



P.R.I.M.E. FINANCE
Panel of Recognised International Market Experts in Finance

P.R.I.M.E. FINANCE NEWSLETTER - NOVEMBER 2021

1. A RETURN TO IN-PERSON EVENTS: SAVE THE DATE FOR LONDON 2022

We are delighted to announce that we plan to meet again in person soon, beginning with a one day conference in London on **28 March 2022**. Please save the date! If you are interested in sponsoring the event, contact secretary@primefinancedisputes.org. A further event will be held in New York in June (date to be announced), and we are also expecting to hold an event in Asia during the second half of 2022.

2. P.R.I.M.E. FINANCE DRAFT REVISED ARBITRATION RULES

We launched the new Arbitration Rules on 15 November 2021. A virtual launch event will follow on 6 December at 11:00 ET /16:00 London / 17:00 CET. Please join **Georges Affaki, Kasper Krzeminski, Martin Doe and Camilla Macpherson** to celebrate this milestone! Register [here](#). For more information, click [here](#) or contact secretary@primefinancedisputes.org.

Please consider what you can do to promote the Rules, be that by way of publicity, encouraging their use in disputes, and encouraging the incorporation of our model clauses in contracts. Contact secretary@primefinancedisputes.org with your ideas!

3. IFC PROJECT

P.R.I.M.E. Finance has partnered with the International Finance Corporation (a member of the World Bank Group) on a major project to create an assessment framework that will help assess gaps in countries' legal and regulatory framework for derivatives.

The first step was to produce a questionnaire which aims to review the existing legal and regulatory framework applicable directly or indirectly to derivatives in a particular jurisdiction and identify areas of weakness, deficiencies or missing concepts that would need to be addressed in order to facilitate the development of a derivatives market. The topics covered by this questionnaire were then developed by P.R.I.M.E. Finance into a set of training modules to inform and train the different stakeholders involved on the key considerations affecting derivatives and best international practices.

4. MINISTRY OF JUSTICE CALL FOR EVIDENCE ON DISPUTE RESOLUTION

P.R.I.M.E. Finance responded to the UK Ministry of Justice's recent Call for Evidence on Dispute Resolution, seeking views on dispute resolution processes as an alternative to litigation. We expressed our support for the initiative and shared our thoughts on how alternative means of

dispute resolution could be beneficial to financial markets. Thank you to a number of P.R.I.M.E. Finance experts who contributed their thoughts on this exercise.

5. JUDICIAL TRAINING IN THE BAHAMAS

In August 2021, P.R.I.M.E. Finance held virtual training sessions across two days for judges of The Bahamas, Jamaica, Turks and Caicos and the British Virgin Islands. **Bob Pickel, Jeffrey Golden, Rick Grove and Camilla Macpherson** presented sessions, with introductions from the Chief Justice of The Bahamas Brian Moree QC, Justice of the Supreme Court of the Bahamas Ian Winder and U.S. Bankruptcy Court Judge the Hon **Elizabeth Stong**. The **Bahamas Bar Association** and the **Bahamas Financial Services Board** kindly sponsored the programme. Thank you to **Bertha Cooper-Rousseau** for her considerable assistance with this programme.

6. PRIMETIME CATCH-UP

You can find links to all PRIMETIME recordings [here](#). Our most recent sessions are:

Legends of the Law: In Conversation with Sandie Okoro: Hon Elizabeth Stong, US Bankruptcy Judge, was in conversation with Sandie Okoro, Senior Vice-President and General Counsel for the World Bank Group.

Carbon Trading: Annette Nazareth, Senior Counsel at Davis Polk & Wardwell and former SEC Commissioner, Mike Azlen, Founder and CEO of Carbon Cap Management LLP, and Ian Cuillier, Partner at White & Case LLP, discussed the key issues. Thank you to ISDA Senior Counsel Peter Werner for moderating this session.

Thank you to **FTI Consulting, McCann FitzGerald LLP** and **Travers Smith** for sponsoring this series of PRIMETIME Virtual Events. We also appreciate the support from **LexisNexis** in promotion.

