

13 August 2014

FINANCIAL  
MARKETS  
LAW  
COMMITTEE

Secretariat to the Financial Stability Board  
Bank for International Settlements  
Centralbahnplatz 2  
CH-4002 Basel  
Switzerland

Dear Sirs,

## Benchmark Reform

### Foreign Exchange Benchmarks – Consultative Document – 15 July 2014

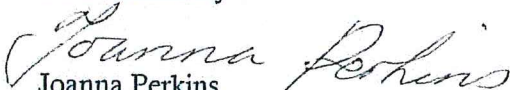
The role of the Financial Markets Law Committee (the “FMLC” or the “Committee”) is to identify issues of legal uncertainty, or misunderstanding, present and future, in the framework of the wholesale financial markets which give rise to material risks, and to consider how such issues should be addressed.

The FMLC welcomes the Financial Stability Board’s (“FSB”) initiative to review foreign exchange (“FX”) benchmarks and analyse market practices in relation to their use and the functioning of the FX market and its consultation paper on this topic.

As part of this review, the calculation methodologies of FX benchmarks has been examined in the FSB’s consultation paper. The FMLC would like to draw the FSB’s attention to its previous comments on legal risk arising in the context of benchmark reform in respect of legacy contracts, where methodology changes have been proposed. The FMLC has: (i) published a paper in 2012 following the publication of the Wheatley proposals in the UK<sup>1</sup>; (ii) published a paper in 2014 on legal uncertainty arising from the European Commission’s proposals to reform indices used as financial benchmarks<sup>2</sup>; and (iii) contributed to work of the Market Participants Group by managing the global legal work streams established and preparing reports on legal risk arising in the context of English law, which have been published in the MPG’s report on the Reform of Major Interest Rate Benchmarks.

I and Members of the Committee would be delighted to meet with you to discuss the issues to which I have referred in letter. Please do not hesitate to contact me to arrange such a meeting or should you require further information or assistance.

Yours faithfully

  
Joanna Perkins  
FMLC Chief Executive

1. The Wheatley Review of LIBOR: final report, 28 September 2012, which can be found at: [http://cdn.hmctreasury.gov.uk/wheatley\\_review\\_libor\\_finalreport\\_280912.pdf](http://cdn.hmctreasury.gov.uk/wheatley_review_libor_finalreport_280912.pdf)
2. The Proposal for a Regulation on indices used as benchmarks in financial instruments and financial contracts (COM (2013) 641 final) can be found at: <http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52013PC0641:EN:NOT>.