

**Minutes of Meeting of the  
City of London Law Society Regulatory Law Committee (the "Committee")**

Held on Tuesday 14 June 2016 at 12.30pm  
at Exchange House, 12 Primrose Street, London EC2A 2EG

**ATTENDEES**

<b>Present</b>	<b>Firm Represented</b>
Karen Anderson (Chair)	Herbert Smith Freehills LLP
Matthew Baker	Berwin Leighton Paisner LLP
Stuart Willey	White & Case LLP
Richard Small	Stephenson Harwood LLP
Ben Kingsley	Slaughter and May
Peter Bevan	Linklaters LLP
Richard Everett	Travers Smith LLP

**1. APPROVAL OF MINUTES OF PREVIOUS MEETING**

The minutes of the meeting of the Committee held on 10 May 2016 were approved.

**2. JOINT FCA AND PRA CONSULTATION ON PROPOSED IMPLEMENTATION OF THE ENFORCEMENT REVIEW AND THE GREEN REPORT**

The Committee discussed at length various aspects of the joint consultation paper and in particular the questions contained in the paper around settlement, including discounts and the role of the RDC. It was decided that the Committee would draft a response on the basis of the meeting's discussions and circulate to the Committee for comment.

**3. LETTER TO THE EUROPEAN COMMISSION FROM THE MARKET ABUSE JOINT WORKING PARTY OF THE COMPANY LAW COMMITTEES OF THE CITY OF LONDON LAW SOCIETY AND THE LAW SOCIETY OF ENGLAND AND WALES: ISSUES CONCERNING THE IMPLEMENTATION OF THE MARKET ABUSE REGULATION**

The Committee discussed the letter submitted by the Joint Working Party in May 2016 to the European Commission and commented that the Joint Working Party was very active in relation to discussions on the Market Abuse Regulation (MAR). The Committee decided that it might want to endorse the letter and the members discussed and suggested various aspects of the MAR regime on which they particularly wished to comment. It was decided that, after the meeting, a member of the Committee would circulate to the members for consideration a draft Q&A document on MAR which was prepared by the Joint Working Party and recently submitted to the FCA in draft (and remains with the FCA for comment).

**4. OTHER CONSULTATIONS TO WHICH THE COMMITTEE MAY WISH TO RESPOND**

The Committee discussed the following other papers currently open for consultation to decide whether or not it may wish to respond:

**4.1 ESMA CONSULTATION ON DRAFT TECHNICAL ADVICE UNDER THE BENCHMARKS REGULATION**

The Committee discussed the consultation paper and the members were asked if they had any previous experience in looking at the EU Benchmarks Regulation. It was decided that one member would consider the consultation in more detail and it was also decided to flag the consultation - as an interesting paper to which the Committee may wish to respond - to an absent member.

#### 4.2 **EBA DISCUSSION PAPER ON INNOVATIVE USES OF CONSUMER DATA**

The Committee discussed the consultation paper and it was decided that, since the paper focused largely on issues of data protection, the Committee did not wish to respond.

#### 5. **AOB:**

##### 5.1 **CONSIDERATION OF ANTI-MONEY LAUNDERING ISSUES**

The Committee noted that there is currently not a designated committee of the CLLS that considers AML issues. Given the importance of the issues, the Committee decided that it would consider responding to consultation papers in relation to AML issues going forward.

##### 5.2 **"CONTROLLERS" REGIME**

The Committee considered a query raised by a City firm in relation to amendments to section 422(5)(a)(v) of FSMA which replaced the reference to "subsidiary undertaking" with the words "controlled undertaking". Committee members noted that the regulators adopt a purposive interpretation of section 89J(4) of FSMA, and appear to take that view that in the exercise of any vote as trustee, a trustee company acts in a fiduciary capacity in accordance with the trust instrument, owing duties of loyalty and good faith to the beneficiary, and not subject to the dominant influence or control of its parent(s) or shareholders.



**Karen Anderson**  
Chair, CLLS Regulatory Law Committee