

Minutes

Foreign Exchange Joint Standing Committee Legal Sub-Committee

4 September 2018

Location: Goldman Sachs, Peterborough Court, 133 Fleet Street, London, EC4A 2BB

Attendees: **Bank of England:** Jonathan Grant (Secretary), Charlotte Pope-Williams,
Bank of New York Mellon: Jacqueline Joyston-Bechal
Brick Court Chambers: Jasbir Dhillon QC (Guest Speaker)
Deutsche Bank: Simon Goldsworthy
Financial Conduct Authority (FCA): David Harris
Goldman Sachs: Dan Parker (Chair), Rowland Stacey
Linklaters: Paul Lewis, Charitha Shashiraj (Guest Speakers)
Morgan Stanley: Nimisha Kanabar
RBS/Natwest Markets: Baljit Saini
Standard Chartered: Rakesh Shah
TP ICAP: Simon Helm

Dialled in: **Bank of America Merrill Lynch:** Jateen Shah
HSBC: Harkamal Singh Atwal

Apologies: **Barclays:** Nasia Pachitipallikaropoulou
Citigroup: Sharon Blackman
CLS: Gaynor Wood
JP Morgan: Tamsin Rolls
LCH: Diane Bouwmeester
UBS: Richard Lamb
XTX Markets: Sunil Samani

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1.	Introduction and Minutes
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The minutes of the 24 April 2018 meeting were approved.

2.	Cryptocurrencies presentation by Paul Lewis and Charitha Shashiraj, Linklaters
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Mr Lewis explained what cryptocurrencies are and how they can be identified. He also explained the distinction between cryptocurrencies and tokens, noting the recent increase of tokens in the market. Ms Shashiraj considered the legal status of cryptocurrencies and in particular their status or lack thereof under property law. Mr Lewis and Ms Shashiraj spoke about case law that was of relevance in the context of cryptocurrencies as well as the potential applications of the technology underlying cryptocurrencies in financial services.

3. ***Lehman Brothers Special Finance Inc. v. (1) National Power Corporation (2) Power Sector Asset and Liabilities Management Corp.* [2018] EWHC 487 (Comm) presentation by Jasbir Dhillon QC, Brick Court Chambers**

Mr Dhillon QC gave a presentation to members about the recent High Court case of *Lehman Brothers Special Finance Inc. v. (1) National Power Corporation (2) Power Sector Asset and Liabilities Management Corp.* [2018] EWHC 487 (Comm) (the “NPC case”). In the NPC case the High Court considered the meaning and operation of the close-out mechanism in the 2002 ISDA Master Agreement. Mr Dhillon QC explained the factual context of the case as well as the legal issues raised in the case which included a consideration of the standard required by a determination under a 2002 ISDA which uses ‘*commercially reasonable procedures in order to produce a commercially reasonable result*’. Mr Dhillon QC also explained the relevance of the case of derivatives lawyers.

4. **Any Other Business**

None

5. **Next Meeting**

The Secretary stated that the next meeting of the FXJSC Legal Sub-Committee would be held on Tuesday 27 November 2018.