7. NEWS OF OUR EXPERTS, BOARD MEMBERS AND STAFF

Georges Affaki was appointed to the Practice & Procedures Board of the Australian Centre for International Commercial Arbitration (ACICA) and to the International Financial Legal Experts body to the Shanghai High People's Court. Georges also published a paper on Arbitration in Climate Change Finance in the Stockholm Arbitration Yearbook 2021 (A. Calissendorff, P. Schöldström Ed.), Stockholm University Publ, and delivered the keynote at the Lujiazui Forum on the Rule of Law in Financial Regulation in Shanghai.

Carl Baudenbacher's book 'Restoring the Balance in the European Economic Area' (European Law Reporter, 2021) was released earlier this year. On 9 September 2021, Carl participated in a discussion with Professor Erik O. Eriksen from the University of Oslo hosted by the European Movement West-Norway on the subject 'Is Norway Abusing the EEA Agreement?' (with the background being the NAV Welfare scandal and the way it has been dealt with by the Norwegian and EFTA authorities and courts).

Sir Jack Beatson has written ‘Key Ideas in Law: The Rule of Law and the Separation of Powers’ (Bloomsbury Publishing, 29 July 2021).

Sir William Blair will give the Annual Kaplan Lecture at the HKIAC on 1 December 2021 at 6 pm HK time, a hybrid event. The title is “Arbitrating Financial Disputes – are they different and what lies ahead?”.

On 29 July 2021, Schroders plc announced that **Dame Elizabeth Corley DBE** would join its Board as a Non-executive Director, member of the Nominations Committee and Chair designate, effective 1 September 2021. Subject to shareholder approval, Elizabeth will become Chair at the conclusion of Schroders’ 2022 Annual General Meeting. As Chair-Designate, she spoke about Schroders commitment to investing in Natural Capital at the COP26 United Nations Climate Change Conference Summit Leader’s event: Action on Forests and Land-use. As Chair of the Impact Investing Institute, Elizabeth also delivered the keynote address on the theme of mobilisation on the second day of the Green Horizon summit.

At COP26, **Ida Levine** spoke at an event of the University of Glasgow School of Law, Hausfeld and the British Institute of International and Comparative Law (BIICL) on ‘Mobilising the Rule of Law in Climate Change’. Ida, the Impact Investing Institute’s policy lead expert, discussed the increased focus on climate standards on the panel, ‘The Role of Markets and Companies’. At a side event presented by the University of Glasgow School of Law and the Impact Investing Institute entitled ‘Finance, Governance and Sustainability’, Ida chaired a panel on Fiduciary duty and sustainable investing.

In France, the Etats Généraux de la Justice is considering how to improve the justice system. Working groups have been hearing from a number of specialists, including private practice and in-house lawyers, judges and prosecutors. **Jean Messinesi** is contributing to this exercise.

The CIArb Alexander Lecture 2021, entitled ‘International Arbitration and Sustainable Investment: Facilitator or Foe?’ was delivered live by **Wendy Miles** at COP26.

Sir Ross Cranston has written ‘Making Commercial Law through Practice 1830–1970’ (Cambridge University Press).

Luc Frieden was elected as the new president of Eurochambres.

Simon Gleeson has been appointed as Deputy High Court Judge in England and Wales.

The Rt. Hon. Dame Elizabeth Gloster DBE has appeared on the list of the 2021 *Peer2Peer Finance News* Power 50, which recognises the most influential individuals in the peer-to-peer lending sector who have propelled its growth over the past year.

In October, **Rick Grove** gave a lecture on the Origin and Development of Currency Swaps and Interest Rate Swaps and another lecture on the Valuation of Forwards, Swaps and Options and Derivatives Credit Risk at the Practising Law Institute in New York. In November, Rick organized a discussion at the International Institute for Strategic Studies in London with the Israeli and Palestinian directors of EcoPeace Middle East, an environmental NGO, following the

directors' presentation at COP26 of a proposal for a Green Blue Deal involving the exchange of solar power produced in Jordan for desalinated water produced in Israel.

