



POLICY AND REGULATORY NETWORK MEETING SUMMARY

DATE: 21 JULY 2020 (10:00 – 11:30)

Attendees:

KfW IPEX-Bank - Geoffrey Hunter

Arab National Bank - Robert Garai

NIBC Bank - David Marshall

Clearstream Banking SA - John Taylor

Agricultural Bank of China - David Lawton

Bank of China - Jon Sartoris

ICICI Bank - Merlin Dsa

China CITIC Bank - Rhod Sutton

KBC Bank - Adam Sattar

Finantia UK - David Pfeiffer

OCBC Bank – Toni Antoniou

Blom Bank – Meng Barnie

J.P. Morgan - Michael Percival

Commerzbank - Amanda Calierno

Siemens Bank - Christina Ruebesamen

Société Générale - Bill Stenning

Rob Moulton – Latham & Watkins (RM)

AFB - Andrew Brooke (AB)

AFB - Dami Oluwa

Andrew Brooke (AB) opened the meeting and referred to the AFB competition law advice. The following topics were discussed.

1. Overview AFB Policy Initiatives as at 20 July 2020

AB provided a brief outline of the items set out in the policy initiatives table (dated 20/07/20).

AB highlighted the Financial Services Skills Commission as a new item on the list.

2. AFB Supplementary Survey of members on returning to the office (circulated on 9 July)

There were no comments from members. AB added that the FCA have informed the AFB/financial services trade associations that will be conducting another survey of a group of FCA-regulated firms on their financial resilience following the impact of Covid-19. Once more information is provided the AFB will inform members on the timing.

Members should ensure that they respond to the survey if they receive it.

3. Brexit – UK Ministerial statement dated 23 June

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-06-23/HCWS309/>

4. **Brexit – Communication from the European Commission (on readiness at the end of the transition period) - see [here](#)**

RM commented generally on the UK ministerial statement and the EC Commission communication. RM noted that UK position appears to be it won't seek equivalence by agreeing to keep the UK rules the same as the EU rules, which are now coming into effect/will come into effect post the end of the transition period. In particular, the UK government states that "rules designed as a compromise for 28 countries cannot be expected in every respect to be the right approach for a large and complex international financial sector such as the UK". In effect the UK Government is stating that, whilst it will request equivalence, achieving equivalence (in the areas where that is possible) is not worth being a rule taker for. RM added that the EU appears to have taken the prospect of equivalence "off the table" except with respect to limited measures such as the short-term recognition of CCPs (for the benefit of EU customers using exchanges based in the UK).

A member queried whether, given the uncertain outcome with regard to the granting of equivalence, the AFB will be seeking to have a dialogue with UK policy makers and regulators about their approach with respect to specific new legislation brought into force after January 1st 2021.

AB said that the AFB are in regular contact with HMT and in principle comments on the UK's approach could be submitted.

AFB will take the lead from members of the PRN with respect to specific topics. This would include providing input into the review by HMT of the UK's regulatory framework and how it needs to adapt post-Brexit.

A member representing an EU-headquartered bank noted that as there would be divergence between EU and UK requirements in the future, his firm would be taking the approach of applying the higher standard across the firm in the event of potential clash as a pragmatic solution.

A member noted that the Temporary Permissions Regime (TPR) is set to last only until March 31st 2022 and queried whether 15 months is a sufficient period of time for a firm (incoming from the EU and regulated only by the FCA) to complete the authorisation process.

RM commented that the question of whether extend the deadline will depend on the ability of the FCA to manage the workload. The current stance of the FCA is to make clear that the deadline exists in order to encourage firms to start the process.

[Post-meeting note: the FCA has announced that it will reopen the TPR notification window on September 30, 2020, which will allow firms that have not yet notified to do so before the end of the transition period. The details can be accessed via this link (<https://www.fca.org.uk/print/brexit/temporary-permissions-regime>). The FCA will communicate further in September.]

