

Since 1999, Central Banking Publications has organised annual residential training courses/seminars which have been attended by more than 4,500 central bankers and supervisors from over 140 countries.



# Legal Risks and Good Governance for Central Banks

9–12 September 2014, Christ's College Cambridge

Course Chairman

**René Smits**

Professor of the Law of Economic  
and Monetary Union  
University of Amsterdam

Series Advisor

**Charles Goodhart**

Professor Emeritus  
London School of Economics  
Financial Markets Group

# Dear Delegate,

*"The financial crisis has confronted us with major challenges. For central banks this has not only meant testing new waters, moreover it has opened up new responsibilities and tasks. But we indeed have to remind ourselves of our limits. [...] We need to accept the economic limits what monetary policy can achieve, and we need to respect the legal boundaries of our mandate."*

**Yves Mersch**, Member of the Executive Board of the European Central Bank, 26 November 2013

At a time of flux in central banking, knowing where the legal boundaries lie and how to respond to changing mandates is key. Legal counsels are at the core of this for central banks.

Notably central banks' role in supervision continues to grow, most significantly in the area of macroprudential oversight. With central banks now expected to conduct both institutional and systemic-level supervision, legal counsels are facing many challenges as to how to provide a suitable legal framework for such practices.

There are further issues for cross-border banking and bank resolutions caused by the conflict in regulatory frameworks internationally. Without full harmonisation, central banks need to find a legal framework that enables institutions to resolve cross-border liabilities and function effectively in an international market.

New risks are also emerging, with cyber-crime amongst them. Central banks are looking at how best to combat and protect themselves, as well as the financial system, against these risks. In addition, in the wake of recent price-fixing scandals, central banks are asking how much they can trust the markets themselves and competition and anti-trust law, both at central banks and supervisory agencies, is being redeveloped.

These legal risks are the focus of this four day course that features a panel of expert speakers and will be chaired by René Smits, Professor of the Law of Economic and Monetary Union, University of Amsterdam. The course draws on practical central banking experience, as well as views from academia and the private sector.

This year we are delighted to welcome:

- **Thomas C. Baxter Jr**, General Counsel and Executive Vice President of the Legal Group, Federal Reserve Bank of New York
- **Rosa Lastra**, Professor of Law, Queen Mary University of London
- **Grace Koshie**, former Chief General Manager and Secretary to the Board, Reserve Bank of India
- **Raksha Semnarayan**, Assistant General Counsel, South African Reserve Bank

Key sessions include

- What can central bank lawyers learn from the crisis?
- The impact of changing mandates on central bank governance
- Developing a legal framework for the implementation of macroprudential oversight
- New challenges for bank resolution regimes and 'living wills'
- Global developments in anti-trust and competition laws

All discussions are held in roundtable format to encourage participants to share their experiences and debate the pressing issues in their field. Each session allows participants opportunities to question an expert panel of speakers and to benchmark themselves against good practice internationally.

This format, as more than 4,500 central bankers, debt managers and supervisors can attest, encourages delegates to quiz panellists, raise issues and discuss solutions to the specific challenges they face.

We look forward to welcoming you to Cambridge on September 9th.

Yours sincerely,



Robert Pringle  
Chairman  
Central Banking Publications

■ ■ A very high quality course and a unique opportunity to share views with practitioners who were strictly involved in the issues that were discussed ■ ■

*Pierluigi Caristi*, Legal Counsel, Central Bank of Luxembourg

Tuesday 9 September

# The Changing Legal Landscape

## The new legal environment

Led by the chairman, **René Smits**

The global financial crisis has shaken the established model of independent, technocratic central banking. It has also led many jurisdictions to begin an overhaul of their regulatory regime and legal framework. With new mandates and new roles come new expectations and new risks. In this session, the chairman will give a broad overview of the legal and governance challenges he sees for central banks. The group will be invited to discuss how different statutes and legal frameworks affect governance at their respective central banks, and how these can help them to meet emerging challenges.

## What can central bank lawyers learn from the crisis?

**Thomas Baxter Jr**, General Counsel and Executive Vice President of the Legal Group, Federal Reserve Bank of New York

As markets buckled under the crisis, central banks were forced to adopt highly unusual policy responses – most notably emergency liquidity extensions to troubled financial institutions and the creation of new credit facilities. Typically, these initiatives had to be implemented within an extremely narrow timeframe to boost market confidence and restore a degree of functioning. In many cases, central banks have pushed to the limit their institutional mandate and the scope of the legal powers. The speaker will discuss the Fed's response to a series of market disruptions, in particular the Eurozone crisis, and longer term reforms to both markets and the central bank itself. A plenary will then identify the lessons that other central banks can take from this experience.