Kasper Krzemiński, Secretary-General of P.R.I.M.E. Finance, has been named Professor by special appointment of Enforcement and Attachment Law at the University of Amsterdam Law School. The chair was established on behalf of the Stichting Leerstoel Executie en Beslagrecht (Chair in Enforcement and Attachment Law Foundation), with the support of the Koninklijke Beroepsorganisatie van Gerechtsdeurwaarders (Royal Association of Court Bailiffs).

Julia Lu has joined the New York office of Ashurst LLP as a partner.

Steven L Schwarcz has written Policy Paper 'Central Bank Digital Currencies and Law,' for Istituto Affari Internazionali (IAI), available [here](#) and forthcoming as a chapter in an IAI-edited book on central bank digital currencies being published by Peter Lang. He has also authored 'Regulating Financial Guarantors,' 11 Harvard Business Law Review 159 (2021), also available [here](#) and 'Soft Law as Governing Law,' 104 Minnesota Law Review 2471 (2020); also available [here](#). He has co-authored 'Scoping and Defining Financial Inclusion, Access to Credit, and Sustainable Finance', 84 Law & Contemporary Problems 1 (2021) (symposium issue on 'Financial Inclusion, Access to Credit, and Sustainable Finance'), also available [here](#) and 'Corporate Restructuring under Relative and Absolute Priority Default Rules: A Comparative Assessment', 2021 University of Illinois Law Review 1; also available [here](#).

René Smits has written 'Elaborating a climate change-friendly legal perspective for the ECB', to be published in René Smits (ed.), Sustainable Finance – Legal Aspects, Edward Elgar Publishing available [here](#) and 'The European Central Bank's Pandemic Bazooka: Mandate Fulfilment in Extraordinary Times', 14 April 2021, to be published in: Dolores Utrilla and Anjum Shabbir (eds), 'EU Law in Times of Pandemic. The EU's Legal Response to the COVID-19 Crisis', EU Law Live Press, 2021 available [here](#). As of 1 April 2021, René has also been appointed as a Member of the [Administrative Board of Review](#) of the ECB, on which he sat before as an Alternate Member since 2019.

The Hon Elizabeth Stong received the National Conference of Bankruptcy Judges President's Award at the NCBJ annual conference in October and was appointed as Secretary of the ABA Judicial Division's National Conference of Federal Trial Judges.

8. NEW BOARD APPOINTMENTS

We welcome **Sharon Brown-Hruska** to our Management Board. Sharon is the Principal of Hruska Economics, LLC, former Chief Economist, US State Department, former Managing Director in NERA's Global Securities and Finance and White Collar, Investigations and Enforcement Practices, and former Commissioner and Acting Chairman, US Commodity Futures Trading Commission. Sharon previously served on the board of P.R.I.M.E. Finance's U.S.-based entity, PRIME Finance Dispute Resolution and Education Foundation.

9. NEW PANEL APPOINTMENTS

P.R.I.M.E. Finance has recently considered and approved a number of new appointments to its expert panel. We now welcome the following experts to our panel:

Dr. Yas Banifatemi is a founding partner of Gaillard Banifatemi Shelbaya Disputes and is widely recognized as one of the most prominent international arbitration specialists worldwide. Prior to founding Gaillard Banifatemi Shelbaya Disputes, she served as Shearman & Sterling's Global International Arbitration Practice Group Leader alongside the late Professor Gaillard. A former Vice-President of the ICC International Court of Arbitration and a former member of LCIA Court, she currently serves as a member of the SIAC Court of Arbitration. She is also a member of the ICSID Panel of Arbitrators. Since September 2021, she has replaced the late Professor Gaillard as the President of the International Arbitration Institute (IAI). She also teaches international arbitration at Harvard Law School, Yale Law School and Panthéon-Sorbonne University.

Chiann Bao is an independent arbitrator with extensive experience working in multiple jurisdictions (Singapore, Hong Kong, New York, and London). Prior to joining Arbitration Chambers, Chiann worked in private practice where she focused on complex international arbitration and litigation, acting as counsel for corporates, states and state-owned enterprises in a range of disputes in various sectors. She currently serves as a Vice Chair of the IBA's International Arbitration Committee. She is also a Vice President of the ICC Court of Arbitration and is the Chair of the ICC Commission Task Force on Arbitration and ADR. From 2010 to 2018, Chiann served as the Secretary General and then as a council member of the Hong Kong International Arbitration Centre.

