

## Banking Commission Annual Meeting Miami

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### Legal Committee Meeting

**Date:** Wednesday, 4 April 2018  
9am – 12pm

**Venue:** Room Balmoral  
InterContinental Hotel  
100 Chopin Plaza  
Miami, FL 33131  
USA

**Participants:** Georges Affaki\*, Frieder Bauer, Christian Bergeron\*, Philippe Berta, James Byrne, Anglia Chia, Tabitha Coombe\*, Patrick Eberhardt\*, Sean Edwards, Xiang Gao, Annette Köhler, Hans Kuhn\*, Esther Nin Camps\*, Ivan Roldan Moreno, Daniel Rodriguez\*, Cristina Rooth\*, Mary Rosen, Kellie Scott, Sonja Straessle Dillier\*, Lorna Strong, Eleonore Treu, Stephen Tricks\*, Ron van Staten, Geoffrey Wynne\*  
(\*by phone)

### Agenda

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#### Agenda:

1. Welcome and opening remarks by the acting Chair.
2. Appointment of recorder for the meeting.
3. Review and adoption of the agenda for the meeting.
4. Keynote Speaker: **Douglas Landy and Nicholas Smith.**

Douglas Landy (<https://www.milbank.com/en/professionals/douglas-landy.html>) and Nicholas Smith (<https://www.milbank.com/en/professionals/nicholas-a-smith.html>) are partners at Milbank, Tweed, Hadley & McCloy LLP. Mr. Landy is an expert in U.S. financial services regulation, and has represented many of the world's leading banks and central counterparties (CCPs) in transactions and in front of federal and state regulatory agencies. Mr. Smith is a partner in Milbank's Technology Practice, and advises a wide range of clients on all types of complex technology projects including: outsourcing transactions; IP licensing; cloud services; strategic alliances and collaborations; and technology development and innovation projects.

Mr. Landy and Mr. Smith will discuss current developments in the Volcker Rule, cybersecurity, and financial technology. The discussion will begin with an overview of the Volcker Rule as it exists today, with a focus on the rule's cross-border provisions and the

extent of its extraterritorial impact followed by a review the regulatory efforts currently under way to reform the Volcker Rule, including potential changes to the rule and the anticipated timeline for such changes to become effective. The discussion will then move toward critical topics in financial technology, starting with an overview of the U.S. regulatory environment as it pertains to cybersecurity. The presentation will conclude with an overview of blockchain and distributed ledger technology, including a discussion of its potential real-world applications and recent regulatory developments in the area. (60 minutes)

## 5. Progress report on on-going projects of the Legal Committee:

5.1 Legal Committee webpage: update report on the survey statistics

5.2 **BRRD article 55** – bail-in recognition clause: report by **Ron van Staten** on ICC and BAFT action, EU Commission reply, state of the market.

5.3 **Asymmetrical jurisdiction clause**: report by **Stephen Tricks** on the update of the Committee note on the topic.

5.4 **Payment undertaking**: Report by **Geoff Wynne**.

5.5 **Anti-assignment clauses**: Report by **Dr Hans Kuhn**.

5.6 **Digital trade documents**: Report by **Ron, Stephen, Lorna, and Eleonore**.

5.7 **SWIFT-issued avals and acceptance of negotiable instruments**: a report by **Angelia Chia** (also joined in this matter by **Ron** and **Hans**) on the status of the paper that was agreed during the London meeting to be issued.

5.8 **Lorna Strong** (also joined in this matter by **Ron** and **Christian**) on the phasing-out of LIBOR by the end of 2021.

6. **Law developments in the world**. Committee members are encouraged to report noticeable legal developments in their jurisdiction (or internationally). The Chair proposes that the following be discussed:

7.1 **Stephen Tricks**: Irish Insurance Regulations: the EU (Insurance and Reinsurance) Regulations, 2015 and possible application to letters of credit issued to Irish beneficiaries. Stephen to provide an update on the status of the opinion to share with committee members.

## 7. Any other business.

[Speakers intending to use visual aids or to refer to background reading material are invited to send them in advance].