



Banking and Finance Litigation

We are experienced in handling large and complex claims, both domestic and international, and are regularly instructed by some of the world's largest financial institutions in relation to their most substantial and sensitive disputes. Our experience means that we are accustomed to managing large, multi-disciplinary teams across international borders, spanning the life cycle of a dispute from investigation stage, through contentious regulatory proceedings to litigation or arbitration.

Our experience is deep and diverse and includes representing banks and financial institutions in a full range of financial disputes, before courts and tribunals around the globe. We are equally comfortable litigating before the High Courts of England, the State and Federal Courts of the United States, the High Courts of Frankfurt, Hong Kong or Singapore, the Moscow Arbitrazh Court, and in the DIFC Courts. We arbitrate before all the major arbitral institutions and were a founding sponsor of the PRIME Finance arbitration and mediation tribunal, established in the Hague specifically to resolve disputes relating to complex financial transactions.

In the aftermath of the global financial crisis and the more recent accusations regarding LIBOR and foreign currency exchanges, banks and other financial institutions need now, more than ever, to reduce and manage legal, regulatory, financial and reputational risks. Key to the risk management exercise is the investigation, identification and monitoring of contentious and regulatory issues across each international center of operation, and then partnering with litigation and regulatory counsel attuned to your needs in relevant jurisdictions. We have disputes experts across all of the jurisdictions in which we operate, while DLA Piper Africa gives us access to trusted colleagues in over 20 countries across Africa.

CAPABILITES

Investment banking and structured finance litigation

We have acted on a number of the most significant cases in the investment banking arena since the collapse of Lehman Brothers in 2008. These matters are typically high value for the banks involved, both in terms of quantum and reputational risk and are usually multi jurisdictional, involving a number of our global offices.

Corporate and retail banking

We have extensive experience handling the full range of corporate and retail banking disputes, and we are able to combine our experience and expertise in all major financial centres with regional strength to coordinate multi-party and class action litigation, including representation of underwriters in US shareholder class actions.

Regulatory enforcement and disputes

We offer legal knowledge and practical advice on a wide range of issues relating to all the global financial services regulatory bodies, including the US Department of Justice, Federal Reserve Bank, the US Office of the Comptroller of the Currency, the US Securities and

Exchange Commission , the Financial Conduct Authority , the Prudential Regulation Authority , various European and European Union regulatory and supervisory bodies, the Securities and Futures Commission of Hong Kong, Australian Securities and Investments Commission and many others. The team regularly undertakes internal investigations for both wholesale and retail firms and assists clients with self-notification issues, responses to supervisory enquiries and investigations by the enforcement divisions of regulatory bodies, and we appear before the various regulatory tribunals, committees and panels when action is taken.

Fraud and asset tracing

We are experienced in the investigation and prosecution of fraud (civil and criminal) and in tracing misappropriated assets across national borders. We are also experienced in assisting financial institutions to respond to freezing and disclosure orders served on them and in defending them against direct allegations of fraud.

EXPERIENCE

- Acting for Australian noteholders in the landmark Belmont Park case brought in England to establish payment priority under a US\$12.5 billion Lehman synthetic CDO program and coordinating parallel proceedings in the New York Bankruptcy Court and District Court.
- Representing a major international bank in related proceedings in New York and Tanzania courts arising out of the financing of a power plant in Dar es Salaam.
- Conducting various regulatory, governance and compliance investigations and reviews for financial institutions.
- Providing global FATCA and privacy advice to leading financial institutions.
- Advising a major UK lender in connection with an investigation of mortgage fraud in a portfolio of in excess of 400 mortgages on 'buy to let' properties.
- Representing two major banks in relation to a US\$2 billion swap dispute in Italy.
- Advising a Russian bank in relation to several arbitrations and in obtaining injunctive relief in connection with a number of credit default swaps.
- Representing a major international bank in related proceedings in London and the UAE in a US\$120 million claim arising out of disputed title to an oil cargo.
- Advising an international banking group in relation to a €140 million claim in respect of a high profile takeover of a financial institution by a banking consortium.
- Acting for a financial services group in relation to payment protection insurance claims, advising on the implementation of a root cause analysis, the British Bankers' Association Review and representing the firm in a related dispute with its insurers regarding its customer redress programme.
- Conducting an investigation for an international bank in relation to forex trading with a major Chinese company and advising on a related HKSC and Commercial Crime Bureau investigations.
- Acting in parallel litigation and arbitration proceedings relating to a large international Ponzi scheme involving entities in Liechtenstein, Cyprus, and St Vincent & the Grenadines, resulting in a multi-million RICO judgment in the US.
- Advising a major international bank in connection with theft, fraud and money laundering involving funds misappropriated in South Africa and wired through Hong Kong and thereafter layered through various banks in a number of jurisdictions.
- Representing the United States Federal Deposit Insurance Corporation as receiver for numerous failed banks throughout the United States in post-insolvency disputes regarding capitalization, ownership of assets and similar matters.

INSIGHTS

Publications

The Quincecare Duty - 30 years on

9 June 2022

In a sign of the times, the first quarter of this year has seen three cases on a bank's duty to refrain from executing a payment instruction

where it has reasonable grounds to suspect the transaction may be an attempt to misappropriate the account-holder's funds.