Marcus van Bevern is Partner at Kantenwein in Munich. He is a member of Kantenwein's litigation and arbitration practice and a specialist in banking and capital markets law. He frequently represents domestic and international clients in banking- and capital market-related litigation and arbitration and is regularly appointed as arbitrator.

Claude Brown is Partner in the Financial Industry Group of Reed Smith; European Committee member of the International Energy Credit Officers Association; former board director of the Weather Risk Managers Association; former Head of non-Yen Fixed Income and Derivatives at Taiyo Kobe International; and Member of the Financial Markets Law Committee.

Felix Dasser is a senior partner at Swiss firm Homburger. His practice focuses on international commercial and investment disputes with a particular focus on financial matters (banking and insurance). He has acted as counsel and as arbitrator (sole arbitrator, co-arbitrator and chair) in numerous international arbitration cases under various arbitration rules and is President of the Swiss Arbitration Association ASA.

Grant Hanessian is an independent arbitrator based in New York and Adjunct Professor of Law at Fordham University. He is former Global Co-chair of the Baker McKenzie International

Arbitration Group and served from 2015-2021 as U.S. Member, ICC International Court of Arbitration, Paris.

Bernard Hanotiau is Founding partner of Hanotiau & van den Berg, Brussels and Singapore, Emeritus Professor of international law at the Universities of Louvain and Namur (Belgium) and Visiting Professor, NUS University of Singapore. He is an international arbitrator and has been involved in more than 500 international arbitration cases (commercial and investment) in all parts of the world.

David Geen is a Senior Technical Advisor in the Legal Directorate of the Bank of England. His role includes co-ordinating the Directorate's coverage of FinTech issues and overseeing its support for benchmark transition. He was previously the Bank's Deputy General Counsel for Central Banking and prior to that held various divisional management positions within the Legal Directorate. He is also former General Counsel, ISDA, former Head/Co-head of derivatives team, Legal Department, Goldman Sachs London and former Partner, Baker & McKenzie, London.

Judith Lawless leads McCann FitzGerald LLP's derivatives practice and is based in its Dublin office. Her practice encompasses OTC and exchange-traded derivatives, repos, securities lending and related collateral arrangements, advising buy-side and sell-side market participants and market infrastructure providers on related trading, clearing, settlement and custody and the regulatory environment in which it takes place.

Annette L. Nazareth currently serves as the Co-Chair of the Integrity Council for Voluntary Carbon Markets (IC-VCM), the governance body launched by the Taskforce on Scaling Voluntary Carbon Markets, where she served as Operating Lead. She is a Senior Counsel at Davis Polk & Wardwell, where she previously headed the firm's Trading and Markets practice within the Financial Institutions Group. Annette was a key player in U.S. financial services regulation for nearly a decade, having served as a Commissioner of the U.S. Securities and Exchange Commission and as the Director of the Division of Trading and Markets. Earlier in her career she had senior legal roles at several investment banks.

Amane Oshima is President & CEO, Fund Corporation for the Overseas Development of Japan's ICT and Postal Services (Japan ICT Fund); former President & CEO of Mizuho-DL Financial Technology Co., Ltd; and former Co-Head of Global Markets Division of Mizuho Bank and Deputy Head of Global Markets Company of Mizuho Financial Group, Inc.

Philippe Pinsolle is Partner of Quinn Emanuel Urquhart & Sullivan LLP, heading international arbitration for continental Europe. He has over twenty-five years' experience as counsel, expert and arbitrator in international arbitration. He has acted as counsel in more than 300 international arbitrations, with a particular focus on Investor-State arbitrations and commercial disputes involving the energy, power, oil & gas, construction and defense industries. He is based in Geneva.

Kathryn Sanger is a partner in the Hong Kong office of Herbert Smith Freehills. She has over 15 years' experience of advising clients on arbitration and litigation proceedings in Asia Pacific and has advised clients across a wide range of industries and locations, with particular strengths in financial services, energy and in China-related matters. She speaks and reads Mandarin Chinese. Kathryn was a Council Member of the Hong Kong International Arbitration Centre (HKIAC) between 2008 and 2019 and chaired the HKIAC appointments committee between 2013 and 2018. She also served on its rules and proceedings committees, and currently sits on the HKIAC's finance and administration committee. Kathryn was recently appointed to co-chair a sub-committee of the Hong Kong Law Reform Commission on outcome-related fee structures for arbitration.

