



The EFMLG Newsletter complements the information available on the EFMLG website ([www.efmlg.org](http://www.efmlg.org))  
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### **1. EFMLG support for the European Master Agreement (EMA)**

At its last meeting the EFMLG discussed how to address the long-term viability of the EMA.

The EMA plays an important role in the EU's financial legal infrastructure. Even though the EMA has a standard content across the EU, the agreement is usually concluded by the parties in their local language, and governed by the laws of their chosen EU Member State, and subject to the jurisdiction of the courts of that EU Member State. Given that it covers both derivatives and repos, it enables cross-product netting, unlike other master agreements. However, the EMA's clear potential, has not been realised yet, in particular as a result of the absence of regular updates of the agreement and the accompanying legal opinions.

This topic becomes particularly relevant in light of the fact that the current standard market documentation in Europe for derivatives and repos/securities lending is governed by English law, and subject to the jurisdiction of English courts. In light of Brexit, English law will no longer be the law of an EU jurisdiction, and subjecting the agreement to the jurisdiction of the English courts would mean solving disputes in a jurisdiction outside the EU.

The revival of the EMA would require a concerted effort by the private and public sector. The EFMLG is liaising with the EBF, who has taken the lead

for the project, with the support of the local banking federations. The EFMLG has set up a working group to examine the different issues. The EFMLG stands ready to provide active and ongoing support to the EMA.



*EFMLG meeting on 28 April 2017, Madrid*

### **2. Quadrilateral 2017**

The Quadrilateral Meeting of the Financial Markets Law Committee (FMLC), Financial Markets Lawyers Group (FMLG), European Financial Market Lawyers Group (EFMLG), and the Financial Law Board (FLB) took place on 14 July 2017 in New York, hosted by the Federal Reserve Bank of New York. The representatives of the four groups meet once a year to discuss developments in financial markets law.

The topics on the agenda were as wide-ranging as the FX Global Code, U.S. and non-U.S. regulatory developments, margin rules, Fintech and Brexit. The EFMLG representatives presented issues such as the European Commission's recent proposal to amend EMIR as regards the procedures and authorities involved for the recognition of third-country CCPs and issues regarding margin requirements, and on the

Commission's proposal to amend the BRRD.

The summary minutes will be published on the FMLG's website at <https://www.newyorkfed.org/fmlg>

### **3. BRRD review**

The EFMLG is working on a short commentary letter regarding the amendments to the BRRD, as proposed by the European Commission on 23 November 2016. The letter will touch upon, *inter alia*, the new Article 29a on the power to suspend certain obligations in the context of the application of the early intervention moratorium and the amendment of Article 44(2)(f) and of Article 55 (contractual recognition of bail-in).

### **4. Meetings**

The **last** EFMLG meeting was held on 28 April 2017 in Madrid at Cecabank.

The **next** EFMLG meeting will be held on 9 November 2017 in Frankfurt at the ECB.



*EFMLG meeting on 28 April 2017, Madrid*