

18 November 2011

Contact person: Mr. Otto Heinz  
Tel.: +49 69 1344 6085  
E-mail: [otto.heinz@ecb.europa.eu](mailto:otto.heinz@ecb.europa.eu)

Contact person: Mr. Inigo Arruga  
Tel.: +49 69 1344 8654  
E-mail: [inigo.arruga@ecb.europa.eu](mailto:inigo.arruga@ecb.europa.eu)

## **40<sup>TH</sup> MEETING OF THE EUROPEAN FINANCIAL MARKETS LAWYERS GROUP AGENDA**

**WEDNESDAY, 14 DECEMBER 2011**

**10.30 - 18.00 HRS**

**VENUE:** ECB Offices at the Commerzbank Building (Altes Commerzbank Hochhaus),  
Neue Mainzer Strasse 32 - 36, 60311 Frankfurt am Main

**Meeting room:** CB04 (2nd floor)

- 1. Approval of the agenda**
- 2. UNIDROIT Study Group on Principles and Rules On The Netting Of Financial Instruments and Update on the work on the close-out netting directive (for discussion)**

**Issue:** The second meeting of the UNIDROIT Study Group discussed the revised Preliminary Draft of the Principles on Close-out Netting of Financial Instruments including the definition of “netting agreement” and first thoughts on eligible products and covered parties. Also update will be given on the state of affairs regarding the relevant EU legislative plans.

**Documents:**

- Presentation - UNIDROIT initiative on netting of financial instruments
- Report of the First Meeting of UNIDROIT Study Group on principles and rules on the netting of financial instruments - Rome, 18 – 21 April 2011
- Provisional list of participants of the Second Meeting of UNIDROIT Study Group on principles and rules on the netting of financial instruments - Rome, 13 – 15 September 2011
- Draft Commission Proposal for a Directive establishing a framework for the recovery and resolution of credit institutions; Article 52 (page 76) Termination and set-off rights in resolution
- FSB Paper “Key Attributes of Effective Resolution Regimes for Financial Institutions” of October 2011, Part 4 (page 10) and Annex IV (page 41) on Set-off and netting and the conditions for a temporary stay
- Preliminary draft of the Principles regarding the Enforceability of Close-out Netting

**Rapporteur:** Holger Hartenfels

### **3. Issues relating to the financial / sovereign crises (for discussion)**

**Issue:** The banks of all EFMLG members are inevitably significantly affected by the ongoing sovereign debt crises in different ways. Important legal questions arise in addition to business and operational ones. It is essential to share the different problems, views and solutions within the group. Each member would be requested to present briefly his or her experience on the matter. It is envisaged to devote a significant part of the meeting to this topic.

**Documents:**

**Rapporteurs:** Tour de table

### **4. Recent developments in Greece (for discussion)**

**Issue:** Among the recent developments in Greece, the new Greek Banking Restructuring Law as well as questions concerning the bank run risk and proposals to face it, will be of interest for the EFMLG.

**Documents:**

- Presentation - The Eurozone Crisis and the Hellenic Financial Turmoil

**Rapporteur:** Dimitris Tsibanoulis

### **5. Depositor preference laws (for discussion)**

**Issue:** A number of European countries are currently legislating or proposing to legislate to introduce a depositor preference rule into insolvency laws. Following a presentation of relevant European and international developments in this field, an exchange of views will take place regarding members' views on the desirability of such a rule.

**Documents:**

**Rapporteur:** Niall Lenihan

### **6. European Regulation on OTC Derivatives Transactions, Central Clearing and Trade Repositories (for discussion)**

**Issue:** With the European Market Infrastructure Regulation (EMIR) envisaged to enter into force in 2012, the EU will have a new derivative clearing landscape, with existing Central Counterparties applying for recognition under EMIR rules within two years from the entry into force and Trade Repositories having to do so in 2012 already. A number of questions of interest for EFMLG members will be brought for reflection.

**Documents:**

- Presentation - Uncleared OTC Derivatives Trades - Segregation of Independent Amounts - Some reflections on Dodd-Frank and EMIR requirements

**Rapporteur:** Chandra Bhargavan

## **7. Rating Agencies (for discussion)**

**Issue:** The conduct of rating agencies during different stages of the crises deserves some scrutiny. Members will be invited to share their experience with their banks possibly being involved with the rating process of their clients. In addition, it deserves attention that the EU Commission has published its legislative proposals for further amendments to the EU rules on credit rating agencies (CRAs), consisting of a proposed regulation amending Regulation 1060/2009 on CRAs and a proposed directive amending Directive 2009/65/EC on Undertakings for Collective Investment in Transferable Securities (UCITS IV) and the Alternative Investment Fund Managers Directive (AIFMD) in respect of the excessive reliance on credit ratings.

**Documents:**

- EC Proposal for a Regulation amending Regulation (EC) No 1060/2009 on credit rating agencies
- EC Proposal for a Directive amending Directive 2009/65/EC and Directive 2011/61/EU

**Rapporteur:** The Chairman

## **8. Organisational issues regarding the EFMLG (for discussion)**

**Issue:** Issues to be discussed include the following:

- a) EFMLG future concrete actions/tasks/positioning in the current regulatory changes environment;
- b) Better EFMLG pro-activity;
- c) Succession of Hubert de Vauplane as EFMLG Vice Chairman;
- d) 2012 Schedule.

**Documents:**

**Rapporteur:** The Chairman