



## **P.R.I.M.E. Finance Newsletter – January 2018**

### **1. UPCOMING: ANNUAL CONFERENCE, 22 & 23 JANUARY 2018, PEACE PALACE, THE HAGUE**

P.R.I.M.E. Finance will host its **7th Annual Conference** on **Monday 22 and Tuesday 23 January 2018**, on the beautiful premises of the Peace Palace in The Hague, The Netherlands.

The P.R.I.M.E. Finance Annual Conference is an event that should not be missed. For the seventh year in a row, financial experts, legal counsel, lawyers, judges, central bank officials, academics and many of the founders of the derivatives and structured finance industries will travel from all over the world to join our annual reporting out session on financial dispute resolution.

We will be convened by H.E. the Hon. Sir David Baragwanath KNZM, Chairman of the P.R.I.M.E. Finance Advisory Board. We encourage you all to attend. This will be an excellent opportunity to gain insight into recent case law and related topical issues regarding complex financial products and a unique chance to personally discuss these developments with our experts and hear what issues they view as important for complex financial disputes.

You can find the Conference Programme by clicking [here](#).

### **2. YOUNG ICCA MEMBERS: SKILLS TRAINING WORKSHOP**

P.R.I.M.E. Finance and Young ICCA will co-host a Skills Training Workshop on Tuesday 23 January 2018. This event will take place within the broader P.R.I.M.E. Finance 7th Annual Conference. The Workshop will be divided into two sessions: "Finance for Arbitration Lawyers" and "Arbitration for Finance Lawyers." The distinguished speakers will introduce finance to the young international arbitration community and arbitration to the young international finance community in two short sessions aimed at simplifying a topic that is often considered complex and technical: finance-related arbitration.

All Young ICCA members are welcome to participate (you can register for the Workshop via the Young ICCA website [here](#)). Young ICCA members who would like to attend the P.R.I.M.E. Finance Conference will receive a 50% discount on the registration fees. **For questions, please contact the Secretariat via [secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org).**

### **3. NEW PANEL APPOINTMENTS**

P.R.I.M.E. Finance takes great pleasure in confirming 29 new appointments to its Panel of Experts. The inclusion of these experienced individuals, who represent diverse financial and legal backgrounds, brings the number of experts in our list to more than 150 in total, each of whom averages over 30 years of relevant market and legal experience. **For the full press releases, click [here](#) and [here](#).**

The 29 new members of the Panel are:

- **Professor John Armour**, Hogan Lovells Professor of Law and Finance at Oxford University; Fellow of the European Corporate Governance Institute.
- **Professor Douglas W. Arner**, Kerry Holdings Professor in Law and Co-founder, Asian Institute of International Financial Law, LLM Corporate and Financial Law and LLM Compliance and Regulation, Faculty of Law, University of Hong Kong.
- **Bruno Bianchini**, international commodity & finance consultant.
- **Professor Sir William Blair**, former High Court (Judge in Charge of the Commercial Court) and Financial List Judge for England and Wales, Queen's Bench Division; President of the Board of Appeal of the European Supervisory Authorities; Professor of Financial Law and Ethics, Queen Mary University of London.
- **Dr. Markus Burianski**, Partner at White and Case LLP, Head of the German Arbitration Practice (Frankfurt).
- **Heikki Cantell**, General Counsel and Head of Legal Department at Nordic Investment Bank (Helsinki); former General Counsel at the Council of Europe Development Bank; former Head of Branch, Heikki Haapaniemi Law Firm (Paris).

