

30 July 2021

Law Commission of England and Wales  
1st Floor, Tower,  
52 Queen Anne's Gate,  
London SW1H 9AG



Dear Sir Nicholas

### **14<sup>th</sup> Programme of Law Reform**

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.

The FMLC is very grateful to you and the Commissioners for the opportunity to put forward its views. In February, FMLC Chairman, Lord Thomas and some Members of the FMLC had the opportunity to meet online with the Commercial and Common Law team to discuss possible topics which the Law Commission might consider for inclusion in the 14<sup>th</sup> Research Programme. Appendix I to this letter comprises a list of such topics.

The FMLC intends to respond to Item 3 in the Appendix in answer to the Law Commission's Call for Evidence on Digital Assets. Of the other items, the FMLC considers that item 4 (electronic execution), item 5 (section 53(1)(c) of the Law of Property Act 1925) and item 8 (ascertainment of the law) are those of highest priority to participants in the financial markets. In light of possible moves in the E.U., it may be desirable to look at issues relating to smart contracts to ensure that there is the necessary certainty.

The FMLC does not itself intend to respond on topics other than topic 3 (digital assets) but I have set out in Appendix 1 the names of the Members of the Committee who can assist further.

Members of the Committee, the Chairman and I 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, appearing to read "B Gray", is written over a light blue horizontal line.

Brian Gray  
FMLC Interim Chief Executive

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**Registered Charity Number: 1164902.**

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## Appendix I

	<b>Issue</b>	<b>Name and Institution of Expert</b>
1	Legal constraints in relation to the potential use of court data by tech companies to develop natural language processing systems	Paul Double, City of London Corporation
2	Smart contracts: issues relating to governing law, amendments, etc	Paul Double, City of London Corporation
3	The need for a comprehensive analysis of cryptoassets: including definitional questions and the <i>situs</i> of cryptoassets in insolvency events	Claude Brown, Reed Smith LLP
4	Electronic execution and witnessing of documents: issues around remote witnessing, harmonisation of rules amongst various registries, the need for “deed” in modern commerce	Claude Brown, Reed Smith LLP and Kate Gibbons, Clifford Chance LLP
5	Section 53(1(c)) of Law of Property Act 1925	Kate Gibbons, Clifford Chance LLP
6	The lack of clarity in the U.K.’s rules governing the merging of companies	Kate Gibbons, Clifford Chance LLP
7	Security assignment for debts, especially when they interact with E.U. law	Claude Brown, Reed Smith LLP
8	Bills of Sale and their registration, especially in the context of art financing and the question of registration of chattel mortgages against natural persons	Claude Brown, Reed Smith LLP
9	Difficulties with ascertaining just what the law in the U.K. is, given the layers added by the “onshoring” process in light of Brexit	Kate Gibbons, Clifford Chance LLP