



Financial Markets Law Committee (“FMLC”)

Asset Management Scoping Forum

Date: Thursday 6 May 2021

Time: 2.00pm to 3.30pm

Virtual meeting

Attendees:

Neil Robson (Moderator)	Katten Muchin Rosenman UK LLP
Matthew Baker	Bryan Cave Leighton Paisner LLP
Phil Bartram	Travers Smith LLP
Iain Cullen	Simmons & Simmons LLP
David Gasperow	Orbis Investment Advisory Limited
Jonathan Gilmour	Travers Smith LLP
Michelle Kirschner	Gibson, Dunn & Crutcher UK LLP
Ida Levine	Impact Investing Institute
Philippa List	Dechert LLP
Jon May	Marshall Wace LLP
Michelle Moran	K&L Gates LLP
Leonard Ng	Sidley Austin LLP
Martin Parkes	BlackRock Investment Management (UK) Limited
Selina Sagayam	Gibson, Dunn & Crutcher UK LLP
Palvi Shah	J.P. Morgan Asset Management
Brian Gray	FMLC
Venessa Parekh	FMLC
Katja Trela-Larsen	FMLC

Regrets:

Richard Chapman	AB Trading Advisors
Kirsten Lapham	Proskauer Rose LLP
Owen Lysak	Simpson Thacher & Bartlett LLP
Ezra Zahabi	Akin Gump Strauss Hauer & Feld LLP

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Minutes:

1. Introductions

- 1.1. Mr Robson opened the meeting, inviting attendees to introduce themselves. Mr Gray, the FMLC's new interim CEO, introduced himself to members.

2. The FMLC is in technological transition (Venessa Parekh)

- 2.1. Ms Parekh informed Forum members of some changes they may notice while the FMLC is in technological transition, including the use of a temporary domain and the new systems being trialed to track members' availability to attend Scoping Forum meetings. Finally, she asked attendees to send in short testimonials about the FMLC for use on the FMLC website.

3. IFPR: FCA's second consultation paper on a new U.K. prudential regime for MiFID investment firms¹

- 3.1. Mr Robson opened the discussion on a Consultation issued by the Financial Conduct Authority ("FCA") on a new U.K. prudential regime for investment firms (the "**Investment Firm Prudential Regime**" or "**IFPR**"). The Consultation is the second of three consultations expected from the FCA on implementing a new prudential regime for U.K. firms authorised under Directive 2014/65/EU on markets in financial instruments and as onshored by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 ("**onshored MiFID II**"). Mr Robson gave a brief summary some of the proposals in the Consultation. The Consultation includes proposals to extend the IFPR to cover Collective Portfolio Management Investment Firms ("**CPMIs**") and own fund requirements additional to those proposed in the FCA's earlier consultation on a new U.K. prudential regime for MiFID investment firms (the "**First Consultation**").² The Consultation also contains proposals for basic liquid assets requirements, for the replacement of the current Internal Capital Adequacy Assessment Process ("**ICAAP**") with a new Internal Capital and Risk Assessment ("**ICARA**") process and for the introduction of an Overall Financial Adequacy Rule ("**OFAR**") which establishes the standard used to determine if an FCA investment firm has adequate financial resources.

¹ FCA, Consultation Paper 21/7: A new UK prudential regime for MiFID investment firms (April 2021), available at: <https://www.fca.org.uk/publication/consultation/cp21-7.pdf>

² FCA, Consultation Paper 20/24: A new UK prudential regime for MiFID investment firms (December 2020), available at: <https://www.fca.org.uk/publication/consultation/cp20-24.pdf>

- 3.2. Members discussed the FCA’s proposed changes to the remuneration regime and proposals to bring most rules into a new single prudential sourcebook (“**MIFIDPRU**”). A member noted that uncertainty remained around the criteria for determining if an entity may be classified as a “Connected Undertaking”. Members acknowledged that a number of industry bodies had raised this issue in their responses to the First Consultation. Members also discussed uncertainties arising in relation to the calculation of a firm’s assets under management.
- 3.3. A member commented that a policy statement following from the First Consultation is expected to be published by the FCA in the summer. Members did not recommend that the FMLC respond to the Consultation but agreed the Asset Management Scoping Forum should continue to monitor the development of the IFPR.
- 4. Any other business³**
- 4.1. No further business was raised.

³ The Asset Management Scoping Forum is scheduled to next meet on 23 September 2021 at 2.00pm