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**75TH meeting of the european financial markets lawyers group**

AGENDA

**Friday 21 May 2021**

**14:00 – 17:05**

**Venue:** WebEx Videoconference

1. **Introduction by the Chair (5’) 14:00 – 14:05**
2. **Update on Article 55 BRRD: new RTS and EBA questionnaires (20’) 14:05 – 14:25**

**Presenter**: Julia Bayón Pedraza

**Background**: The apparent lack of flexibility of the new RTS plus the wider scope of affected contracts (contracts under English law after Brexit) may lead to a substantial workload increase for EU credit institutions.

**Action point:** Point for information and discussion. Eventual EFMLG action to be decided at the meeting

**Documentation:** Presentation

1. **Selling of subordinated eligible liabilities to retail clients (20’) 14:25 – 14:45**

**Presenter:** Dimitris Tsibanoulis

**Background:** Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 amending Directive 2014/59/EU (the BRRD) as regards the loss-absorbing and recapitalisation capacity of credit institutions and investment firms and Directive 98/26/EC added Article 44a to the BRRD. Article 44a BRRD, on the ‘’Selling of subordinated eligible liabilities to retail clients’’, provides options for the Member States as to its incorporation into national law. How did the Member States make use of these options and what is their importance for the European single market in the financial services field?

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

**Documentation:** Presentation

1. **Reply from the Commission and ESMA to the EFMLG letter on MiFID Quick Fix and MiFID general review (10’)**

**14:45 – 14:55**

**Presenter:** Ignacio Ollero Garcia-Agullo (BBVA); Inigo Arruga Oleaga (ECB).

**Background**: In addition to ESMA, to whom the EFMLG immediately proposed further dialogue, also the Commission answered to the ECB (the replies were distributed to the members already). The EFMLG will discuss the follow-up to the Commission reply.

**Action point:** Point for information and eventual answer to the Commission.

**Documentation:** Letter of the EFMLG to ESMA and the Commission.

Reply from the Commission to the EFMLG.

1. **Response to the joint FMLC-EFMLG letter on LIBOR transition (20’)**  **14:55 – 15:15**

**Presenter:** Otto Heinz and Ignacio Ollero

**Background:** Following-up on the previous EFMLG meeting a joint EFMLG and FMLC letter was sent to the European Commission, HM Treasury, Bank of England, Working Group on Sterling Risk Free Reference Rates, International Organization of Securities Commission (IOSCO), FSB, ESMA and BIS. Responses to this joint letter were received from the European Commission and IOSCO. Both responses were shared with the EFMLG, which the EFMLG would discuss.

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

**Documentation:** Response letters distributed ahead of the meeting

***- Coffee break: 15 minutes -***

1. **Introductory remarks by Frank Elderson, Member of the ECB’s Executive Board, Vice-Chair of the ECB’s Supervisory Board (5’)**

 **15:30 – 15:35**

1. **Legal aspects regarding the role of banks in Covid-19 related measures and their eventual role in the channelling to the economy of funding under NGEU programmes (30’)**

 **15:35 – 16:05**

**Presenter:** Fernando Conlledo Lantero

**Background**: Member States have used two main tools to provide State support to businesses in the current crisis: guaranteed lending and/or direct support. Banks have been playing a stronger role in the former, which leads to different legal and economic consequences for the banking systems across the EU.

In addition, different models with or without significant participation of the banking systems are being considered in the Member States to channel funds under NGEU programmes to their economy.

After a brief presentation about the legal aspects of these two overall themes, a tour-de-table will take place in which EFMLG members are expected to explain the legal situation regarding these themes in their jurisdictions.

**Action point:** Point for information and discussion (tour de table).

**Documentation**:Presentation

1. **MiCA – Proposal for a Regulation of the European Parliament and of the Council on Markets in Crypto-assets** **(30’)**

**16:05 – 16:35**

**Presenter:** Pedro Ferreira Malaquias(Uría Menéndez)

**Background:** The proposed MiCA Regulation is the EU’s plan to respond to the emergence of crypto-assets such as bitcoin and the effect these new technologies will have on how financial assets are issued, exchanged, shared and accessed. This includes mitigating the risks posed by crypto-assets (fraud, cyberattacks, market manipulation). The Regulation will impact the crypto-assets industry.

**Action point:** Point for information and discussion. Eventual EFML action to be decided at the meeting

**Documentation:** Presentation

1. **What is green in Europe? The way forward after the Commission EU Taxonomy Delegated Act and the fundamental sectors still to be decided upon (30’)**

**16:35 – 17:05**

**Presenter:** Inigo Arruga Oleaga, György Várhelyi (ECB)

**Background:** Implementing the Taxonomy Regulation, the College of Commissioners has adopted on 21 April 2021the first Commission Delegated Legal Act establishing the technical criteria for defining activities that contribute substantially to climate change mitigation and adaptation, thus *making clearer* which economic activities contribute to meeting these two main EU’s environmental objectives. The Delegated Act will be formally adopted end of May. Several sectors (nuclear, gas, bioenergy, forestry, agriculture) have been left out of the Delegated Act to different extents for the time being and future assessment will be necessary to decide whether and how these sectors contribute to those two objectives.

In addition, the delegated act regarding disclosure (Art. 8 of the Taxonomy Regulation) has just been published. The delegated act will be an important milestone in the Taxonomy architecture and in addressing informational market failures. A public consultation has been published and it is open for contributions until 4 June 2021: <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12440-Sustainable-finance-obligation-for-certain-companies-to-publish-non-financial-information_en>.

**Action point:** Point for information and potential contribution by the EFMLG in the public consultation.

**Documentation:** Presentation