



# Stakeholders' Newsletter

ISSUE 70

5 OCTOBER 2020

## Benchmark Reform and Transition

The European Commission has published a [draft regulation](#) to amend the Benchmark Regulation ("BMR"), in respect of (i) the exemption of certain Third Country foreign exchange benchmarks and (ii) the designation of replacement benchmarks for certain benchmarks which are being discontinued. The European Commission intends to amend the BMR to establish a statutory replacement rate to facilitate the mitigation of adverse consequences for legal certainty and financial stability that might ensue if LIBOR was discontinued without a replacement rate being both available and integrated into legacy contracts.

The FMLC has resolved to respond to the Consultation, drawing attention to possible complexities which may arise in respect of contracts between U.K. and E.U. entities which reference LIBOR and which may be subject to both the proposed European and British legislative regimes.

A longer paper exploring the residual risks arising in the context of the discontinuation of, and transition from, LIBOR will also be published shortly.

## Developments in relation to Cryptoassets

The FMLC has resolved to respond to HM Treasury's [Cryptoasset Promotions Consultation](#) which seeks views on a proposal to bring the promotion of certain types of cryptoassets within scope of financial promotions regulation. The Consultation offers a definition of what it calls a "qualifying cryptoasset". Two concerns arise in relation to this definition: first, it creates a new category of cryptoassets which are described using terms which may be difficult to define—including, in particular, "fungible"; and second, the definition bears no relation to any other definition of cryptoassets, adopted for example in the money-laundering regime, or categorisations, put forward by the FCA last year. A proliferation of multiple regimes and definitions may lead to uncertainty.

On a related note, last week, the European Commission published draft legislation for Markets in Cryptoassets ("MICA"). The proposed law will regulate all cryptoassets and related activities and sets rules for token issuers.

Should you wish to comment on either of these developments, please email Venessa Parekh at [research@fmlc.org](mailto:research@fmlc.org).

**Contacting the Secretariat** Email: [contact@fmlc.org](mailto:contact@fmlc.org) Telephone: +44 (0)20 7601 5118

Registered Charity Number: 1164902.

"The FMLC" and "The Financial Markets Law Committee" are terms used to describe a committee appointed by Financial Markets Law Committee, a limited company ("FMLC" or "the Company"). Registered office: 8 Lothbury, London, EC2R 7HH. Registered in England and Wales. Company Registration Number: 8733443.