

FINANCIAL MARKETS LAW COMMITTEE
ISSUE 56 – EMERGENCY POWERS LEGISLATION

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TERMS OF REFERENCE

To prepare a chapter of the FMLC Emergency Powers Legislation Working Group report relating to the effect on the wholesale financial markets of a major market disruption as it relates to (i) contracts as they are used in those markets, (ii) infrastructure bodies operating in those markets (i.e. organised exchanges and clearing payment and settlement service providers), and (iii) powers available to public authorities to take steps in response to the event, the report being such as will consider wholesale financial markets globally but from the perspective of the UK, and in relation to English law as it stands at 1 July 2003. The aim is a 'gap' analysis, implying that report should not only expose the relevant law but also identify gaps in preparedness.

The first iteration of the chapters of the report will take as the major market disruption each of the following two hypothetical scenarios, one occurring before office hours and one during.

Hypothetical scenario A

On a windless morning at 6.00 a.m. one Wednesday in 2003 clouds of the notoriously noxious but highly visible Hypothetical Gas form over the Square Mile and Canary Wharf. Those already there are warned immediately by local police to leave and do so. Police cordon off the affected zones by 6.15 a.m. No one is harmed but no one can get to their offices. Hypothetical Gas dissipates harmlessly between 1 and 7 days after its appearance, and its clouds once formed never move.

Hypothetical scenario B

On a windless day at 12 noon one Wednesday in 2003 clouds of the notoriously noxious but highly visible Hypothetical Gas form over the Square Mile and Canary Wharf. Those already there are warned immediately by local police to leave and do so. Police cordon off the affected zones by 1.00 p.m. No one is harmed but no one can get to their offices. Hypothetical Gas dissipates harmlessly between 1 and 7 days after its appearance, and its clouds once formed never move.