Bartels-Ernoult-Hafner-Metin-Schoppmann

EUROPEAN BANKING AND FINANCIAL SERVICES LAW

Fifth Edition



in association with



European Association of Public Banks

- European Association of Public Banks and Funding Agencies AISBL -

www.eapb.eu

Status data: 1 September 2012

Table of Contents

Prerac	.e		VII
Chap	ter A.	Banking and Banking Supervision Law	1
Introd	luction		1
A.I.	Texts a	adopted by the EU	3
	A.I.1.	Deposit Guarantee Schemes Directive	3
	A.I.2.	BCCI Directive	7
	A.I.3.	Reorganisation and Winding Up Directive	9
	A.I.4.	Financial Conglomerate Directive.	12
	A.I.5.	Recast Banking Directive (CRD)	17
	A.I.6.	Recast Capital Adequacy Directive	32
	A.I.7.	Directive on the Supervisory Approval Process for M&A	39
	A.I.8.	Amendments to the Capital Requirements Directive - CRD II	42
	A.I.9.	Amending Directive to the Capital Requirements Directive - CRD III.	48
	A.I.10.	Supplementary Supervision Financial Conglomerate	52
A.II.	Propo	sals under discussion	55
	A.II.1.	CRD IV Package	55
	A.II.2.	Revision of the European Supervisory Structure	61
	A.II.3.	Recovery and Resolution Directive	66
	A.II.4.	Recast Deposit Guarantee Schemes Directive	71
A.III.	Other	· Initiatives	74
	A.III.1.	. Green Paper on Shadow Banking	74
Chap	ter B.	Capital Markets and Securities Law	77
Intro	duction		77
B.i.	Texts	adopted by the EU	80
	B.I.1.	ESMA-Regulation	80
	B.I.2.	Credit Rating Agencies Regulation	83
	B.I.3.	UCITS Directive	91
	B.I.4.	AIFM Directive	99

	B.I.5.	Investor Compensation Schemes Directive	103.
	B.I.6.	Stock Exchange Law Directive.	105
	B.I.7.	Prospectus Directive	108
	B.1.8.	Market Abuse Directive	114
	B.I.9.	Transparency Directive	118
	B.I.10.	MiFID	123
	B.I.11.	Regulation on Short Selling and certain aspects of Credit Default Swaps	129
	B.1.12.	Regulation on OTC Derivatives, Central Counterparties and Trade Repositories	133
B.H.	Propo	sals under discussion	137
	B.II.1.	Review of the Investor Compensation Schemes Directive	137
	B.II.2.	Review of the MiFID	139
	B.II.3.	Review of the Market Abuse Directive	144
	B.II.4.	Review of the Transparency Directive	147
	B.II.5.	Review of the Regulation on Credit Rating Agencies (CRA III)	150
	B.11.6.	Regulation on European Venture Capital Funds	152
	B.II.7.	Regulation on European Social Entrepreneurship Funds	154
	B.II.8.	Regulation on Central Securities Depositories	156
	B.H.9.	Regulation on Key Information Documents for Investment Products (PRIPs)	159
	B.II.10). Review of the UCITS Directive (UCITS V)	162
n			164
B.III.		initiatives	164
	B.III.1	. Clearing and Settlement in the European Union	104
•		Accounting and Company Law	173
Intro	duction	l	173
C.1.	Texts	adopted by the EU	176
	C.I.1.	Bank Accounts Directive.	176
	C.I.2.	Bank Branches Directive	179
	C.I.3.	Fourth Company Law Directive (Annual Accounts Directive)	181
	C.I.4.	Seventh Company Law Directive (Consolidated Accounts Directive) .	186
	C.I.5.	Fair Value Directive.	190
	C.I.6.	Modernisation Directive	193
	C.I.7.	IAS Regulation	196

