

**78<sup>TH</sup> MEETING OF THE EUROPEAN FINANCIAL MARKETS LAWYERS GROUP**

AGENDA

**FRIDAY, 18 MARCH 2022**

**9:00 – 12:20**

**Venue: WEBEX VIDEOCONFERENCE**

**External speakers:** Céu Pereira and Markus Metschitzer (European Commission, DG FISMA – Retail Payments)

**1. Introduction by the Chair (5') 9:00 – 9:05**

**2. ESMA guidelines on certain aspects of the MiFID II suitability requirements (30') 9:05 – 9:35**

**Presenter:** Ignacio Ollero (BBVA), members of the EFG/MiFID II EFMLG Subgroup.

**Background:** In accordance with the obligations set out in MiFID II investment firms providing investment advice or portfolio management have to provide suitable personal recommendations to their clients or have to make suitable investment decisions on behalf of their clients. On 27 January 2022, ESMA has released for consultation draft ESMA guidelines on certain aspects of the MiFID II suitability requirements, built on the text of the 2018 guidelines. The 2018 guidelines are being reviewed following the adoption by the European Commission of the changes to the MiFID II Delegated Regulation to integrate sustainability factors, risk and preferences into certain organisational requirements and operating conditions for investment firms. ESMA invites comments on all matters in the consultation paper by 27 April 2022 and in particular on the specific questions summarised therein (see Annex 1 in the linked: [consultation paper](#)).

**Action point:** Possible EFMLG response letter to ESMA on its draft guidelines.

**Documentation:** ESMA consultation paper of 27 April 2022 and presentation.

**3. Review of the Payment Services Directive (30') 9:35 – 10:05**

**Presenter:** Céu Pereira; Markus Metschitzer (European Commission, DG FISMA – Retail Payments)

**Background:** As announced in its retail payments strategy of 24 September 2020, the European Commission will launch a comprehensive review of the application and impact of PSD2. The public consultation is planned to start in the first quarter of 2022 (link: [Payment Services Review](#)). In addition, the Commission also plans to present a legislative proposal for a new 'Open Finance' framework in order to reap the full potential of the Payment Services Directive. Céu Pereira and Markus Metschitzer from the European Commission (DG FISMA) will present the PSD2 review process.

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

**Documentation:** Presentation.

**4. Information point on EU, US and UK sanctions vs Russia (25') **10:05 - 10:30****

**Presenters:** I. Arruga Oleaga (EU), S. Hlášková Murphy (EU), N. Lenihan (US), M. Svoboda (UK)  
– ECB,

The EU restrictive measures vs Russia adopted in February and March 2022 by the Council of the EU will be explained. US and UK sanctions vs Russia will also be covered.

**Action point:** Point for information.

**Documentation:** Presentation.

- **5 minutes Break** -

**5. ESMA Consultation Paper on the trading venue perimeter (30') **10:35 – 11:05****

**Presenter:** Sean Schneider (ING)

**Background:** On 28 January 2022 the ESMA launched a consultation paper on what constitutes a multilateral system and the trading venue perimeter clarifying the related MiFID II provisions (i.e. providing guidance on when systems should be considered as multilateral systems and seek for authorisation as trading venues). The consultation paper also provides guidance on concrete examples, where the trading venue perimeter is not easily identified and might be subject to different interpretations from market participants and national competent authorities. Stakeholders, in particular investment firms and market operators, are invited to submit their input by 29 April 2022. ESMA will consider the feedback received to the consultation and publish a final report in Q3 2022.

**Action point:** To be discussed at the meeting - possible EFMLG response letter to ESMA.

**Documentation:** ESMA consultation paper of 28 January 2022 (see linked [consultation paper](#)) and presentation.

**6. EBA guidelines for institutions and resolution authorities on improving banks' resolvability and consultation on transferability (30') **11:05 – 11:35****

**Presenter:** Holger Hartenfels (Freshfields)

**Background:** On 13 January 2022 the EBA published its final Guidelines on improving banks' resolvability and are based on international standards and leveraging on EU best practice. The resolvability Guidelines set-out requirements in the areas of operational continuity in resolution, access to financial market infrastructure, funding and liquidity in resolution, bail-in execution, business reorganisation and communication. At the same time, the EBA launched a public consultation on transferability of parts of or a whole bank in the context of resolution, assessing the feasibility and credibility of transfer strategies and encompass requirements relating to the implementation of transfer tools. The consultation runs until 15 April 2022 and is accessible here: [consultation paper](#).

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

**Documentation:** EBA consultation paper and presentation.

## **7. AOB ('45)**

**11:35 – 12:20**

- Next Quadrilateral meeting of 6 April 2022 from 2 pm – 6 pm CET - György Varhelyi (ECB)
- Recognition of third country CCP regime under Article 25 of EMIR II - Holger Hartenfels (Freshfields).
- Follow-up on the sanctioning issue under Article 55 BRRD – Julia Bayon Pedraza (Santander) – Patricia Vornhagen (Deutsche Bank)
- Contingency planning as regards SWIFT and Target unavailability due to eventual cyber-attacks - Eva O'Kelly (Bank of Ireland)