## Encounters of central banks with the courts

Speaker to be confirmed

Central banks have met with their respective judiciaries probably more times that they would have liked in recent times and in circumstances they would likely have preferred to avoid. The relationship between the two is complicated, particularly with regard to central bank independence. Judicial review of supervisory, monetary and even loan decisions is complicated, as is their role in the appointment of governors and board members. Notably courts have recently been involved in cases querying the constitutionality of central bank acts, as well as the issue of immunity for central bank assets. In light of recent cases studies, this session will examine how central banks can guard against constitutionality review, as well as how to remain within their mandates and when to seek the limits of their remit.



### About the course chairman:

**René Smits** is professor of the law of economic and monetary union (EMU) at the University of Amsterdam and a consultant in the law of EMU and EU financial sector regulation. He has held several positions at The Netherlands Bank where, from 1989 to 2001, he was general counsel. He then moved to the Netherlands Competition Authority (NMa), where he was director of the legal department and chief legal counsel to the Board and then strategic legal advisor at the Netherlands Authority for Consumers & Markets. In 2013, he was appointed an assessor in the Competition College of the Belgian Competition Authority (BCA). He is a visiting professorial fellow at Queen Mary, University of London and a member of MOCOMILA.

Wednesday 10 September

# New Mandates and Approaches to Governance

## The impact of changing mandates on central bank governance

**Grace Koshie**, formerly Chief General Manager and Secretary to the Board, Reserve Bank of India

Central banks are grappling with how to deal with gains in new responsibilities, as well as how to fight the loss of certain powers or independence. Arrangements must be robust but also have the capacity and flexibility to respond to new challenges. Drawing on her experiences at the Reserve Bank of India, the speaker will consider the challenges such as conflict of goals, information availability, information flow between various departments, and the increasing technical demands central banks have to face.

## Banking union and the single market: supranational supervision in Europe

**Rosa Lastra**, Professor of Law, Queen Mary University of London

Regulatory and supervisory arrangements are in a state of flux. Issues to be resolved include designing effective governance structures for financial supervision and tackling accountability under current and proposed arrangements. Central banks are therefore considering how current international law can help ensure international monetary and financial stability, and how legal and governance arrangements can be improved. In this session, the speaker will discuss case studies from Europe and focus on the strengths and weaknesses of such supervisory approaches.

## Central bank law and governance: a comparative analysis

**Atilla Arda**, Senior Financial Sector Expert, International Monetary Fund

In this session a series of case studies will explore and compare the Federal Reserve System, the Eurosystem and other central banks' governance systems, including the various acts that expanded their powers. Cross-sectorial analysis will highlight trends and divergences in practice. The speaker will draw on his senior counsel experiences at the International Monetary Fund and at The Netherlands Bank and consider the various policy debates about the role and power of central banks in light of their expanding governance.

## Frameworks for legal governance, risk management and compliance

Workshop facilitated by **Atilla Arda**

While legal governance, risk management and compliance (LGRC) is customary within commercial banks, it is still at an early stage of development for most central banks. This workshop will focus on designing a LGRC framework for an hypothetical central bank. The session will build on similar frameworks from the corporate world - in particular commercial banks - and will draw on the speaker's global survey of evolving practices for LGRC frameworks in the central banking community. Participants will be invited to discuss and design key elements of an effective LGRC framework.

## New policy responsibilities: changes to supervisory liabilities

Workshop led by **Charles Proctor**, Partner, Fladgate LLP, and **René Smits**

The latest developments in financial stability policymaking demand extraordinary interventions in both markets and institutions. As transparent and accountable institutions, central banks must be prepared to defend their actions in a judicial setting. In this workshop, delegates will be invited to consider their respective central banks' supervisory liabilities in light of the recent cases involving central banks' liability for their actions and omissions. The session will also identify the potential legal tensions that could arise as a consequence of the policy response witnessed post-crisis.

👏👏 The seminar gathered excellent professionals who discussed hot central banking topics. 🗨️🗨️

Simona Lambrinoc, Legal Counsel, European Central Bank

Thursday 11 September

# Emerging Challenges in the Global Financial System

## The legal realities of cross-border banking

**Dalvinder Singh**, Professor of Law, University of Warwick

Cross-border banking presents a plethora of related problems. The huge growth in cross-border banking in recent years has outpaced regulation, as well as compatibility in regulatory standards, to resolve cross-border issues. However there have been recent developments in legal frameworks for regulators to find cross-border solutions. In this session the speaker, who is a member of the advisory panel at the International Association of Deposit Insurers, will focus on the measures that have already been taken to tackle the problems surrounding cross-border banking and as well as the outstanding legal challenges.

