

15 October 2010

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37TH MEETING OF THE EUROPEAN FINANCIAL MARKETS LAWYERS GROUP AGENDA

THURSDAY, 28 OCTOBER 2010 (from 10.30 to 17.30 HRS)

**VENUE: Meeting room CII, 36th floor Eurotower
Kaiserstrasse 29**

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

2. Scope of legal privilege in the EU

Issue: The recent decision of the European Court of Justice in the AKZO Nobel case has clarified the extent to which companies may be able to prevent disclosure of documents during European Commission competition investigations on the basis that the documents are protected by legal professional privilege. Members are invited to discuss the implications of this decision.

Documents:

- The judgement of the ECJ in case C-550/07 P.
- Client briefing on the subject by Mayer Brown of September 2010
- Client briefing on the subject by Ashurst of 10 September 2010
- Client briefing on the subject by Weil Gotshal of 23 September 2010

Rapporteur: The Chairman

3. Policy options regarding European Contract Law

Issue: The European Commission has published a Green Paper on policy options for progress towards a European Contract Law for consumers and businesses. The EFMLG has provided input already on the Daft Common Frame of Reference itself, this time it is about the policy options of how to implement such a project. The Commission expect input on this by the 31 January 2011.

Documents: The European Commission's Green Paper on policy options for progress towards a European Contract Law for consumers and businesses.

Rapporteur: The Chairman

4. Commission plans regarding netting legislation

Issue: The Commission is currently considering acting upon the suggestion to have specific EU legislation on close out netting.

Documents: Letter of EFMLG/ISDA to the European Commission of 14 April 2008 on 'Directive 2002/47/EC on Financial Collateral Arrangements – Proposal for a European Netting Directive', with annexes

Rapporteur: tbc

5. Securities Law Directive

Issue: A group of EFMLG members met the Commission in Brussels on the 20 September 2010 regarding the proposed Securities Law Directive. The meeting will be summarised and the way forward will be discussed.

Documents: Letter of the EFMLG to the European Commission of 23 June 2010
Reply letter from the European Commission to the EFMLG of 5 July 2010

Rapporteur: The Chairman

6. Seminar on legal aspects of clearing (up to 3 hours following lunch)

Issue: Legal aspects of clearing. Short seminar provided by Clifford Chance and ISDA. The topics are to include the following:

- Outline of Legal Structure of the Clearing Houses and Key Legal Issues
- Customer Documentation
- Coverage of Clearing Houses in ISDA Netting Opinions
- Clearing Documentation Workshop

Documents: tbc

Rapporteur: Dr. David Murphy of ISDA and Jeremy Walter, Marc Benzler and Caroline Meinertz of Clifford Chance

7. ABS update

Issue: Members will receive further update on two major projects aimed at reviving the European securitisation market: the ABS loan level data initiative and the Prime Collateralised Securities (PCS) project. With respect to this latter project, members will

be invited to consider the possible involvement of the EFMLG with some legal aspects of the exercise.

Documents: PSC Investor survey, with attachments

Rapporteur: Otto Heinz

8. Work Plan for 2011

Issue: Members will be invited to put forward ideas regarding the work items for next year.

Documents: n/a

Rapporteur: The Chairman

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