**76TH meeting of the european financial markets lawyers group**

AGENDA

**Friday 24 September 2021**

**14:00 – 16:30**

**Venue:** WebEx Videoconference

1. **Introduction by the Chair (5’) 14:00 – 14:05**
2. **Follow up on the EFMLG letter regarding Article 55 BRRD and the response from the European Commission (10’) 14:05 – 14:15**

**Presenter**: Julia Bayón Pedraza

**Background**: On 11 August 2021, the EFMLG has received a response from the Commission on its letter concerning Article 55 BRRD and the accompanying RTS. It is proposed to discuss some elements contained in the answer, in particular relating to the alleged absence of consequences in case a bail in clause is not included in the contract. There might be other consequences to the non-inclusion of a bail-in clause due to the refusal by the counterparty (and provided that is not legally or impracticable to do so) than what the Commission is suggesting, namely that the resolution authority shall require its inclusion. Another consequence could be that the resolution authorities could consider that as an infringement of the BRRD and the relevant sanctions regime could apply.

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

**Documentation:** Presentation

1. **Public consultation on a retail investment strategy for Europe (30’) 14:15 – 14:45**

**Presenter:** Fernando Conlledo and Ignacio Ollero

**Background:** The European Commission is preparing a retail investment strategy for the first half of 2022. The strategy will cover a range of initiatives designed to provide the necessary level of confidence and assurance for retail investors. The public consultation for this initiative was open for comments until 3 August 2021. Fernando and Ignacio will present the most relevant issues to the group and will afterwards open the floor for a discussion between the EFMLG members. This will notably include the issue of legal certainty, level playing field among jurisdictions and players, quality of the legislation, PRIIPs, digital solutions, inducements, financial literacy.

**Action point:** Potential bilateral input to the Commission relating to the matters covered by the public consultation.

**Documentation:** Presentation

1. **Update on the Financial Markets Lawyers Group’s activities in the US (30’) 14:45 – 15:15**

**Presenter:** Thomas Noone (Federal Reserve Bank of New York)

**Background:** Thomas is working at the New York Fed and member of the EFMLG’s sister group in the US, the FMLG, Thomas will present the functioning of the FMLG and the most significant issues that the group tackles. He will also give an overview of the regulatory matters that financial institutions are currently dealing with in the US. Lastly, Thomas will also touch upon on the New York Fed’s culture initiative with webinars and the series of case studies.

**Action point:** Point for information

**Documentation:** Presentation

1. **Targeted consultation on the EU securitisation framework and UNIDROIT project (40’) 15:15 – 15:55**

**Presenter:** Holger Hartenfels (Freshfields Bruckhaus Deringer)

**Background:** On 23 July 2021 the Commission launched a consultation on the functioning of the EU securitisation framework. In order to deliver on the Commission’s commitment in the capital markets union action plan and in order to prepare the report mandated by Article 46 of the Securitisation Regulation, the consultation seeks stakeholders’ feedback on a broad range of issues, namely: (a) the effects of the regulation, (b) private securitisations, (c) the need for an equivalence regime in the area of STS securitisations, (d) disclosure of information on environmental performance and sustainability and (e) the need for establishing a system of limited licensed banks performing the functions of SSPEs – securitisation special purpose entities. The deadline for the consultation ends on 17 September 2021 and the discussion will aim to determine whether an “EFMLG letter to the Commission would be warranted (also considering previous critical views of EFMLG members on the functioning of the new EU securitisation framework).

Secondly, Holger will present the new UNIDROIT project on bank liquidation to identify best practices in the area of bank liquidation, with special regard to non-systemic banks, to complement existing international standards in related matters. It also includes the treatment of derivate transactions in resolution and liquidation and their exemption from automatic stay.

**Action point:** Potential bilateral input to the Commission relating to the matters covered by the public consultation.

**Documentation:** Presentation

1. **Way forward of the EBA’s Green Asset Ratio exercise (25’) 15:55 – 16:20**

**Presenter:** Iñigo Arruga Oleaga (ECB)

**Background**: As part of the Delegated Act specifying the disclosure obligations under Article 8 of the Taxonomy Regulation, Iñigo and Gyorgy briefly touched upon the Green Asset Ratio at the last meeting, i.e. the proportion EU financial institutions’ assets which are invested in taxonomy-aligned economic activities. Iñigo will present the next steps regarding the GRA including the forthcoming requirement for financial institutions to start moving their balance sheets towards the GRA, and the link between the GRA and the on-going proposal on the EU green bond standard.

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

**Documentation: Presentation**

1. **Miscellaneous (10’) 16:20 – 16:30**

Brexit follow-up discussion on the temporary equivalence for UK CCPs eligible to provide their services in the EU.

Implementation and interpretation issues related to ESG changes to MIFID II

**Action point:** Point for early warning/information