

2 February 2021

Sheldon Mills
Interim Executive Director
Strategy and Competition
Financial Conduct Authority
12 Endeavour Square
London E20 1JN



Dear Mr Mills

Artificial intelligence and the use of machine learning in financial services.

The role of the Financial Markets Law Committee (the "FMLC" or the "Committee") is to identify issues of legal uncertainty, or misunderstanding, present and future, in the framework of the wholesale financial markets which might give rise to material risks, and to consider how such issues should be addressed.

In November 2020, the Centre for Data Ethics and Innovation ("CDEI") published the final report of its review into bias in algorithmic decision-making, discussing the impact of an increasing use of algorithmic tools on bias in decision-making, steps for risk management and opportunities for better use of data.¹ The CDEI concluded that the financial services sector is relatively mature in using data for decision-making. The explainability of models is key for financial services organisations and regulators to identify and mitigate against discriminatory outcomes and for gaining public trust in the use of algorithms.

The FMLC understands that in order to have a better understanding of impact of Artificial Intelligence ("AI") and Machine Learning ("ML") on financial services, the Bank of England (the "BoE") and the Financial Conduct Authority (the "FCA") have established the Artificial Intelligence Public-Private Forum ("AIPPF") of which CDEI will become the observer.² The FMLC supports this initiative. The Committee would like to congratulate BoE and FCA on this initiative as it aims to explore means to support safe adoption of these technologies within financial services, and whether principles, guidance, regulation and/or industry good practice could support this adoption.

In addition to the very considerable opportunities for inclusive financial services and effective financial markets offered by AI, the Forum will no doubt wish to examine the risks posed by AI in the potential for algorithmic bias, herd behaviours and disruption of the level playing field, to the detriment of the financial markets. It may also decide to examine the availability and desirability of legal and regulatory solutions and mitigants, some of which are being actively pursued in other jurisdictions. In this regard, the FMLC, which benefits from strong and deep expertise in financial markets law among its members and has a long-standing interest in topics relating to Finance

¹ CDEI, *Review into bias in algorithmic decision-making* (27 November 2020); available at: <https://www.gov.uk/government/publications/cdei-publishes-review-into-bias-in-algorithmic-decision-making/main-report-cdei-review-into-bias-in-algorithmic-decision-making>

² FCA, *News: Artificial Intelligence Public-Private Forum announced* (23 January 2021); available at: <https://www.fca.org.uk/news/news-stories/financial-services-ai-public-private-forum>

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and Technology (including AI),³ is keen to assist in any way the Forum, the BoE and the FCA would find useful.

I and Members of the Committee would be delighted to meet you to discuss the issues raised in this letter. Please do not hesitate to contact me should you wish to arrange a meeting or if you have any questions.

Yours sincerely,

A handwritten signature in black ink that reads "Joanna Perkins". The signature is written in a cursive style with a large initial 'J'.

Joanna Perkins
FMLC Chief Executive

³ See comments made by FMLC CEO Joanna Perkins at the 2018 P.R.I.M.E. Conference: FMLC, *Regulatory Aspects of FinTech: Beyond the Blockchain* (22 January 2018); available at http://fmlc.org/wp-content/uploads/2018/03/jrp_speaker_notes_prime.pdf