	C.I.8. Second Company Law Directive (Formation of lis	ted Companies) 2	203
	C.I.9. Directive on Statutory Audit		205
	C.I.10. Corporate Governance Directive		210
	C.I.11. Statute for a European Company (SE)		213
	C.I.12. Takeover Bids Directive		216
	C.I.13. Tenth Company Law Directive (Cross-Border Merg	gers for Companies) 2	220
	C.I.14. Shareholders Rights Directive		223
C.II.	Proposals under Discussion		225
	C.II.1. Proposal for a Statute for a European Private Cor	mpany	225
	C.H.2. Accounting Directive (Review)		227
	C.H.3. Statutory Audit (Review)		230
C.III.	Other initiatives	2	232
	C.III.1. Action Plan on Company Law and Corporate Go	vernance 2	232
	C.III.2. Action Programme on Reducing Administrative B	Burdens	236
	C.III.3. Recommendation on Remuneration Policies in th		239
	C.III.4. Recommendation on Remuneration of Directors	of Listed Companies 2	242
	C.III.5. Green Paper on Corporate Governance in Financi	ial Institutions	244
	C.III.6. Green Paper on the European Corporate Governa	ance Framework	247
Chap	pter D. Consumer Law		249
Introd	duction		249
D.I.	Texts adopted by the EU		251
	D.I.1. Consumer Credit Directive		251
	D.I.2. Directive on Unfair Terms in Consumer Contract	s	255
	D.1.3. Directive on Misleading and Comparative Advert	ising	257
	D.I.4. Distance-Selling Directive		260
	D.I.5. E-Commerce Directive		262
	D.I.6. Distance Marketing of Financial Services Directive	e	264
	D.I.7. Unfair Commercial Practices Directive		268
D.II.	Proposals under discussion		270
	D.II.1. Mortgage Credit Directive		270
D.III.	Other initiatives		273
	D.III.1. Code of Conduct for Home Loans		273

	D.III.2.	Directive on Alternative Dispute Resolution	276
	D.III.3.	Green Paper on Retail Financial Services	278
Chap	ter E.	Taxation	281
Introd	duction		281
E.I.	Texts a	adopted by the EU	282
	E.I.1.	VAT-Directive	282
	E.I.2.	Savings Taxation Directive	285
	E.I.3.	Parents-Subsidiaries Directive	290
E.II.	Propo	sals Under Discussion	292
	E.II.1.	Proposal for a Directive on a Common Consolidated Corporate Tax	
		Base	292
	E.II.2.	Proposal for a Directive on a Common System of Financial	
		Transaction Tax	294
E.III.	Other	initiatives	297
	E.III.1.	Commission Recommendation on Withholding Tax Relief Procedures	297
Chap	ter F.	Payments	299
Introd	duction		299
F.I.	Texts	adopted by the EU	300
		Directive on Payment Finality and Securities Settlement	300
	F.I.2.	E-Money Directives	302
	F.I.3.	Regulation on Cross-Border Payments	305
	F.I.4.	Payment Services Directive	308
	F.1.5.	Review of the Payment Finality Directive	313
	F.I.6.	New E-Money Directive	315
	F.I.7.	SEPA-Regulation	317
F.II.	Other	Initiatives	319
		Common Principles for Bank Account Switching	319
		Common Principles on Bank Fees	321
		Recommendation on Basic Payment Accounts	323
		Green Paper on Card, Internet and Mobile Payments	324

Chap	ter G.	Money Laundering and Financial Crime	327
Introd	luction		327
G.I.	G.I.1. G.I.2.	Third Anti-Money Laundering Directive	330 330 337 343
	G.I.4.	Wire Transfers Regulation	346
G.II.		EU Strategy against Proliferation Financing	349 349
Chap	ter H.	Competition Law	353
Introd	duction		353
H.I.	_	text adopted by the EU	355 355 360
H.II.		Initiatives	365 365
Chap	ter I.	Civil Law	369
Intro	duction		369
L.I.	Texts 1.1.1. 1.1.2.	adopted by the EU European Enforcement Order Regulation	371 371 373
1. II.	Other	European Contract Law	375 375
Chap	eter J.	Miscellaneous	379
J.I.	Texts J.l.1.	adopted by the EU	379 379
J.II.	Propo	Directive on Public Procurement	382 382
J.III.		initiatives	384 384

Chapter K. Legislative and Regulatory Procedures	391
K.2. Extended Legislative Procedure	3 9 1
K.3. Ordinary Legislative Procedure	399
Index of Keywords	401
List of Abbreviations	417
List of Directives	421
List of Regulations	429