

**SANCTIONS AND MEASURES IN BANKING AND
CAPITAL MARKETS LAW**

ISSUES OF EU AND NATIONAL LAW

Co-organizers:

**Hellenic Association of European Law
European Association of Banking and Financial Law (AEDBF)**

Friday, 17 October 2008, 16:00-20:30

Europa Hall of Nomiki Bibliothiki, 23 Mavromichali st, 10680 Athens.

I. Subject Matter of the Workshop

1. Sanctions provided by national law in the fields of banking and capital markets law for the safeguarding of EU deriving rules

Special Topics:

- a) Provision of investment services, markets in financial instruments (MiFID), exercise of banking activities (Banking Directives) / (MiFID - 2004/39/EC, Banking Directive - 2006/48/EC / Directive 2006/49/EC);
- b) Prospectus and Public Offers; (Directive 2003/71/EC) / (Directive 2004/109/EC);
- c) Transparency concerning information about listed companies;
- d) Market Abuse (Directive 2003/6/EC)
- e) Undertakings for Collective Investment in Transferable Securities (UCITS Directive 85/611/EC, as in force).

Indicative titles:

- Nature of provided measures / sanctions (criminal, administrative, extent / framework of provided fines etc);
- Form of legislative texts in which the special fines are provided (law, regulatory decisions etc);
- Competency to take measures / impose sanctions;
- Beneficiary of the fine.

2. Supervisory authorities' practice

- a. Procedure and competency to impose sanctions;
- b. Conditions for the imposition of administrative sanctions (i.e. subjective or objective liability?);
- c. Circumstances under which criminal procedures (when provided by law) are initiated (e.g. in which cases a criminal procedure is initiated and by whom);
- d. Criteria for the i) selection amongst different sanctions / measures, cumulatively

provided by law; ii) measurement of sanctions. Are these criteria accessible to the market participants and in what form?

e. Publication of imposed sanctions and measures;

f. Statistics (of examined cases, cases as to which sanctions have been imposed or other measures, which measures / sanctions have been imposed, e.g. revocation of licenses etc.), the addressees of sanctions and measures, e.g. investment firms / credit institutions, listed companies, board members of listed companies, other natural or legal persons etc.).

3. Legal protection/legal tools/case law

a. Adjudicated cases;

b. Content of court rulings (e.g. repeals / suspension of sanctions, mitigation etc., criteria / grounds of judgments);

c. Statistics

II. Program of the Workshop

Part A'

Chairperson: *Ms. Athanassia Tsambassi*, Vice-President of the Hellenic Conseil d'État, Chairperson of the Hellenic Association of European Law

1. General Introduction: *Dr. jur. Dimitris Tsibanoulis, Lawyer*

The EU secondary legislation in banking and capital markets and the implementing Greek Law: Measures, sanctions, case law.

2. Country Reports

Sanctions and measures which the Member States are obliged and entitled to impose for the compliance with the rules imposed by the EU law on the provision of financial services in the banking and capital markets sector- General rationale and analysis of the Greek national law.

a. Belgium: *Mr. Michel Tison*, Professor Gent University

b. France: *Mr. Hubert de Vauplane*, Professor – Panthéon Assas Paris 2

c. Italy: *Mr. Roberto Ferretti*, Lawyer

d. Lithuania: *Mr. Gintautas Posiunas*, Chief Legal Adviser, European Affairs Division, Bank of Lithuania

e. Monaco: *Mr. Jean-Marie Canac*, Lawyer

f. United Kingdom: *Mr. Colin Jamieson*, Lawyer

Part B'

Chairman: **Mr. Hubert de Vauplane**, Professor Panthéon-Assas Paris 2, Member of the AEDBF Board of Directors

1. Comparative overview of sanctions and measures provided in the Member States: Ms. Mina Filippa, Legal Counsel CESR

2. International Institutional Investors and U.S. Securities Class Actions: A Growing Trend, Ms. Anita Kartalopoulos, Lawyer, New York

3. The EU Financial Services Law and the Challenge of the Global Financial Crisis: Is the Existing Regulatory and Sanctions Framework Adequate? – Mr. Emiliós Avgouleas, Professor University of Manchester

4. General Conclusions – Discussion

Co-ordinator: **Mr. Hubert de Vauplane** with the participation of **Mr. Anastassios Gabrielides**, Executive Vice Chairman of the Hellenic Capital Market Commission, the speakers and the audience

- Problems faced or raised by the market and the market participants;
- Legal certainty / transparency as to the interpretation of the rules in force and the applied practices, the procedures and the criteria for the imposition of sanctions;
- Effectiveness of sanctions as to the deterrence of violations;
- Legal protection during the stage prior to the imposition of violations - right to be heard;
- Legal tools;
- Level playing field / competition of legal systems.