Corporate Governance for Banks in the Post-Crisis Environment

Trier, 26-27 April 2018

Speakers

Hanne Birkmose, Professor of Law, Aarhus University*

Anna Gardella, Legal Expert, European Banking Authority, London*

Matteo Gargantini, Assistant to the Commissioner, Italian Companies and Exchange Commission (Consob), Rome

Katarzyna Koblinska-Hillard, Company Law Team, DG Justice, European Commission, Brussels

Maria Rosa Lastra, Professor, Queen Mary University of London*

Edmund Philipp Schuster, Assistant Professor of Law, London School of Economics; Counsel for the M&A team, Baker & McKenzie, Vienna

Steven L. Schwarcz, Stanley A. Star Professor of Law & Business, Duke University; Founding Director of Duke’s Global Financial Markets Center, Durham, North Carolina*

Ignacio Tirado, Senior Legal Consultant, World Bank, Madrid

* to be confirmed

Key topics

- Achieving sustainable banking through shareholder empowerment
- The New Shareholder Rights Directive
- The impact on shareholders of the BRRD and insolvency mechanisms
- Banks and supervisors: impact of infringing independence on banks' long-term prospects
- Directors' duties to inform and recommend
- Corporate governance within the larger network of financial regulation
- Banking governance beyond the EU

Language
English

Event number
218D47

Organiser
ERA (Maria Todorof)
Corporate Governance for Banks in the Post-Crisis Environment

Thursday, 26 April 2018

8:30 Arrival and registration of participants
9:10 Opening of the seminar
   Maria Todorof

I. SHAREHOLDERS’ RIGHTS AFTER THE LATEST FINANCIAL AND POLITICAL CRISES

9:15 Keynote:
   European Commission

9:30 The EU Bank Recovery and Resolution mechanisms from the point of view of shareholders
   • The status of shareholders under the new regime
   • What are the possible consequences?
   • Further weakening of shareholders’ rights (e.g. in a resolution scenario)?
   • Other issues to consider
   Anna Gardella*

10:15 Discussion

10:30 Shareholders vs stakeholders in the wake of Brexit
   • The effect on secured creditors and how this would affect the price of lending
   • Will the UK’s exit diminish the status of shareholders on the Continent? Will shareholders’ primacy be (further) challenged in the foreseeable future?
   • Potential issues with minority shareholders
   • The French Florange Act’s effect on the market for corporate control
   • Has the Capital Markets Union (CMU) process failed to address minority shareholders rights?2018 Commission proposals package and proposed areas for improvement
   Ignacio Tirado

11:15 Discussion
11:30 Coffee Break

II. ISSUES IN CONNECTION WITH INSOLVENCY

12:00 The EU insolvency creditors hierarchy: possible consequences of the Proposal for a Directive on Restructuring (COM/2016/0723)
   • The effect on secured creditors and how this would affect the price of lending
   • The link to non-performing loans: restructuring of companies to prevent bankruptcy and the requirements under the CRD IV
   • The 2018 Commission proposals package and proposed areas for improvement
   Ignacio Tirado

12:45 Discussion
13:00 Lunch

III. SHAREHOLDERS AND FINANCIAL STABILITY: NEW LEGISLATION AND POLICY DEVELOPMENTS

14:00 (Barriers) On the road to sustainable banking in the EU
   • How to encourage shareholders to consider the long-term perspectives of their bank?
   • Suggestions to promote shareholder activism
   • Overcoming the victim mentality: Shareholders vs. Creditors
   • Recurrent supervisory issues
   • Competition law and financial stability: risk of excessive supervision
   • Public interest vs. private interest and how this conflict may shape the future of companies and company law
   Hanne Birkmose*

14:45 Discussion

Objectives

- To analyse the impact of post-crisis regulation on banks’ long-term performance and the state of shareholders’ rights
- To explore the long-term consequences on financial stability of the current BRRD and insolvency regimes
- To examine the possible barriers to sustainable banking and the link between supervision and banking governance

Who should attend?

Corporate governance and banking lawyers, shareholder associations, banking supervisors, practitioners from the banking industry.

You will learn...

- About banking shareholders’ status in the new regulatory environment
- The main points of the new Shareholder Rights Directive
- How EU corporate governance for banks compares to the US
- About the link to non-performing loans
- What minority shareholders should expect after Brexit
- More about directors’ duties to shareholders in the banking context

Your contact persons

Maria Todorof
Course Director
E-Mail: mtodorof@era.int

Nathalie Dessert
Assistant
E-Mail: ndessert@era.int
15:00 The main points of the new Shareholder Rights Directive (2017/828)
- How does the revised Act fit within the current regulatory narrative?
- How is the interaction between shareholders and companies approached?
- Issues of transparency; what should be disclosed?
- Provisions on remuneration and related party transactions
- The upcoming implementing Acts – what to expect?
  Matteo Gargantini

15:45 Discussion
16:00 Coffee break

IV. EFFECTIVE CORPORATE GOVERNANCE FOR FINANCIAL STABILITY

16:30 Aspects of the interaction between EU supervisors and EU banks
- Infringing on banks’ independence? A view of the possible consequences
- FinTech impacting bank governance: increased short-termism, deposit runs in times of crisis, governance benefits of algorithmic and high-frequency trading
- The role of supervisors during periods of stability and crises

17:15 Discussion
17:30 End of first seminar day
19:00 Guided Tour of Trier
20:00 Dinner

Friday, 27 April 2018

09:30 Directors’ duties to shareholders in the banking context
- Directors’ duty to inform and recommend how to vote in shareholder resolutions
- The Lloyds Bank case
- Directors’ duties in bank takeovers and shareholder protection in the EU and beyond
  Edmund Schuster

10:15 Discussion
10:30 Corporate governance under the new EU banking legislation
- Corporate governance under the CRD IV rules
- The CRD IV reshaping bank boards and liabilities of their members
- MiFID II: corporate governance aspects of the provisions concerning management body, compliance, conflict of interest and product governance
  Katarzyna Koblińska-Hillard

11:15 Coffee break
11:30 Cross-border corporate governance
- The US approach to corporate governance
- Banking insolvency in a cross-border context
- Are there lessons to be learnt from the comparison?
  Maria Rosa Lastra*

12:15 Discussion
12:30 End of seminar and light lunch

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Evening programme: I shall attend the dinner on 26 April 2018 (at no extra charge).

Registration fee

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  - Fellows of the European Law Institute

** Young lawyers & other groups
  - For young lawyers up to 30 years of age (important: the participant must provide a copy or details of his or her passport or identity card on registration);
  - Full-time staff of universities or comparable academic institutions;
  - Staff of charitable organisations or comparable institutions
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