- **Joshua Cohn**, Managing Principal, JBHS LLC; former Partner and Co-Head, Global Derivatives Group, Mayer Brown LLP; former Partner, Allen & Overy LLP; former Senior Vice President and General Counsel, DKB Financial Products, Inc (New York).
- **Gary DeWaal**, Special Counsel at Katten Muchin Rosenmann LLP (New York).
- **Simon Gleeson**, Partner at Clifford Chance (London); Visiting Professor at Edinburgh University; member of the bank resolution project of the Hoover Institution at Stanford University; Visiting Fellow of All Souls College Oxford.
- **Jeremy Goldring QC**, Barrister, South Square (London).
- **Professor Dr. Arthur S. Hartkamp**, Professor of European Private Law at Radboud University Nijmegen (The Netherlands); former *Advocaat-Generaal* (Advocate-General) and *Procureur-Generaal* at the Supreme Court of The Netherlands.
- **The Hon. Peter Michael Jacobson QC**, Wentworth 7 Selborne Chambers (Sydney); former Judge of the Federal Court of Australia.
- **Jacek Jonak**, Managing partner at Jonak and Partners (Warsaw); former Partner and Head of Warsaw Capital Markets Practice of Allen & Overy LLP.
- **Ulf Köping-Höggård**, Senior Legal Advisor and former General Counsel of Svenska Handelsbanken AB (publ) (Stockholm).
- **Dr. Michael Kutschera**, Partner, Binder Groesswang Attorneys at Law (Vienna); past Chair of the IBA Committee on Banking Law and Bar Issues Commission.
- **Andrea Menaker**, Partner at White & Case LLP (Washington DC); former Chief of the NAFTA Arbitration Division for the US State Department.
- **Dr. Peter Niculescu**, Partner at Capital Market Risk Advisors (New York); former Executive Vice President of Capital Markets at Fannie Mae; former Managing Director and Co-Head of Fixed Income Research at Goldman Sachs.
- **Laurence Rabinowitz QC**, Barrister, One Essex Court (London).
- **Kenneth Raisler**, Partner, Sullivan and Cromwell LLP, Head of the Firm's Commodities, Futures and Derivatives Group (New York); former General Counsel, Commodity Futures Trading Commission; former Assistant United States Attorney for the District of Columbia.
- **David W. Rivkin**, Partner and Co-Chair of the International Dispute Resolution Group at Debevoise & Plimpton (New York); Immediate Past President of the International Bar Association.
- **Karl Rogers**, General Counsel, Africa and Middle East, Standard Chartered Dubai.
- **Professor Steven L. Schwarcz**, Professor of Law and Business at Duke University; Founding Director of Duke's interdisciplinary Global Capital Markets Center.
- **The Hon. Nicholas Segal**, Judge, the Grand Court of the Cayman Islands, Financial Services Division; Partner, Freshfields Bruckhaus Deringer LLP.
- **Professor John Stumbles**, Professor of Finance Law, The University of Sydney; Fellow of the Australian Academy of Law.
- **Professor Ravi Tennekoon**, Professor of Law of International Finance at King's College London; former Partner at Herbert Smith Freehills (London).
- **Richard Tredgett**, Partner at Allen & Overy (London).
- **Bay Way Yee**, Partner at BWY LLP (Singapore); Independent arbitrator and adjudicator (Kuala Lumpur Regional Centre of Arbitration); consultant at CME Group (Singapore); former Policy Director of the International Swaps and Derivatives Association (ISDA).
- **John Williams**, Partner at Milbank, Tweed, Hadley & McCloy (New York).
- **Professor Eddy Wymeersch**, Chairman of the Public Interest Oversight Board; Independent Director at the Association for Financial Markets Europe, and of Euroclear SA; Emeritus Professor of Commercial Law, University of Ghent, Belgium.

#### 4. NEW EXECUTIVE DIRECTOR

In May 2017, P.R.I.M.E. Finance announced the appointment of Kristy M. Tillman as Executive Director. Ms. Tillman joined P.R.I.M.E. Finance after five years of service at the Financial Industry Regulatory Authority (FINRA), and seven years at the New York based law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP. For the full press release, please click [here](#).

