



2023 Annual Conference of the
European Society for Banking and Financial Law
(AEDBF / ESBFL)

In collaboration with
the Hellenic Association for Financial Law and
the Hellenic Association for Civil Law

Athens, 6 October 2023

REGULATING 'ATYPICAL' FINANCIAL PRODUCTS IN THE EU

RISKS AND OPPORTUNITIES OUTSIDE MICA, MIFID AND AIFMD

OPEN CALL FOR PAPERS FOR YOUNG SCHOLARS
OF BANKING AND FINANCIAL MARKETS LAW

Short presentation of the 2023 Annual Conference

The expansive policies adopted by the monetary authorities of the Eurozone and many other countries to combat first the Great Financial and Sovereign Debt Crisis and then the Coronavirus pandemic have led to a long period in which interest rates and, more generally, the return on traditional financial investments have been meagre and sometimes close to zero.

This phenomenon prompted many investors, including retail investors, to look for alternative kinds of assets not included in the current perimeter of Financial Regulation but perceived as valuable or safe forms of investment.

These alternative assets include real-economy, traditional assets, such as diamonds and gold, or ownership rights in real estate, offered in such a way as to induce an expectation of financial return against the investment of capital and the assumption of financial risk by the investor. The advent of the blockchain and the consequent possibility to “tokenise” virtually any right, even non-fungible ones, and to create crypto-assets of different kinds have broadened the scope of assets susceptible to be perceived as “investments” in a tendentially boundless manner. Even more recently, the search for sustainable investments has stimulated the creation of new “green” financial assets, such as certificates representing newly planted trees.

Most of these assets do not qualify as financial instruments or PRIIPS and, therefore, do not fall within the scope of the European rules on public offerings and investment services currently in force. The regulations on the offer and trading of crypto-assets in the Markets in Crypto-Assets Regulation (MiCAR) may also not apply to some, if not most, of these assets, even when issued on a distributed ledger: this is the case, for instance, of NFTs.

This regulatory gap has sometimes spurred national legislators and supervisory authorities to adopt new rules or adapt existing ones to new products to ensure investor protection and safeguard against the risk of money laundering. National regimes may therefore contemplate autochthonous notions that might include some of these assets in the scope of national financial legislation.

This has been done, however, absent a uniform and coherent framework of EU Law, save for certain areas of EU consumer protection. This lack of clarity also applies when supervised intermediaries offer unregulated products: in May 2023, ESMA issued a warning statement about the risks implied in providing unregulated products and services by investment firms (ESMA 35-26-2813, May 25, 2023).

In some Member States, significant case law, to be analysed from a comparative perspective, has also developed over time (e.g., in Italy, insofar as diamonds and precious stones are concerned).

The conference aims to analyse and compare these phenomena, placing them in the context of European legislation and solicit reflections on whether its scope ought to be amended to include at least some of them.

Beyond the question of whether it is appropriate to consider a standard set of rules regarding the issuance and servicing of these assets, the conference will also be an opportunity to discuss and compare the liability regime - under current European law and case law - of intermediaries involved in the distribution of these products (whether they are investment firms, credit institutions, crypto-assets service providers, payment institutions, etc.)

Call for Papers

Young scholars, including research fellows, post-docs, researchers, and PhD students, are invited to submit their research on one or more conference topics.

Particular attention should be given to the promotion, placement and trading of atypical financial goods, such as diamonds and other precious stones, commodities, crypto-assets not included in the MiFID definition of financial instrument or the MiCA definition of crypto-asset and, in particular, NFTs, and property rights in real estate or pieces of art.

Special consideration should also be given to National regimes that include, within the scope of national financial laws, products that are not included within the scope of EU Financial legislation.

The purpose of the Call for Papers is to encourage the submission of works that aspire to be published in the proceedings of the Conference. A restricted number of papers might also be selected for presentation during the Conference.

Works in either English or French languages will be accepted.

In the case of contributions involving more than one author, identifying a corresponding author is required to determine the author in charge of submitting abstracts and papers. Any communication from AEDBF (acceptance, rejection of the paper, etc.) will be addressed to such author only.

Deadlines

By August 28, 2023: Submit extended abstracts of approximately 2000 words and a preliminary bibliography to the Conference Scientific Committee. Abstracts must be sent via e-mail to the address secretariat.aedbf@gmail.com. The abstracts received within the deadline above will be submitted to selective and anonymous refereeing.

On September 4, 2023: Communication of admission of the selected papers.

By September 22, 2023: Submit the complete selected papers to the Scientific Committee. Papers must be sent via e-mail to the address secretariat.aedbf@gmail.com.

With the hope of a widespread response to our Call, we extend our warmest greetings and best wishes for an excellent job to you all.

Avv. Roberto Ferretti



President of
AEDBF/ESBFL Europe

Dr. Dimitris Tsibanoulis



President of the Hellenic Association for
Financial Law

Prof. Kalliopi Christakakou-
Fotiadi

CHRISTAKAKOU
KALLIOPI FOTIADI
06/07/2023 19:36

President of the Hellenic
Association for Civil Law