- Annual report requirements (reports on engagement, voting behaviour and (DC) implementation statement) in force
- DC: publish implementation statement on a website, with link from annual benefit statement;
- DB: publish SIP on a website



Sometime in 2020:

- Code of practice on effective governance expected in force, trustees will have 12 months to comply
- Climate-related practices may be given statutory basis



1 October 2021:

- DB: publish report on engagement and voting on a website



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FINANCIAL MARKETS LAW COMMITTEE

DEFINITION OF A CONTRACT OF INSURANCE

1. RELEVANT LAW

- 1.1 The relevant statutory definition of a "contract of insurance" in English law is the definition contained in the Regulated Activities Order¹:

" 'contract of insurance' means *any contract of insurance* which is a contract of long-term insurance or a contract of general insurance, ..." (*emphasis added*)

The effect of the italicised words is that for a contract to fall within this definition, it must be a contract of insurance under some other definition (i.e. a case law definition) and also fall within the definition of "contract of long-term insurance" or "contract of general insurance" set out in the Schedule 1 to the Regulated Activities Order.

- 1.2 In English case law, the regularly quoted definition of a contract of insurance is from *Prudential Insurance Co v Inland Revenue Commissioners* [1904] 2 KB 658:

"A contract of insurance, then, must be a contract for the payment of a sum of money, or for some corresponding benefit such as the rebuilding of a house or the repairing of a ship, to become due on the happening of an event, which event must have some amount of uncertainty about it, and must be of a character more or less adverse to the interest of the person effecting the insurance."

- 1.3 For example, this text was quoted in the Court of Appeal in *Digital Satellite Warranty v FSA* [2013] EWCA Civ 1413, and a shortened version was quoted by the Supreme Court on appeal in the same case.

- 1.4 In *Dept of Trade v Sir Christopher Motorists' Association* 1 W.L.R. [1974] 99, the High Court held that:

"That I think is the first requirement in a contract of insurance. It must be a contract whereby, for some consideration, usually but not necessarily for periodical payments called premiums, you secure to yourself some benefit, usually but not necessarily the payment of a sum of money, upon the happening of some event. Then the next thing that is necessary is that the event should be one which involves some amount of uncertainty. There must be either uncertainty whether the event will ever happen or not, or if the event is one which must happen at some time there must be uncertainty as to the time at which it will happen. The remaining essential is that which was referred to by the Attorney General when he said the insurance must be against something. A contract which would otherwise be a mere wager may become an insurance by reason of the assured having an interest in the subject matter – that is to say, the uncertain event must be an event which is prima facie adverse to the interest of the assured. The insurance is to provide for the payment of a sum of money to meet a loss or detriment which will or may be suffered upon the happening of the event."

- 1.5 In *Medical Defence Union v Dept of Trade* [1980] Ch. 82, the High Court held that:

"First, the contract must provide that the assured will become entitled to something on the occurrence of some event. ... Second, the event must be one

¹ Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the "**Regulated Activities Order**").

that involves some element of uncertainty. ... Third, the assured must have an insurable interest in the subject matter of the contract of insurance.

...

I do not aspire to any exhaustive or comprehensive definition, good for all purposes and in all contexts. I only say that for the purposes of this case it seems to me that a contract which contains these three elements is likely to be a contract of insurance, and a contract that lacks any of them is likely not to be a contract of insurance."

- 1.6 There is some doubt about whether, in deciding if a contract is a contract of insurance, it is necessary to consider the "principal object" of the contract, or to "construe the contract as a whole". In particular, in *Fuji Finance Inc v Aetna Life Insurance Co Ltd* [1997] Ch 173, where the High Court had applied a test based on the principal object of the contract, the Court of Appeal held that:

"I do not accept that Sir Donald Nicholls V.-C. by his reference ... to the principal object of the insurance indicated that he was adopting some inappropriate test. Reading his judgment on this issue as a whole it is clear that Sir Donald Nicholls V.-C. was correctly considering the characterisation of the policy as a whole and posing the question whether so read it was a policy of life insurance."

- 1.7 The FCA's own guidance contains a reference to the fact that not all contracts that are treated as contracts of insurance for regulatory purposes will meet the common law definition of contract of insurance – see PERG 2.6.5 which provides as follows:

"Contract of insurance is defined to include certain things that might not be considered a contract of insurance at common law. Examples of such additions include capital redemption contracts or contracts to pay annuities on human life."

- 1.8 In PERG 6, the FCA gives guidance on the identification of contracts of insurance consisting of general principles, which are largely based on the case law, and specific examples. This is helpful in giving a party comfort that action won't be taken against it by the regulator, but as it is only guidance, it is not sufficient for a definitive legal opinion.

2. AREAS OF RELEVANCE

- 2.1 Does a party need to have a specific regulatory permission to enter into or carry out a transaction ? Consider (a) guarantees; (b) risk participation agreements (funded or unfunded); (c) credit default swaps and other derivatives, (d) sellers' and third party warranty transactions; (e) acting as an intermediary in relation to a transaction (arranging, advising, assisting etc.) ?
- 2.2 Can an insurer enter into the contract consistently with the internal contagion rule ?
- 2.3 Is a contract a contract of reinsurance or a contract of direct insurance ?
- 2.4 What if a contract creates no risk for the insurer ?
- 2.5 Is the insurance VAT exemption available ?
- 2.6 What is required to satisfy the insurable interest requirement ? See Law Commission paper and draft bill, 2018.

Steven McEwan, Hogan Lovells, 19 November 2019