

International conference

Financial Regulation and Civil Liability in European Law: Towards a More Coordinated Approach?

16-17 November 2017, Amsterdam

Call for papers

The Groningen Centre for European Financial Services Law (GCEFSL), University of Groningen and the Institute of Advances Legal Studies (IALS), University of London organize a series of events on *Financial Regulation and Private Law in European and Comparative Perspective*.

The first international conference in this series will be held on **16 and 17 November 2017** in **Amsterdam**. The topic of this conference is *Financial Regulation and Civil Liability in European Law: Towards a More Coordinated Approach?* The organisers are welcoming the submission of papers that address this theme from legal, regulatory, comparative, law and economics or political science perspectives.

Conference theme

The post-crisis era has witnessed the rise of EU public regulation and supervision in many areas of financial services and activities that were traditionally governed by national private laws. Regulatory transaction-related rules aimed at protecting consumers and investors were introduced or strengthened in the areas of payment, mortgage, investment, and insurance. European supervisory authorities with far-reaching monitoring and intervention powers in these fields were established. In addition, the two central policy initiatives – Banking Union and Capital Markets Union – were launched to catalyse financial integration in the EU by making the financial sector safer and more diverse. Although effective client redress, including compensation for losses resulting from violation of regulatory standards, is important for the ability of EU financial regulation to attain its policy goals, so far the issue of civil liability across various areas of financial services and activities has not been consistently addressed neither at EU or national levels. Whereas some EU measures focussing on consumer/investor protection, such as the Payment Services Directive or Credit Rating Agencies Directive, contain some rules on civil liability, others, like Markets in Financial Instruments Directive (MiFID) or its successor, MiFID II, do not. Having translated many investment firms' private law duties of care and loyalty towards their clients into financial supervision standards, MiFID and MiFID II only left Member States with a duty to ensure their administrative enforcement. The provisions on civil liability are even completely absent in the EU prudential regulatory measures, such as Capital Requirements Directive IV or Bank Recovery and Resolution Directive, which were primarily driven

by the financial stability concerns and adopted with a view to creating the Banking Union. As a result, the ability of aggrieved parties to obtain redress for violation of European regulatory standards still largely depends on national private laws. The role of civil liability as a compensatory and regulatory device across the entire spectrum of EU financial regulation has not been analysed in a comprehensive manner in scholarly works.

This conference aims to explore the interplay between financial regulation and civil liability in the EU multi-level system of governance across different areas harmonised by the EU, both in a transactional setting (eg payments, investment services, mortgage and non-mortgage-backed consumer credit or insurance, prospectus, credit rating, trading on a regulated market) and the prudential domain (eg fit and proper test for top bankers, remuneration, bank resolution tools). The growing importance of public regulation and supervision in these areas as well as the involvement of different actors in providing consumer/client redress (such as civil courts, ADR/ODR bodies, financial supervisory authorities) give rise to many civil liability issues. What is the relationship between public regulation and civil liability within the framework of European integration? What role has been played by the EU and national legislators, courts, ADR bodies and administrative agencies in this context? In particular, do civil courts and ADR bodies give effect to regulatory standards when resolving disputes between financial institutions and their clients in individual and collective proceedings? If so, to what extent? What parties can be held liable for the violation of regulatory rules (financial institutions, their senior management, financial supervisory authorities)? What remedies are available to the aggrieved parties? What procedural obstacles for obtaining compensation arise in national legal orders? What role can be played by financial supervisory authorities in mass damage cases? Do such authorities coordinate their activities with civil courts and/or ADR/ODR bodies, and if so, how? And is there a need for a more coordinated approach to the interplay between financial regulation and civil liability at EU and/or national level across the entire spectrum of regulated services and activities to ensure optimal enforcement?

Abstracts

The organisers are seeking abstracts not exceeding 300 words that address these issues in one or more areas affected by EU financial regulation. Proposals including an abstract, full contact details and institutional affiliation should be sent to mr. Marnix Wallinga at gcefs1@rug.nl by **1 September 2017**. Authors will be notified of decision no later than **8 September 2017**. If your abstract is selected, a full paper will be due on **10 November 2017**. Covered expenses for this event include travel and hotel costs (with a maximum limit).

Convenors

Prof. Olha Cherednychenko
Groningen Centre for European
Financial Services Law,
University of Groningen,
e-mail: o.o.cherednychenko@rug.nl

Prof. Mads Andenas
University of Oslo /
Institute of Advanced Legal Studies,
University of London
email: mads.andenas@jus.uio.no