

Active Project

On 11 October 2019, the European Commission launched a Consultation on a review of the E.U. Benchmarks Regulation. The FMLC has long engaged with the Benchmark Regulation and benchmark reform and transition more widely. It will submit a response to the Consultation highlighting issues of legal uncertainty in respect of the supervision of Third Country benchmarks and certain exemptions in the Regulation. Should you wish to contribute to the FMLC's response, please email Venessa Parekh at research@fmlc.org.

Latest Publications

Response to ESMA: MAR Review: On 3 October 2019, the European Securities and Markets Authority ("ESMA") issued a Consultation Paper as part of a review of certain aspects of the E.U. Market Abuse Regulation. The FMLC submitted a response drawing attention to complexities in respect of two areas. It urges that the definition of inside information is not amended. While the current definition is not perfect and had several knock-on effects for market participants. The market has, however, adapted to the change and adopted appropriate practices. Tweaking the definition so soon after the last set of amendments will increase legal uncertainty and cause market disruption. Second, the FMLC considers whether spot FX contracts should be brought within the scope of MAR. Read the letter submitted to ESMA with the Consultation Response Form [here](#).

Addendum: Brexit Analysis on Third Country Regimes in E.U. Legislation: This paper is an addendum to the FMLC's July 2017 report titled "Issues of Legal Uncertainty Arising in the Context of the Withdrawal of the U.K. from the E.U.–the Provision and Application of Third Country Regimes in E.U. Legislation" (the "2017 Report"). The Addendum sets out some key updates to the 2017 Report since its publication and considers, if, there has been, or will be, any clarity on the issues of legal uncertainty identified in that Report. Read/download the report [here](#).

Letter to European Commission: Article 5(1)(e) of the E.U. Securitisation Regulation: Article 5(1)(e) of the E.U. Securitisation Regulation requires institutional investors to verify that "the originator, sponsor or SSPE has, where applicable, made available the information required by Article 7 in accordance with the frequency and modalities provided for in that Article". The FMLC understands that the words "where applicable" are a source of significant legal uncertainty as to whether Article 7 applies indirectly to non-E.U. transactions. The FMLC sent a letter to European Commission to offer its view on the more workable approach, on the ground that it accords with historical and established market practice. Read/download the letter [here](#).

Letters to European Commission and HM Treasury: Article 59 of BRRD II: E.U. Member States are required to implement Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 ("BRRD II") which amends the Bank Recovery and Resolution Directive (2014/59/EU) (the "BRRD") by 28 December 2020. The FMLC sent a letter to European Commission and a letter to HM Treasury to highlight some issues of legal uncertainty in respect of Article 59 of BRRD II. Read/download the letter to the European Commission [here](#) and the letter to HM Treasury [here](#).

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