## Bank resolution regimes and “living wills”: new challenges

**Andrew Mason**, Manager, UK Banks Team, Financial Institutions Division, Bank of England

As a consequence of the risks that interconnections and globalisation can mean for the financial system as a whole, supervisors are increasingly looking to new forms of resolution regimes and “living wills”, also called Resolution and Recovery Plans. However, their implementation presents numerous challenges as most of the leading banks are a long way from completing their “living wills”. This session looks at the specific legal issues around implementing such mechanisms and draws on the work of the Financial Conduct Authority in instructing banks to draft such provisions.

## Reform of the international financial architecture

**Cega Ogada**, Assistant General Counsel, International Monetary Fund

The IMF remains at the core of the international monetary system and its oversight. But that system has changed dramatically since 1947. The need for reform is therefore pressing. What are the legal implications of on-going reform within the IMF? What will reform mean for the Articles of Agreement and instruments adopted pursuant to it and what will be the consequences for central banks? This session considers the relations of central banks with the IMF, debt rescheduling, the issue of representation within the Fund of monetary unions, the financing of the Fund and the role of the IMF in a new international financial architecture.

## Developing a legal framework for the implementation of macroprudential oversight

**Raksha Semnarayan**, Assistant General Counsel, South African Reserve Bank

In 2014 Macroprudential oversight is widely regarded as the leading form of financial supervision with regulatory authorities now considering (or already implementing) a macroprudential structure. The regulator aims to be able to more quickly and easily spot systemic risks and allocate resources accordingly in order to take effective action. But what challenges does this structural conversation entail? In this session the speaker, whose central bank is moving to the ‘twin peaks’ approach, will discuss their motives for adopting the model, the legal challenges of implementing the framework and how this regulatory structure can improve the ability of the central bank to respond to systemic risks to the markets.

**Past attendees include:** Bank of Algeria • Reserve Bank of Australia • Austrian National Bank • Central Bank of Barbados • National Bank of Belgium • Central Bank of Brazil • British Virgin Islands Financial Services Commission • Bank of Canada • Central Bank of Colombia • Czech National Bank • Banque de France • European Central Bank • Bank of Ghana • Hong Kong Monetary Authority • Reserve Bank of India • Bank Indonesia • Bank of Jamaica • Central Bank of Kenya • Bank of Korea • Bank Negara Malaysia • Central Bank of Nigeria • Central Bank of Oman • Central Bank of Paraguay • Central Bank of the Philippines • National Bank of Poland • Bank of Portugal • SAMA • Monetary Authority of Singapore • South African Reserve Bank • Bank of Spain • Central Bank of Sri Lanka • Sveriges Riksbank • Bank of Thailand • Bank of England • Federal Reserve Bank of New York • Bank of Zambia

Friday 12 September

# Legal Implications for Ethical Banking

## Global developments in anti-trust and competition laws in the wake of the financial crisis and price fixing scandals

**Oliver Bretz**, Head of the Global Anti-trust Unit, Clifford Chance (invited)

Central banks' aims to maintain free, competitive markets and their role in prudential supervision have been brought into sharp focus with the increasing attention on financial stability. In light of the financial crisis and recent price-fixing scandals, questions surrounding exemption from competition law and the role of central bank supervision of reference rate practices have been brought to the fore. What is the central bank's role, and how they keep prices free and fair? In this session the speaker will discuss global developments in the field of competition and anti-trust laws, drawing on examples of current investigations. In addition, the speaker will look at the interaction between supervisory authorities and enforcement agencies.

## Role of the central bank as regulator in cyber law

Speaker to be confirmed

Cyber-crime has become an increasingly potent problem, with both central banks and those they regulate at risk. Central banks, along with other governmental and cross-border bodies, are looking to crack down on this issue, particularly with regard to the risk it poses to payment systems security. The European Central Bank, for example, has been working with national banks and supervisory authorities to harmonise the legal frameworks in the area through a series of security standards. The East African Community has similarly been working to ensure consistency and robustness across the region in this area. This session will examine these and other examples, as well as how central banks can contribute to the necessary legal frameworks in this area.

## Lessons learned and action points

Led by the chairman, **René Smits**

The course concludes with a discussion led by the chairman drawing together the days' discussions and their applicability to participants' own institutions. Delegates will be asked to discuss what they have learned from the course, and to formulate points on the key themes and issues highlighted throughout the week.



