**77TH meeting of the european financial markets lawyers group**

AGENDA

**Friday, 3 December 2021**

**9:30 – 12:00**

**Venue:** WebEx Videoconference

1. **Introduction by the Chair (5’)**

**09:30 – 09:35**

1. **The legislative priorities of the French Presidency of the Council of the European Union (20’) 09:35 – 10:05**

**Presenter:** Sébastien Raspiller (General Directorate of the French Treasury)

**Background:** France will hold the Council of the European Union Presidency from 1 January to 30 June 2022. Sébastien Raspiller from the General Directorate of the French Treasury will present the main priorities under the French Presidency regarding EU banking and financial markets.

**Documentation:** No documentation

1. **Follow up on the EFMLG letter regarding Article 55 BRRD and the response from the European Commission (15’) 10:05 – 10:20**

**Presenter:** Julia Bayón Pedraza (Banco Santander)

**Background:** At the last EFMLG meeting, theresponse from the Commission on the EFMLG letter concerning Article 55 BRRD and the accompanying RTS was discussed. As there was no uniform agreement on how to follow-up on the matter vis-à-vis the European Commission or the SRB, Julia indicated that she would like to revisit the matter at this meeting. A tour de table will follow on the sanctions regime applicable in the respective jurisdictions in case of non- inclusion of the bail in clause.

**Documentation:** Presentation

1. **Way forward on the EBA’s Green Asset Ratio exercise (25’) 10:20 – 10:45**

**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 György briefly touched upon the Green Asset Ratio (GAR) at the last meeting, i.e. the proportion of the assets of EU financial institutions which are invested in taxonomy-aligned economic activities. Iñigo will present the next steps regarding the GAR including the forthcoming requirement for financial institutions to start increasing the GAR of their balance sheet, and the link between the GAR and the on-going proposal on the EU green bond standard since both are EU Taxonomy-oriented.

A tour-de-table will follow in which the views of the EFMLG members will be sought.

**Documentation:** Presentation

1. **Amendments introduced by the forthcoming Corporate Sustainability Reporting Directive to the Transparency Directive, Accounting Directive, Audit Directive and Audit Regulation (20’) 10:45 – 11:05**

**Presenter**: Iñigo Arruga Oleaga (ECB), Katharina Plavec (ECB)

**Background**: The proposal for a directive on corporate sustainability reporting (CRSD) was published by the Commission in April 2021. It would revise and strengthen the existing rules contained in the Non-Financial Reporting Directive by amending the Transparency Directive, the Accounting Directive, the Audit Directive and the Audit Regulation. In particular, the scope of undertakings that would need to report sustainability-related data would be broadened considerably and it is estimated to cover approximately 49 000 companies, including SMEs and credit institutions. Having reliable and comparable climate and environment-related data from companies is also crucial in order for financial institutions to properly calculate and subsequently disclose climate and environment metrics, including information relevant under the prudential framework. The ECB has published an opinion on the proposal in September 2021.

We will briefly introduce the most important aspects of the proposal. “Consolidated” versions of the relevant directives and the regulation to be amended by the CSRD will also be briefly presented. They are included in the documentation for the meeting.

**Documentation:** Presentation; “Consolidated” Directives and Regulation; ECB Opinion.

1. **Issues related to ESG changes to MiFID II (20’) 11:05 – 11:25**

**Presenters:**  Iñigo Arruga Oleaga (ECB), Ainhoa Martínez de Butrón (ECB), Belén Alonso (BBVA), Suzy Vande Wiele (BNP Paribas Fortis), Asmaa Cheikh (Société Générale).

**Background:** Issues surrounding the impact of ESG changes to MiFID II were discussed in An EFMLG subgroup. The subgroup will share with the EFMLG its summary conclusions including the impossibility of certain instruments to comply with the sustainability preference requirement, compliance at the level of the ultimate investment rather than at product level, the eventual sustainability preference for new investments to be measured in relation the portfolio as a whole and not in relation to each new investment, the limitations of Article 1 of the Commission Delegated Regulation (EU) 2021/1253 and, generally, the treatment of derivatives in the on-going legal framework.

**Documentation:**  Presentation on the outcome of the subgroup’s work.

1. **UNIDROIT project on bank liquidation (20’) 11:25 – 11:45**

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

**Background:** 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.

**Documentation:** Presentation

1. **UK CCPs eligibility (15’) 11:45 – 12:00**

**Presenter:** Joost Elsenburg (ING)

**Background:** The European Commission’s temporary equivalence decision on the UK CCPs and the possible ways forward after the end date of that decision were briefly presented at the previous EFMLG meeting. An EFMLG sub-group discussed the topic and drafted a letter to the Commission in which the pressing issues on UK CCPs are laid out. In the meantime, the situation has evolved insofar that the Commission is expected to propose an extension of the equivalence for UK-based CCPs.

**Documentation:** Presentation