#### 5. NEWS OF OUR EXPERTS

**Prof. Georges Affaki** was appointed a member of the ICC International Court of Arbitration, admitted as a Chartered Arbitrator by the Chartered Institute of Arbitrators, and ranked for the third consecutive year by Euromoney in the Guide to the World's Leading Experts in Commercial Arbitration.

**André Andresson** was awarded an honorary doctorate in law from Stockholm University in recognition of André's many years of service to the development and work of the legal faculty through his support of research and teaching and as an expression of the University's appreciation of his outstanding contributions in the area of law.

**Michael Black QC** and **Stephen M Schwebel** were both nominated to the GAR Awards 2017 in the category of "Best Speech or Lecture."

**Joe Bauman** has been named the 2018 P.R.I.M.E. Finance Lord Woolf Fellow at The Netherlands Institute for Advanced Study. He begins his Fellowship in spring 2018.

**Prof. Klaus Peter Berger** was elected a member of the Council of the ICC Institute of World Business Law last December.

**Josh Cohn** was elected as the Mayor of the City of Rye, New York, United States, in November 2017.

**Manuel Conthe** has been named President of the Spanish Court of Arbitration in December. The Former President of Spain's securities commission entered his new position on 1 January 2018.

**Massimiliano Danusso** has recently published an article entitled "Case-law developed in connection with derivatives transactions involving Italian counterparties," Capital Markets Law Journal, (Volume 13, No.1).

**Prof. Jeffrey Golden**, Chairman of the Management Board of P.R.I.M.E. Finance, was called as an Honorary Bencher of the Honourable Society of the Middle Temple on 7th February 2017. The Middle Temple is one of the four Inns of Court in London. Honorary Benchers, such as Jeffrey, are distinguished individuals who come from a range of professions and include the current Chief Justice of the US Supreme Court, former British Prime Ministers, individuals involved in the arts and members of the Royal Family.

**Prof. Gabrielle Kaufmann Kohler** has been nominated President-elect of ICCA. She will take over the Presidency in April 2018 succeeding Donald Francis Donovan. She is the first woman to be elected President of ICCA.

**Robert G. Pickel** has recently published an article titled, "Catastrophes, punk eek and hopeful monsters: a new species of financial contract," Capital Markets Law Journal, (Volume 12, Issue 3).

**Prof. Steven Schwarcz** has been named Distinguished Visiting Professor at University College London Faculty of Laws this semester. He has also recently published the following articles: "Too Big to Fool: Moral Hazard, Bailouts, and Corporate Responsibility," 102 Minnesota Law Review 761 (2017); "Regulating Complacency: Human Limitations and Legal Efficacy," 93 Notre Dame Law Review (issue no. 3, January 2018); "Changing Law to Address Changing Markets: A Consequence-Based Inquiry," 80 Law & Contemporary Problems 163 (2017); "Rethinking Corporate Governance for a Bondholder Financed, Systemically Risky World," 58 William & Mary Law Review 1335 (2017).

**Lord Harry Kenneth Woolf** was named Chairman of the Court of Astana International Financial Centre last December. The Court started its activity in January 2018.

**Antony J. Zacaroli QC** was appointed as a Justice of the High Court, Chancery Division, effective 13 November 2017.

We congratulate these experts on these fantastic achievements and thank them for their invaluable support to P.R.I.M.E. Finance!

## **6. P.R.I.M.E. FINANCE ANNOUNCED RUNNER-UP AT GAR AWARDS**

P.R.I.M.E. Finance was announced as the runner-up under the category of "Best Development" in the GAR Awards 2017. P.R.I.M.E. Finance received such honorable mention for its combination with the Permanent Court of Arbitration (PCA) in order to resolve disputes arising from complex financial transactions.

## **7. JUDICIAL TRAINING ACTIVITIES**

### **a. Australia**

On 16 and 17 October 2017, P.R.I.M.E. Finance, supported by the International Bar Association (IBA), organized a training programme for judges of the Federal Court of Australia and of the Supreme Courts of New South Wales and Victoria. The session focused on the economics, market practice and documentation of derivatives and provided an overview of the relevant law and cases in the industry. Presenting were P.R.I.M.E. Finance experts Professor Jeffrey Golden, Rick Grove and Jonathan Ross.