5. **LIBOR Transition (UK Ministerial Statement dated 23 June)**

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-06-23/HCWS307/>

RM highlighted that, although some interim milestones have changed, the final LIBOR deadline (end 2021) remains the same (notwithstanding Covid-19).

RM noted that the statement reiterates that the fact that 'tough legacy' contracts should be only an 'irreducible core', where there is no realistic possibility of renegotiation by the parties.

The statement makes clear that the UK government will grant the FCA the necessary powers to deal with the 'irreducible core' but adds that regulatory action may not be able to address all the issues reinforcing the point that parties should seek to transition away from LIBOR on terms agreed with their counterparties.

6. **Climate Financial Risk Forum - The publication of the PRA/FCA'S joint guidance on climate risks for regulated firms**

<https://www.fca.org.uk/transparency/climate-financial-risk-forum>

AB noted the publication of the guidance on 29 June.

AB highlighted the relaunch of the existing working groups for a further year and the fact that there is an opportunity for some AFB members to join the working groups at this point.

7. Changes to UK insolvency rules

<https://www.legislation.gov.uk/ukpga/2020/12/contents/enacted>

RM noted that the changes to UK insolvency rules, which came into force on 26 June. The new rules introduce new corporate restructuring tools and temporary easements to give distressed businesses the breathing space to get advice and seek a rescue.

One of the key provisions is the introduction of the new role of a Monitor to oversee the corporate moratorium it introduces – an extendable 20 working day period giving businesses protection from creditor action while they seek professional restructuring advice.

The new rules also extend the suspension of termination clauses when a company enters into an insolvency procedure and introduces a new restructuring plan that has the ability to bind creditors to it.

(In addition, there is temporary relief for businesses until 30 September 2020 from being subject to a winding up petition and from wrongful trading provisions where a business can demonstrate its difficulties arise from trading conditions arising from the COVID-19 pandemic.)

RM asked whether any member firms are aware of any changes to client behaviour. There were no comments. AB asked that for any feedback on this to be sent to him.

8. Equivalence findings for MiFID post-trade transparency purposes

RM noted that a list of 25 ‘equivalent’ trading venues have been published by the European Commission. For these venues firms do not have to carry out the EU post-trade transparency requirements.

9. For noting – Speech by Nausicaa Delfas (Executive Director of International at the FCA) delivered on 1 July entitled “Building a financial regulatory system suitable for the UK in the new era”

<https://www.fca.org.uk/news/speeches/building-financial-regulatory-system-suitable-uk-new-era>

10. For noting - FCA Insights article on Culture, Conduct and COVID (published 10 June)

<https://www.fca.org.uk/insight/conduct-culture-and-covid-19>

RM commented that the article on ‘Culture, Conduct and COVID’ is a useful read for manager or directors seeking to learn more about the FCA’s view of culture and conduct.

RM further noted that the article provides a number of helpful observations on the impact of Covid-19 and returning to office. The point is made that ‘if culture is the way things get done around here, what do you do when there is no here’.

One member highlighted that firms are concerned because new recruits that have joined firms post Covid-19 do not have experience of the culture of the firm. As a result, one firm has conducted ‘compliance at home’ training, in order to share the culture of the firm and the rules employees need to adhere to, and to show how to support employees whilst at home.

11. Update - AFB Virtual Roundtable with PRA on operational resilience/29 July

AB noted that the virtual roundtable with the PRA on operational resilience is taking place on Wednesday 29th July and asked for interested members to nominate colleagues to join the meeting and the AFB working group.

AB further highlighted that the AFB has also contacted the FCA to discuss operational resilience.

12. HMT - Swiss/US/Singapore/Japan Trade Deals

AB noted there is general interest in FTA negotiations being undertaken by the UK with Switzerland, United States and Singapore.

AB said that HMT is interested in having a dialogue with AFB member banks with head offices in these jurisdictions. AB will contact the sub-groups of AFB member banks to discuss how such dialogue might take place.