### CBP's Autumn Series 2014 also features the seminars:

- Effective Oversight of Financial Market Infrastructures
- Financial Independence, Reporting and Accountability for Central Banks
- Government Debt Management: New Trends and Challenges
- IT Governance for Central Banks
- The Changing Framework of Monetary Policy Operations
- Communications and External Relations for Central Banks
- Economic Analysis and Forecasting for Macprudential and Monetary Policymaking
- Human Resources: Enhancing Human Capital and Facilitating Higher Performance
- Knowledge Hubs: Managing Central Bank Libraries and Information Centres
- New Challenges in Financial Market Supervision & Regulation
- Risk Management for Central Banks

# Booking details

## Course fee: £3,200

### 4-Day (3 nights) residential course

Course fee includes: en-suite accommodation, meals, refreshments, course documentation and a complimentary copy of the most recent issue of the Central Banking journal. Substitute delegates can be accepted should the registered delegate be unable to attend; please let us know prior to the event.

## How to book

There is a booking form overleaf. Please use one of the following methods to book your place:

Online: [www.centralbanking.com/cambridge](http://www.centralbanking.com/cambridge)

Call: Clare Hope on +44 (0) 207 4849894 / +44 (0) 207 3169152

Email: [conference@centralbanking.com](mailto:conference@centralbanking.com)

Fax: Attention of Central Banking Events to +44 (0)207 504 3730

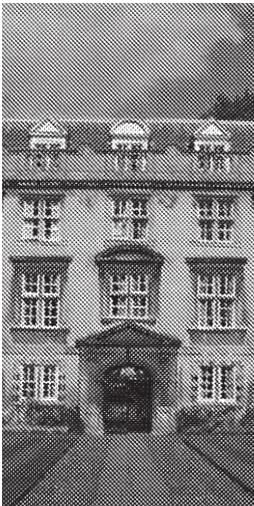
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### The Venue

Christ's College, St Andrew's Street,  
Cambridge, CB2 3BU, UK

Christ's College is one of England's oldest university colleges and traces its origins back to 1439 when it was founded by William Byngam as "God's house" and adopted by King Henry VI. The college is conveniently situated in the heart of Cambridge surrounded by all the historical sites, and is one hour by train from London.

### About Central Banking Publications

Central Banking Publications' events division is the leading independent organiser of public policy seminars/training courses for the official sector. Since 1999, CBP has hosted roundtable seminars and training courses for over 4,500 senior policymakers from central banks, ministries of finance and financial regulatory agencies around the world. Senior officials from more than 140 countries have attended these meetings over the past decade and a half.

# Legal Risks and Good Governance for Central Banks

**1. Delegate details:** PLEASE WRITE IN CAPITALS

Mr/Mrs/Ms: \_\_\_\_\_ Surname/Family name: \_\_\_\_\_  
First name: \_\_\_\_\_  
Job title: \_\_\_\_\_  
Department: \_\_\_\_\_  
Organisation: \_\_\_\_\_  
Address: \_\_\_\_\_  
Postcode: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Facsimile: \_\_\_\_\_  
Email 1: \_\_\_\_\_  
Email 2: \_\_\_\_\_

Please provide us with the direct email address of the delegate and an additional email address if possible. This is very important because all correspondence with delegates is by email.

**Course fee: £3,200**

**2. Payment details:**

**Invoice:** If you select this option an invoice will be sent to you by email and by post. If you would like to provide different details to the above for the invoice please notify us when sending back the booking form.

**Credit card:** please charge £3,200 to my  Visa  Mastercard  American Express

Card No:             Security Code:

Cardholder name: \_\_\_\_\_ Expiry date: \_\_\_\_\_  
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I have read and agree to the terms and conditions below.

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Terms & Conditions: A refund (less 10% administration fee) will be made if notice of cancellation is received in writing three weeks before the event. We regret that no refunds can be given after this period. In addition delegates are wholly responsible for obtaining any necessary entry visas and refunds cannot be given as a result of non-attendance arising from a failure to secure such visa. A substitute delegate is always welcome at no extra charge. The programme may change due to unforeseen circumstances, and Incisive Media reserves the right to alter the venue and/or speakers. Incisive Media accepts no responsibility for any loss or damage to property belonging to, nor for any personal injury incurred by, attendees at our conferences, whether within the conference venue or otherwise. Data protection: by registering for a Central Banking training course you will receive further information relating to this event. In addition we will send you information about our other relevant products and services which we believe will be of interest to you. If you do not wish to receive other relevant information from Incisive Media via a particular medium please click the following relevant boxes: mail  phone  fax  email  Incisive Media will also allow carefully selected third parties to contact you about their products and services. If you do not wish to receive information from third parties via any of the following media please tick the relevant boxes: mail  phone  Please tick if you are happy to receive relevant information from carefully selected third parties by email  and fax .

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