

# Minutes

## Foreign Exchange Joint Standing Committee Legal Sub-Committee 8<sup>th</sup> September 2020

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**Location:** Video conference call hosted by Bank of England

**Attendees:** **Bank of England:** Jonathan Grant (Secretary), Paul Avanzato  
**Goldman Sachs:** Dan Parker (Chair)  
**Bank of America:** Jateen Shah  
**Citigroup:** Sharon Blackman  
**CLS:** Gaynor Wood  
**Deutsche Bank:** Simon Goldsworthy  
**Financial Conduct Authority (FCA):** David Harris  
**HSBC:** Harkamal Singh Atwal  
**JP Morgan:** Tamsin Rolls  
**LCH:** Diane Bouwmeester  
**Standard Chartered:** Rakesh Shah  
**TP ICAP:** Simon Helm

**Apologies:** **Barclays:** Nasia Pachiti Pallikaropoulou  
**Morgan Stanley:** Nimisha Kanabar  
**RBS/Natwest Markets :** Baljit Saini  
**UBS:** Richard Lamb, Krisha Somaiya  
**XTX Markets:** Sunil Samani

**Minute no.**      **Minute**

**1.**                      **Introduction and Minutes**

The minutes of the meeting of 8<sup>th</sup> June 2020 were approved.

**2.**                      **Crypto-assets**

Matthew Lavy of 4 Pump Court provided an update on legal developments in the area of cryptocurrencies and the real-world application of the 'property' principle, since the LawTech Delivery Panel UK Jurisdiction Taskforce (UKJT) 'Legal Statement' of November 2019.<sup>1</sup> The Legal Statement provided conclusions on legal questions arising from the UKJT's consultation paper

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[https://35z8e83m1ih83drye280o9d1-wpengine.netdna-ssl.com/wp-content/uploads/2019/11/6.6056\\_JO\\_Cryptocurrencies\\_Statement\\_FINAL\\_WEB\\_111119-1.pdf](https://35z8e83m1ih83drye280o9d1-wpengine.netdna-ssl.com/wp-content/uploads/2019/11/6.6056_JO_Cryptocurrencies_Statement_FINAL_WEB_111119-1.pdf)

of May 2019 on the status of crypto-assets, distributed ledger technology and smart contracts. It was not a statement of the law itself. Matthew described recent case law which discussed the categorisation of crypto-assets as 'property' as against a mere 'personal claim'. Matthew outlined scenarios which illustrated some of the issues, such as 'traceability', which may arise as a consequence.

### **3. Settlement Risk**

Alan Marquard of CLS provided an overview of 'payment-versus-payment' (PVP) arrangements and emerging themes in FX currency settlement risk. Alan explained that the BIS Quarterly Review (December 2019) had highlighted an increase in FX trades not settling through PVP, both trades in 'CLS eligible' currencies and trades in 'non-CLS-eligible' currencies. He outlined ways in which this might be remedied, including exploring why certain eligible trades were not being settled in CLS, adjustments to the FX Global Code, discussions with central banks and regulators, and exploring with the market settlement solutions for emerging market currencies.

### **4. FXJSC Legal Sub-committee Chair**

Jonathan Grant, Secretariat, Bank of England, reported that Dan Parker was stepping down as Chair of the Legal Sub-committee and a replacement Chair would be sought by the Secretariat. Jonathan explained that expressions of interest would first be sought from the members, and the new Chair will be appointed by the FXJSC Main Committee. It was hoped the new Chair would take up the role in time for the next meeting in November. Jonathan thanked Dan for his valuable contribution to the Legal Sub-committee.

### **5. Any other business**

The next meeting will be on 10th November 2020.