Conference Title: Governing Shadow Banking

Organisers: Iris Chiu (Centre for Ethics and the Law), Iain MacNeil (University of Glasgow) and the Institute of Advanced Legal Studies

Introduction

The Conference brings together a number of experts in the UK, US and Asia-Pacific who are contributors to the Edward Elgar Research Handbook on Shadow Banking to discuss what shadow banking means and the implications for financial sector governance and regulation.

Shadow banking has already grown to an estimated USD$75 trillion in assets held by non-bank financial intermediary institutions (source: FSB, 2014, quoting Monitoring Universe of Non-Bank Financial Intermediation (MUNFI)). ‘Shadow banking’ is a broad term that encompasses institutions and activities that are mainstream as well as alternative. The shadow dimension refers to the relevant activities being undertaken outside the regulatory perimeter. These activities are generally structured in such a way in order to benefit from regulatory arbitrage and/or tax advantages, but they nevertheless replicate mainstream activities within the regulatory perimeter in terms of risk transfer and intermediation.

Mainstream banks and investment firms conduct certain activities of a ‘shadow banking’ nature in order to transform assets and manage risks, such as in securitisation. These techniques existed before the global financial crisis 2008-9 and are now coming under increasing regulatory governance. However, in the wake of the regulatory tightening after the crisis, alternative outfits that perform bank-like activities are growing in importance to meet credit and investment needs. Familiar examples include peer-to-peer lending platforms and crowd-funding which use new technology to bridge gaps in funding from mainstream financial institutions.

Shadow banking activities carried out by mainstream banks and investment banks in the run-up to the global financial crisis 2008-9 have greatly increased the level of risks assumed in financial intermediation and to an extent, shadow banking could, by its very nature, foster irresponsible intermediation and contribute to systemic crises. Post-crisis reforms have now attempted to address what was sub-optimal risk intermediation and one of the aims of the conference is to take stock of these reforms and consider to what extent these have changed the character of shadow banking. Financial innovation and alternative institutions have nevertheless arisen to fill in the funding gaps that have emerged as the mainstream financial sector has retrenched in the wake of the more demanding regulatory capital regime that has been introduced in the wake of the financial crisis. The second aim of this conference is to examine whether and to what extent these new activities and entities cause regulatory concern and whether in the spirit of forward-looking judgment-based regulation, regulators should take pre-emptive measures to govern these.

This Conference addresses broad themes such as unpacking the inchoate concept of ‘shadow banking’ and explores the governance and regulatory challenges that emanate from ‘shadow banking’. Given that shadow banking is premised on arbitrage, can it be governed as a matter of prudential regulation? We will explore the regulatory perimeter and the implications of regulatory extensions into shadow banking.
The Conference also addresses specific issues in shadow banking. We aim to explore ‘internally derived shadow banking’ (term used in Pozsar et al, 2013)\(^1\) that refers to mainstream institution-led shadow banking activity such as securitisation, short term funding through rehypothecation, the needs that drive such shadow banking activity and the appropriate governance and regulatory framework for such. The post-crisis reforms that attempt to round up such shadow banking activity would be critically discussed such as in relation to securitisation, the repo market, hedge funds and money market funds. The Conference will address post-crisis new initiatives in shadow banking, such as crowdfunding, peer to peer lending and broader perspectives on how technology drives alternatives in finance, and whether and how such technological leadership should be subject to governance frameworks. This is an area often described as ‘externally derived shadow banking’ (Pozsar et al, 2013) which is currently estimated to consist of clusters of small and specialised institutions, but which could be an arena for potential diversification activities undertaken by mainstream financial institutions and even technology giants such as Google and Amazon. The developments in this area are dynamic and so are the governance implications.

**Conference date: 24 March 2017**

**Venue: IALS Council Chamber and Conference Room**

9.00 am Coffee/Tea and registration

**9.30 -11.15am: Shadow Banking: Regulatory Arbitrage, the Regulatory Perimeter and Financial Innovation**

Chair: Ross Cranston QC

(Speakers: x 20 mins each )

Alessio Pacces, ‘The Law and Economics of Shadow Banking’

Iris Chiu, ‘A Functional Approach to Governing Shadow Banking’

Erik Gerding, ‘Shadow Banking, Technology, and Legal Technology’

Anna Donovan, ‘(Shadow) Banking on the Blockchain: Permissioned Ledgers, Interoperability and Common Standards’

**10.50am- coffee break**

**11.20- 12pm- Discussion and Q and A**

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12- 1.30pm- lunch break

1.30am-2.30pm: Issues in the Wholesale Sector

Chair: Iain MacNeil

(Speakers: x 20 mins each)

Mark Hsiao, ‘Regulating OTC Derivative Contracts: The Central Counterparty’s Role and EMIR’
Joe Tanega and Edmond Curtin ‘Derivatives Contracts as the Quintessence of Shadow Banking’
Pierre de Goia-Carabellese, ‘The Securitisation Market: Legal Risks, Regulatory Concerns and New Challenges’

2.30pm- 3.15pm- Discussion and Q and A

3.15pm- Coffee Break

3.30-4.30pm: Emerging Issues in Shadow Banking

(Speakers x 20 mins each)

Chair: Christina Skinner, Brooklyn Law School

Joe Tanega, ‘European Money Market Fund Regulations and Universal Transparency’
Ed Greene/Jeff Amico, ‘Crowdfunding and P2P Lending in the US and EU’
Pamela Hanharan, ‘Exchange-Traded Funds in the Shadow Banking System’

4.30- 5.15pm- Discussion and Q &A

Closing remarks by editors Iain MacNeil and Iris Chiu

5.30pm Close of Conference