



## 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

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#### **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**

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- 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 HKSF 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**

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### **Publications**

#### **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.

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## 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.

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## Defensible deletion: The proof is in the planning

5 February 2021

A framework for making defensible deletion an attainable goal.

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## 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.

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## SEC votes 3-2 to amend whistleblower rules

1 October 2020

The amended rules include an updated definition of "whistleblower" and a requirement that submissions must be provided in writing.

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## SEC settles *Lucia* enforcement action

22 June 2020

Questions remain following Supreme Court decision concerning the Appointments Clause of the Constitution and who constitutes an "Officer of the United States" for the purposes of complying with that constitutional provision.

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## COVID-19 - financial services measures in Ireland

31 March 2020

On 12 March, an Taoiseach, Leo Varadkar TD, announced the closure of schools, childcare facilities, colleges, and State-run cultural institutions, and recommended the cancellation of mass gatherings until 29 March.

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## Blockchain and Digital Assets News and Trends

19 February 2020

## BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS

In this issue, SEC Commissioner Peirce proposes bold new safe harbor for digital tokens, plus the latest legal developments in blockchain technology, smart contracts and digital assets.

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### Impact of AASB 16 on Facility Agreements

11 February 2020

AASB 16 *Leases*, being the Australian equivalent of IFRS 16 *Leases*, is effective for periods beginning on or after 1 January 2019. The new standard requires a lessee to recognise most types of operating leases on its balance sheet.

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