Loan
Market
Association

10 Upper Bank Street
London E14 5JJ
Tel. +44 (0)20 7006 6007
Fax +44 (0)20 7006 3423
lma@lma.eu.com
www.lma.eu.com

12th December 2016

Graham Reynolds
ICB Market Study CP
Financial Conduct Authority
25 The North Colonnade
Canary Wharf
London E14 5HS

Email: cp16-31@FCA.org.uk

Dear Mr Reynolds,

Consultation Paper on Prohibition of Restrictive Contractual Clauses (CP16/31)

We are pleased to respond to the above consultation paper.

The LMA is the trade body for the syndicated loan markets in Europe, the Middle East and Africa ("**EMEA**") and was founded in December 1996 by banks operating in these markets. Its aim is to encourage liquidity in both the primary and secondary loan markets by promoting efficiency and transparency, as well as by developing standards of documentation and codes of market practice, which are widely used and adopted. Membership of the LMA currently stands at over 600 organisations across EMEA and consists of commercial and investment banks, institutional and other non-bank investors, law firms, rating agencies and service providers.

As the LMA's focus is on the loan product it would not be appropriate for us to comment in detail on the proposed prohibition of restrictive contractual clauses outlined in the Consultation Paper since this is largely of relevance to the provision of corporate finance services rather than the loan product.

However, the proposed text of the amendments to the Conduct of Business sourcebook does include an exemption relating to the provision of bridging loans and clearly the scope of this exemption is relevant to the syndicated loan market.

We welcome the inclusion of this exemption which we believe is important to include in order to protect the legitimate interests of bridging lenders. However, we believe that the scope of the exemption is insufficiently broad in that a bridging loan is defined for these purposes as having a term of 12 months or less. In practice a number of bridging loans are entered into with an original term of more than 12 months. Lenders agree to maturity periods of longer than 12 months in order to accommodate the legitimate concerns of borrowers as to the length of time it may take to complete the underlying transaction being financed and to complete any relevant longer term financing which is to replace the bridging loan. We

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would, therefore, suggest that the definition of "bridging loan" to be included in the glossary of definitions should be amended so as not to include any maximum maturity period. The key element for a bridging loan is that it is provided on condition that it will be replaced with longer term financings. The term of the bridging loan is irrelevant.

If it is felt to be important to include a maximum maturity period then we would suggest that such a period should be 36 months from *the date on which the loan is made* (this latter point is important because it is sometimes necessary for the lenders to agree to wait for a considerable period of time (sometimes more than 12 months) between signing the documentation to make a loan available and the actual date upon which the loan is made available).

If we can be of any further assistance please do not hesitate to contact me by email at clare.dawson@lma.eu.com or on 020 7006 6007. We would also be pleased to meet to discuss the above at your convenience.

Yours sincerely,

Clare Dawson
Chief Executive
Loan Market Association