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34TH MEETING OF THE EUROPEAN FINANCIAL MARKETS LAWYERS GROUP AGENDA

TUESDAY, 2 MARCH 2010 (from 09.00 to 17.00 HRS)

**VENUE: DEUTSCHE BANK A.G. Theodor-Heuss-Allee 70,
60486 Frankfurt am Main**

Meeting room: C28, 14-16

1. Approval of the agenda and of the aide-mémoire of the last meeting

2. Market Standard Documentation: Lessons Learned from Turmoil (*for discussion*)

Issue: The EFMLG will be given the opportunity to discuss the latest draft of the EFMLG Report on Market Standard Documentation, as prepared by Linklaters and commented upon by members of the task force. The draft report is close to finalisation and the intention is to collect some final comments. In addition, it should be also discussed how the EFMLG intends to publicise its views and support wider acceptance of such market standard documentation.

Documents: Draft EFMLG Report on Market Standard Documentation

Rapporteurs: Mr. Holger Hartenfels

3. Report on central counterparties: report to the European Commission (*for discussion*)

Issue: The focus of the topic is the ongoing regulatory reforms relating to the governance and oversight of OTC markets, the clearing of OTC standardized derivatives, pre- and post execution reporting from banks and central counterparties. The relevant EFMLG working group has started its assessment of the subject matter and produced a first draft report.

Documents: First preliminary draft of the EFMLG Report on central counterparties prepared by the working group

Rapporteur: Mr. Ulrich Parche

4. Short selling, settlement failure and financial market integrity - Do we need EU wide harmonised post-trading rules? (*for discussion*)

Issue: The discussion paper deals with the issue of short selling, its benefits, the risks it involves and the possible measures to address such risks. Such measures should in particular involve harmonised rules relating to disclosure and relating to settlement `risks and discipline.

Documents: Discussion paper prepared by Dimitris Tsibanoulis, with attachments

Rapporteur: Dimitris Tsibanoulis

5. Electronic Trading - Terms and Conditions, Substantive Terms and Authority for Acceptance(*for discussion*)

Issue: Terms and conditions relating to electronic trading are often displayed on websites by different suppliers. In order to trade, a dealer must click and accept such terms. The terms provide that the financial institution will be automatically bound by these terms as soon as the end user clicks acceptance or uses the service. Such practice is problematic in different respects. The objective is to check whether the EFMLG has an interest in dealing with this topic in more detail.

Documents: Discussion paper prepared by Helen Moran

Rapporteur: Helen Moran

6. Benchmarking exercise – responses to different public consultations of the Commission and CESR regarding the upcoming MIFID revision (*for discussion*)

Issue: There have been recently different public consultations of the Commission and CESR regarding the upcoming revision of the MIFID. It would be useful to carry out a benchmarking exercise during which the response of different banks to some aspects of these consultations could be reviewed and compared.

Documents:

- Consultation of CESR on Inducement: Good and Poor Practices.
- Q&A of CESR on MIFID complex and non-complex financial instruments for the purposes of the Directive's appropriateness requirements.
- Consultation of CESR: Understanding the definition of advice under MIFID.
- CESR paper on Waivers from pre-trade transparency obligations under MIFID.
- Consultation of DG Markt on best execution under MIFID.
- Point of discussion of DG Markt with stakeholders on conduct of business issues under MIFID.

Rapporteur: Moise Ba

7. Public consultation on provision of ABS loan level information in the Eurosystem collateral framework (for discussion)

Issue: There has been a recent public consultation on a project initiated by the Eurosystem aiming to raise the disclosure standards of securitisation markets. More transparent and timely information on the underlying loans and their performance, in a standardised format, would help rating agencies and investors in their due diligence and restore the weakened confidence in the securitisation markets. The project has legal implications as well and EFMLG can decide upon the ways to involved with the project.

Documents:

- Public consultation document on the provision of ABS loan-level information in the Eurosystem collateral framework
- RMBS loan-level reporting template - ECB consultation on loan-by-loan information for ABSs

Rapporteur: Otto Heinz

8. Prime collateralised securities: Initiative of AFME and ESF regarding the revitalisation of the securitisation markets (for information/discussion)

Issue: The Association for Financial Markets in Europe and the European Securitisation Forum is currently working with market participants on an initiative aiming at the revitalisation of the securitisation markets. The essence of the initiative is a quality label, assigned to ABS fulfilling the criteria designed. The initiative is still in its initial preparatory phase, and the idea is to provide some information about it and seeking the views of EFMLG members about the role the EFMLG could play in this context.

Documents: PSC Project Update of 11 December 2019 prepared by AFME and ESF

Rapporteur: Otto Heinz

9. Other issues – Next meetings (for discussion/information)