## **b. Taipei**

On 4 and 5 December 2017, P.R.I.M.E. Finance organized a training programme for judges of the Taiwan Judges Academy in Taipei City. The session focused on the economics and documentation of derivatives, and provided the analysis of the recent case law and developments in the industry. Presenting were P.R.I.M.E. Finance experts Rick Grove and Jonathan Ross.

## **8. THE DUTCH DEVELOPMENT BANK (FMO) INCLUDES P.R.I.M.E. FINANCE/PCA ARBITRATION CLAUSE IN ITS LATEST GUARANTEE AGREEMENT WITH THE CURRENCY EXCHANGE FUND**

FMO and the Currency Exchange Fund (TCX) announced that they selected P.R.I.M.E. Finance to settle potential conflicts arising out of their most recent guarantee agreement. The institutions reported that they had chosen this innovative option given the special subject matter expertise of the P.R.I.M.E. Finance Panel of Experts as well as the enforceability advantages of arbitral awards. FMO supports sustainable private sector growth in developing and emerging markets by investing in businesses, projects and financial institutions. TCX is a unique financial institution that provides currency derivatives in emerging markets to its shareholders and their clients. Its shareholders include most major development finance institutions and a number of specialized microfinance investors. For the full press release, please click [here](#).

## **9. P.R.I.M.E. FINANCE AND LEXISNEXIS LAUNCH DATABASE PROJECT**

LexisNexis and P.R.I.M.E. Finance have announced an exciting new collaboration. LexisNexis has created a case database for P.R.I.M.E. Finance, which provides access to a wide range of case reports from around the world. Through the database, P.R.I.M.E. Finance experts and the judges they train can access links to cases, transcripts and available law reports on LexisLibrary®, in addition to practical guidance from LexisPSL® Banking & Finance and Arbitration and host of other useful features and functionality.

The database provides an important component part of the broader strategy at P.R.I.M.E. Finance. Since the global financial crisis, complex financial product cases have been increasing; the database provides a tool for identifying the experiences of different jurisdictions and how they have addressed complicated issues in these cases.

LexisNexis will be demonstrating the database to P.R.I.M.E. Finance experts at the upcoming Seventh Annual Conference on 22 and 23 January 2018.

## **10. PRESENTATIONS AND STAKEHOLDERS' MEETINGS**

### **a. Municipality The Hague**

P.R.I.M.E. Finance's ties with the Municipality of The Hague remain strong. Several important stakeholder meetings have taken place over the course of the past two years. An important commitment of time was made by the Municipality and the other Dutch authorities over recent months to help P.R.I.M.E. Finance develop an exciting, ambitious and credible plan for expansion, building on a shared vision and the early successes of the venture. While we cherish our independence, that continued support and our growing number of cooperating entities from around the world are a true source of encouragement.

### **b. UNCITRAL Meeting in New York**

From 6 through 10 February 2017, P.R.I.M.E. Finance's representatives attended the 66<sup>th</sup> Session of the Working Group II (Dispute Settlement) of UNCITRAL, which took place in New York. The aim of the session was to prepare a uniform text on enforcement of international commercial settlement agreements resulting from conciliation. Prof. Gerard Meijer, Secretary-General of P.R.I.M.E. Finance, and Camilla Perera-de Wit, Head of Secretariat of P.R.I.M.E. Finance, were present during the sessions. To see the full Report of the Working Group II (Dispute Settlement) on the work of its sixty-sixth session, click [here](#).