Tecnimont Arabia Limited v National Westminster Bank PLC: Recipient bank not liable following APP fraud

27 May 2022

Whilst many recent high profile examples of cybercrime have taken the form of significant extortion or encryption incidents, a recent judgment from the English High Court (*Tecnimont Arabia Limited v National Westminster Bank PLC* [2022] EWHC 1172 (Comm)) provides a reminder that business email compromise incidents can be of equal significance.

English Court Remedies when Cryptocurrencies are Misappropriated

25 May 2022

The English courts are increasingly being asked to grapple with cases involving the misappropriation of cryptocurrencies. In a series of recent decisions, the courts have demonstrated they are just as willing and able to grant interim relief in cases involving cryptocurrencies as they are in cases involving more traditional forms of property.

UK Regulatory Approach to Stablecoins: HM Treasury Consultation Response

25 May 2022

Since its launch, the cryptoasset market has developed at a rapid pace, with total market capitalisation for cryptoassets estimated to be USD2.6 – 3 trillion in 2021. The market for decentralised finance ("DeFi"), although small in current scope is expanding quickly too from less than USD10 billion in 2020 to nearly USD100 billion in 2021

Tulip Trading: Developers' Duties

18 May 2022

In this article, we consider the key aspects of the Court's decision, and the implications for software developers.

Section 32 Limitation Act: an evolving yet difficult route for claimants

6 April 2022

The financial crisis of 2008 and its aftermath is disappearing rapidly over the horizon. However, events of a decade or more ago continue to form the basis of claims before the courts.

FCA strategic review of retail banking business models

3 February 2022

On 20 January 2022, the Financial Conduct Authority (FCA) published a strategic review of retail banking business models (Strategic Review).

The Strategic Review updated the FCA's previous strategic review that was published in 2018 and explored new developments since 2015.

Is litigation funding compatible with Shariah principles?

31 January 2022

This article explores the principles of litigation funding, why it is becoming increasingly attractive and whether it is compatible with Islamic Finance principles.

ESG disclosure requirements in financial services

24 November 2021

Following COP26, ESG is high on the agenda in financial services. Financial services firms are pivotal to delivering the objectives of COP26 and achieving the UK's 2050 net-zero target, and COP26 has held the FS sector's focus UK Chancellor, Rishi Sunak, promises to make Britain "the world's first net zero-aligned financial centre."

Payment of Commission Fees: Who bears the risk?

3 November 2021

The issue of, if and when commission fees become due and payable, particularly following termination of a contractual retainer, has long been a difficult and thorny legal issue under English law. In a recent judgment handed down by HHJ Dight in *ABI Insolvency v Deutsche Bank* [2021], the Court has provided welcome guidance on the issue.

Non-fungible tokens: What are the legal risks?

18 October 2021

The market for Non-Fungible Tokens (NFTs) has boomed over the past year. Businesses and asset owners have been creating and selling NFTs representing a range of assets, whether digital or physical, including internet memes, digital images, event tickets and memorabilia.

A SIPP from the devil's cup: *Adams v Options UK Personal Pensions* appeal

20 September 2021

In this article we consider the Court of Appeal decision in *Adams v Options UK Personal Pensions* in which a regulated firm was found liable because its unregulated introducer "encouraged" clients to enter investments.

A new Consumer Duty of care briefing

4 June 2021

Following on from its 2018 discussion paper and subsequent feedback statement; and in reaction to the requirements imposed by s.29 of the recently enacted Financial Services Act 2021, the FCA is consulting on its proposition to introduce a new Consumer Duty.

Blockchain and Digital Assets News and Trends

22 March 2021

[BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS](#)

Wyoming moves to clarify legal status of DAOs; court dismisses class action against a cryptocurrency exchange.

PRA evaluation of the senior managers and certification regime

27 January 2021

On 15 December 2020, the Prudential Regulation Authority (PRA) published an evaluation of the Senior Managers and Certification Regime (SMCR). The PRA found that the regime has generally been successful in improving conduct and accountability. A large majority (around 95%) of the firms surveyed told the PRA that the SMCR was having a positive effect on individual behaviour. However, the PRA's evaluation also identified some unintended consequences such as a lack of diversity in recruitment.

FCA publishes guidance on its approach to cannabis-related companies looking to list in the UK

22 September 2020

On 18 September 2020 the FCA published guidance on the listing of cannabis-based businesses onto public stock exchanges in the UK. We consider the key issues arising from the FCA's statement and how this will impact on businesses looking to raise funds in the UK.

NEWS

DLA Piper strengthens its litigation and international arbitration practice with partner Dr Marc Jacob

16 March 2022

DLA Piper will strengthen its Litigation & Regulatory practice group with the appointment of Marc Jacob as a new partner in the Frankfurt office, effective 1 April 2022. He joins DLA Piper from Shearman & Sterling, where he practised litigation and international arbitration since 2013.

DLA Piper on winning team for Most Important Case of the Year award at the 2020 GIR Awards

4 November 2020

DLA Piper's Litigation & Regulation practice has been recognized at the 6th Global Investigations Review's (GIR) annual awards, held on 22 October 2020.
