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**65th meeting of the european financial markets lawyers group**

AGENDA

**1 March 2019**

**Venue:** *Uria Menendez Proença De carvalho, Edifício Rodrigo Uría*

*Praça Marquês de Pombal, 12*

*1250-162 Lisboa*

**Invited external speakers**:

Pedro Machado, Head of the Legal Department at Banco de Portugal

Miguel Coelho, Chief Economist of the Office of the Portuguese Ministry of Finance

Afonso Eça, co-founder of Raize, the first online lending marketplace in Portugal, and Professor at Nova School of Business and Economics

***\*\*\*Welcome coffee from 9:00 to 9:30\*\*\****

1. **Welcome by the Chair, presentation of guests and adoption of the agenda *(9:30-9:35)***
2. **Current BRRD issues**

* **Banking reform - review of the selected amendments proposed to BRRD/CRR *(9:35-10:05)***

**Presenter:** Asmaa Cheikh, Société Générale

**Background:** On 15 February 2019 the proposed amendments to the BRRD were published. The presentation will provide an overview of the main proposed changes, including amendments to Articles 55, 33a, 44(2)(f) and (h), 69 and 71a of the Directive. In addition, the grandfathering provisions under the amendment to the CRR will also be discussed.

**Action point:** To be decided at the meeting.

* + **New wording of Art. 55 BRRD – how should it be implemented *(10:05-10:35)***

**Presenter:** Francesca Passamonti, Intesa Sanpaolo

**Background:** As it has been discussed on different occasions previously, the application of Article 55 of the BRRD has posed several practical difficulties. It requires firms covered by the BRRD to include a term in their contracts whereby the creditor or the party to the agreement or instrument creating a liability, governed by a third country law, recognizes that the liability can be subject to write-down and conversion powers and agrees to be bound by the decision of the resolution authority. The presentation will therefore focus on (i) assessing the practical problems related to the new wording of Article 55, and (ii) the specific problems relating to its application in the context of hard Brexit.

* Tour de table / general discussion

**Action point:** To be decided at the meeting

1. **Brexit related issues** 
   * **Hard Brexit: Contingency measures taken by the Commission and related legislation at Member State level *(10:35-11:15)***

**Presenter:** Olivier Coupard, CA-CIB: Commission measures and French legislation

Tour de Table on legislation in other Member States

**Background:** Given the continued uncertainty surrounding the ratification process of the transition agreement by the United Kingdom, and in line with the Conclusions of the European Council on 13 December 2018, the Commission is proceeding urgently with the implementation of its Contingency Action Plan. The Commission has adopted the legislative proposals and delegated acts which it announced in that Action Plan.

In parallel, the Commission has also continued to work closely with Member States to coordinate planning at EU and at national level. The package of measures adopted by the Commission takes into account discussions with Member States.

EFMLG members will be asked to update the EFMLG on such contingency legislation in their Member State.

**Action point:** Point for information in principle.

**Documentation:** <https://ec.europa.eu/info/publications/communication-19-december-2018-preparing-withdrawal-united-kingdom-european-union-30-march-2019-implementing-commissions-contingency-action-plan_en>

<http://europa.eu/rapid/press-release_IP-18-6851_en.htm>

<https://www.esma.europa.eu/press-news/esma-news/esma-tells-firms-provide-clients-information-implications-brexit>

***\*\*\*Coffee break 11:15 to 11:30\*\*\****

* **Use of credit ratings issued by credit rating agencies established in the UK post-Brexit (11:30-11:40)**

**Background:** Under the Credit Rating Agencies Regulation (Regulation (EC) No 1060/2009 on credit rating agencies, EU-27 financial institutions will no longer be allowed to use credit ratings for regulatory purposes after Brexit, unless an equivalence decision has been taken.

**Presenter:** Asmaa Cheikh, Société Générale

**Action point:** To be decided at the meeting.

1. **Follow-up on EU extrajudicial collateral enforcement legislation *(11:40-11:55)***

**Background:** Dimitris Tsibanoulis and Pedro Ferreira Malaquias have already presented this topic to the EFMLG, notably at the EFMLG November 2018 meeting. An update on the current status of the relevant EU legislative file will be presented (status of the draft Commission proposal at EU Parliament / Trilogue). Eventual EFMLG action will only be considered later in 2019, depending on the evolution of the file.

**Presenters:** Pedro Ferreira Malaquias, Uria Menendez; Francesca Passamonti

**Action point:** Point for information

1. **Follow up on benchmark related issues (11:50-12:30)**

**Background:** A summary of Euribor and EONIA transition issues and “*Guiding principles for fallback provisions in new contracts for euro-denominated cash products*” of the ECB RFR working group will be presented. Impact of the Benchmark Regulation on third country financial markets and concerns regarding the impact on the continued use of key financial benchmarks provided by non-EU administrators, and the potential impact on financial market will also be discussed.

**Presenter:** Olivier Coupard, CA-CIB

**Action point:** To be decided at the meeting.

**Documentation:** <https://www.ecb.europa.eu/paym/initiatives/interest_rate_benchmarks/WG_euro_risk-free_rates/html/index.en.html>

<https://www.ecb.europa.eu/pub/pdf/other/ecb.sg3guidingprinciples201901.en.pdf>

***\*\*\*Lunch break 12:30-13:30\*\*\****

1. **Focus: Portugal**

* **Economy. Current juncture *(13:30-14:10)***

**Background:** Like on previous occasions of external EFMLG meetings EFMLG members will have the opportunity to learn about the latest economic developments of the host country.

**Presenter:** Miguel Coelho (Ministry of Finance).

**Action point:** Point for information

* **Update on** **the upcoming reform of financial supervision of the Portuguese banking system *(14:10-14:50)***

**Background:** In January 2019 the Portuguese Government consulted the Portuguese supervisors (Banco de Portugal, CMVM and ASF) and the ECB, on a draft proposal on the reform of the financial supervision model in Portugal. The proposal entails a major overhaul of the institutional architecture on financial supervision with the transfer of the macroprudential and the resolution functions to new entities. The CNSF, currently a body of coordination of the financial supervisors, is deemed to become the new macroprudential authority. The resolution function is proposed to be entrusted to a new separate entity which is going to be vested with powers to decide on resolution cases as well of management of the resolution fund and the deposit guarantee scheme. The draft proposal introduces a set of changes to the Banco de Portugal’s statute which may have a significant impact on central bank independence. Depending on the level of public disclosure of the draft proposal at the time of the presentation, the discussion may need to follow a Chatham House rule.

**Presenter:** Pedro Machado (Banco de Portugal)

**Action point:** Point for information

1. **FinTech developments *(14:50-15:20)***

**Background:** Alfonso Eca, the co-founder of the first online lending marketplace in Portugal and Professor at Nova School of Business and Economics will provide an overview of (i) the Fintech landscape in Portugal, (ii) PSD2 challenges and opportunities from the innovators perspective (not the incumbents) and (iii) cross border challenges for the innovators (with special regard to regulatory arbitrage in EU)

**Presenter:** Afonso Eça, co-founder of Raize

**Action point:** Point for information

1. **Miscellaneous *(15:20-15:30)***