### **c. ABA Judicial Division**

On 26 April 2017, P.R.I.M.E. Finance and the American Bar Association (ABA) Judicial Division visited the Dutch Supreme Court for a morning session lead by Justice Edgar du Perron. Over 60 members of the ABA Judicial Division visited the Supreme Court in an event co-organized by P.R.I.M.E. Finance. After the visit to the Dutch Supreme Court, the ABA members visited the Peace Palace and attended a session on the Role of Expert Forums and Expert Witnesses in Resolving Complex Financial Disputes. The Hon. Elizabeth Stong, Judge at the U.S. Bankruptcy Court for the Eastern District of New York and Board Member of P.R.I.M.E. Finance moderated the session, which included presentations by Sir

David Baragwanath KNZM, Chairman of the Advisory Board of P.R.I.M.E. Finance, Prof. Jeffrey Golden, Chairman of the Management Board of P.R.I.M.E. Finance, and Prof. Gerard Meijer, Secretary-General of P.R.I.M.E. Finance.

**d. ISDA Annual General Meeting in Lisbon**

From 8 through 10 May 2017, representatives from P.R.I.M.E. Finance attended the 32nd Annual General Meeting of the International Swaps and Derivatives Association (ISDA) in Lisbon, Portugal. Kristy M. Tillman, Executive Director of P.R.I.M.E. Finance, and Camilla Perera-de Wit, Head of the Secretariat of P.R.I.M.E. Finance, attended the three-day session and met with numerous P.R.I.M.E. Finance experts and leading derivatives market participants.

**e. P.R.I.M.E. Finance Experts visit stakeholders in Asia**

Between 9 and 14 April and 5 and 9 June 2017, two members of the P.R.I.M.E. Finance Panel of Experts, Rick Grove and Jonathan Ross, carried out two rounds of visits with key stakeholders in Asia. Messrs. Grove and Ross travelled representing P.R.I.M.E. Finance and had meetings in Singapore, Hong Kong, Tokyo, Taipei and Shanghai with other members of the Panel of Experts and with representatives of law firms, banks, market participants and other key industry players. During the meetings the P.R.I.M.E. Finance representatives highlighted the mission and offering of P.R.I.M.E. Finance (both globally and in the region) and discussed the P.R.I.M.E. Finance judicial training program, as well as recent regulatory developments and issues in the derivatives markets.

**f. Centre for the Study of Financial Innovation Roundtable**

On 21 June 2017, Prof. Jeffrey Golden participated in a round-table discussion with Sir Adam Ridley, Richard Samuel and Mike Conroy in London entitled "Resolving SME complaints: Is it time for a streamlined process?."

**g. P.R.I.M.E. Finance and World Justice Forum participants visited Dutch Supreme Court**

On 10 July 2017, P.R.I.M.E. Finance, in coordination with the World Justice Project, organized a visit to the Dutch Supreme Court for 30 of the attendees of the World Justice Forum. This afternoon session was led by the President of the Court, Justice Maarten Feteris. The visit took place before the start of the World Justice Forum's four-day programme and included a presentation by Justice Feteris on the Dutch legal system and its differences with other legal systems throughout the world, and a further illustration of the workings of the system by Justice Buruma. The presentation, which was concluded by a diverse and interesting Q&A session, was very well received by the attendees. The audience was comprised, among others, of lawyers, judges, professors and academics. Kristy Tillman, the Executive Director of P.R.I.M.E. Finance, Professor Jeffrey Golden, Chairman of the Management Board of P.R.I.M.E. Finance, the Honorable Judge Elizabeth Stong and Dr. Willem Calkoen, Board members of P.R.I.M.E. Finance, also attended the event.

