

Publication of the report of the Legal High Committee for Financial Markets of Paris on the pledge of financial securities in the European Union

As the reform of French legal provisions governing security interests is about to come into force[1], the Legal High Committee for Financial Markets of Paris has just published a report on the pledge of financial securities in the European Union[2].

Created in 2015 at the joint instigation of the French Financial Markets Authority and the French Central Bank, the Legal High Committee for Financial Markets of Paris (*Haut Comité Juridique de la Place Financière de Paris* or “HCJP”) conducts and releases legal analyses in full independence. It is composed of lawyers, academics and other qualified individuals who exchange views with representatives of the French Treasury, the French Prudential Supervision and Resolution Authority[3] and the French Ministry of Justice.

Its missions focus on the following areas[4]:

- suggesting draft reforms in view of promoting the legal competitiveness of the Paris Financial Center;
- helping and supporting public authorities during the negotiations of the European and international financial regulations;
- increasing legal certainty through supplying answers to legal questioning regarding all the financial stakeholders, both public and private.

As such, the Legal High Committee for Financial Markets of Paris has issued various reports on topics such as banking law[5], financial markets[6], corporate law[7] and companies’ insolvency[8], in which it makes recommendations, many of which are implemented in French substantive law.

As underlined by the Legal High Committee for Financial Markets of Paris in the introduction of its Report on the pledge of financial securities in the European Union published in October 2021 (the “**Report**”), the coexistence of twenty-seven national laws on security interests within the European Union constitutes a hindrance to the development of credit and financing activities in the context of cross-border transactions.

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There is a need to define a clear framework that offers legal certainty for cross-border pledges of securities.

The Legal High Committee for Financial Markets of Paris Le HCJP suggests the creation of a European instrument for cross-border pledges of financial securities (so-called “2nd Regime”) which would coexist with national laws and which would only apply to cross-border transactions. This instrument would be optional, by express agreement of the parties. It would not replace national laws but would come in addition to them.

We invite you to read the Report, which has not been widely commented on the date hereof, and which, based on the observation that it is necessary to harmonize the rules applicable to pledges of financial securities, suggests the creation of a European pledge of financial securities that would be suppletive to national laws.

[1] Ordinance No. 2021-1192 of September 15, 2021 on the reform of French legal provisions governing security interests

See also our article entitled [Reform of French legal provisions governing security interests: Simplification and modernization](#) published on our Blog on August 30, 2021

[2] https://www.banque-france.fr/sites/default/files/rapport_43_f.pdf (in French only)

[3] Autorité de Contrôle Prudentiel et de Résolution - <https://acpr.banque-france.fr/en>

[4] <https://hcjp.fr/home>

[5] <https://hcjp.fr/droit-bancaire>

[6] <https://hcjp.fr/marches-financiers>

[7] <https://hcjp.fr/droit-des-societes> (in French only)

[8] <https://hcjp.fr/defaillances-entreprises>

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