**h. Executive Director visits stakeholders in New York City and Washington, D.C.**

In September 2017, P.R.I.M.E. Finance Foundation Executive Director Kristy Tillman traveled to New York and Washington, D.C. to promote P.R.I.M.E. Finance. The institutions visited included Goldman Sachs, Deutsche Bank, Paul, Weiss, Rifkind, Wharton & Garrison, LLP, the American Arbitration Association/International Center for Dispute Resolution, the Commodities and Futures Trading Commission, as well as several New York-based P.R.I.M.E. Finance Experts. In Washington, D.C., Kristy and Jeffrey Golden met with the General Counsels of the World Bank Group and the International Monetary Fund, as well as representatives from the United States Agency for International Development, the Commercial Law Development Program of the U.S. Commerce Department, the U.S. State Department, and Federal Judiciary's International Judicial Relations Committee. These productive meetings were yet another step in raising the profile of and interest in P.R.I.M.E. Finance among key potential stakeholders.

**i. Legal Business International Arbitration Summit**

Prof. Jeffrey Golden, Chairman of the Management Board of P.R.I.M.E. Finance, spoke at the Legal Business International Arbitration Summit, which took place on 30 November 2017, in London. The summit was chaired by Stephen Jagusch QC of Quinn Emanuel Urquhart & Sullivan and brought together a host of top practitioners and influential general counsel to discuss the key trends in one of the most strategic practice areas in global law.

**j. Head of Secretariat as keynote speaker at Baker McKenzie DIS40 event in Frankfurt**

Camilla Perera-De Wit, Head of the Secretariat of P.R.I.M.E. Finance, spoke as the keynote speaker at the DIS40 event which took place on 30 November 2017, at the offices of Baker McKenzie in Frankfurt. The evening's topic was "Financial Institutions and International Arbitration – (not) a genuine love?". The keynote was followed by an Oxford style debate by Tilmann Hertel, Herbert Smith Freehills, and Jan Ludwig, Clouth & Partner, discussing the pros and cons of arbitration in the financial sector.

## 11. INCOMING REQUESTS FOR P.R.I.M.E. FINANCE DISPUTE RESOLUTION SERVICES

The number of inquiries or requests for arbitration or expert witness services continues to increase. All such inquiries should be directed in the first instance to Camilla Perera – De Wit, Head of the Secretariat of P.R.I.M.E. Finance, at [c.perera@primefinancedisputes.org](mailto:c.perera@primefinancedisputes.org), with a copy to the Secretariat via [secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org).

## 12. NOMINEE EXPERTS

The number of expressions of interest and nominations to join our Panel of Experts now exceeds the number of appointed Experts. All nominees, unless given written notice otherwise, should assume that their applications remain under consideration and shall receive the Selection Committee's careful consideration. We welcome further nominations. For further information, please contact the Secretariat at [secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org).

## 13. FRIENDS OF P.R.I.M.E.

In 2014, a group of individuals organized "Friends of P.R.I.M.E." to facilitate individual financial contributions to support the P.R.I.M.E. Finance Foundation and its work. The P.R.I.M.E. Finance Foundation is a not-for-profit Dutch foundation, which relies heavily on the pro bono spirited efforts and intellectual contribution of its Experts and Board members. P.R.I.M.E. Finance cherishes its independence, and donations through Friends of P.R.I.M.E. help preserve this. This year, we also established a U.S.-based entity known as PRIME Finance Dispute Resolution and Education Foundation in order to apply for grants from U.S.-based Foundations and make it easier for our U.S.-based Friends to become Friends of P.R.I.M.E. All monies raised through Friends of P.R.I.M.E. go directly to program support. The 2018 Friends of P.R.I.M.E. goal is set at €100,000. Your help is needed to reach our target goal, and there are many giving levels available. Join other experts and friends and become a friend of P.R.I.M.E. Finance now!

For complete information on becoming a Friend of P.R.I.M.E., please contact [secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org).

## 14. PRESS COVERAGE

To see recent press articles and other media coverage concerning the P.R.I.M.E. Finance project, click [here](#).

## 15. CONTACT US

For questions, please contact the Secretariat via [secretary@primefinancedisputes.org](mailto:secretary@primefinancedisputes.org). Follow P.R.I.M.E. Finance on **LinkedIn** by clicking [here](#)!

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### **P.R.I.M.E. Finance Foundation**

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