Harriet Territt has 20 years of experience in resolving significant financial disputes and regulatory issues with a particular focus on the cutting edge of financial technology. Her practice covers all forms of complex financial instruments, with significant experience relating to derivatives and structured products. She regularly solves disputes by negotiation, mediation, and wholesale restructuring of transactions as well as by representing clients in court and related proceedings. Increasingly, Harriet advises on liability, risk, and governance issues arising out of the fintech revolution including blockchain, digital assets, AI in financial services, payments, alternative finance arrangements, and consumer facing products. She has a particular interest in compliance, systems and processes to support effective provision of financial services and is regularly asked to advise on complex issues related to global financial sanctions and money laundering rules.

Gaëtan Verhoosel is a founding partner of Three Crowns LLP, Member of the SIAC Court, Member of ICSID Panel of Arbitrators, former Senior Co-Chair of the IBA Arbitration Committee and Visiting Lecturer, King's College. He has served as advocate and as arbitrator in a large number of both commercial and investment treaty arbitrations, some of which have been widely reported due to the significance of the financial recoveries at stake or the novelty of the legal issues involved. Before entering private practice, he served as a Legal Advisor at the World Trade Organization in Geneva, where he advised dispute settlement panels adjudicating disputes between sovereigns across a range of industry sectors. Gaëtan is admitted to practice in England & Wales (solicitor-advocate), France (avocat), and Spain (abogado).

10. IN MEMORIAM

PETER HECKEL (1952 – 2021)

Peter Heckel passed away on 9 May 2021. He was remembered by his former partners at Hengeler Mueller as a reliable partner and good friend. They noted that: “With legal brilliance and sustained commitment, he has shaped the development of our dispute resolution practice for years. His skill and pragmatism made him a highly respected arbitrator in international arbitration.” He left Hengeler in 2017 and practised as an Independent Arbitrator, specialising in

German and international arbitration and litigation regarding business law matters. He is survived by his wife and son.

KIRSTI NIINISALO-SNOWDEN (1955-2021)

Kirsti Niinisalo-Snowden passed away on 9 July 2021 after a long illness. In an obituary written *i.a.* by Expert Dr. Matti Engelberg, Kirsti Niinisalo-Snowden was remembered as a true legal and banking professional who could find practical solutions to difficult problems.

After graduating from Harvard Law School in 1985, Niinisalo-Snowden worked in the City of London, first as a lawyer in the London branch of a leading Finnish Bank, and then as Director of Legal Services for the leading Nordic bank, Nordea.

Niinisalo-Snowden also provided distinguished service over three decades to the international banking sector in the City of London and to the Finnish-British business community. She served for several years as chairman of the Regulatory and Legal Committee of the City of London's Association for Foreign Banks and as chairman and board member of the Finnish-British Chamber of Commerce. She was awarded the Knight of the Order of the Finnish Lion in 2009.

Kirsti was also a talented pianist who could have pursued a career as a professional musician. She shared her passion for music with her two sons and her husband, who survive her.

SCHUYLER KENT HENDERSON (1945 – 2021)

It is with great sadness that we inform you that our great friend and colleague, and former P.R.I.M.E. Finance Expert, Schuyler Henderson, died on 4 October 2021. He passed away peacefully at home in Nantucket.

Schuy graduated from Princeton University. At the University of Chicago, he was the first to complete a law degree simultaneously with an M.B.A. in the business school. From 1968 to 1974 he was in the U. S. Marine Corps Reserve, leaving as a captain. He became a partner at Mayer, Brown and Platt in Chicago and went to London to run their European office. He was subsequently a partner at Sidley & Austin, Baker & McKenzie and Norton Rose. After his retirement he remained active as a consultant, writer and lecturer.

An independent and original thinker, Schuy published numerous scholarly and influential articles on banking law, particularly in the derivatives field, having been involved in what became the first swap agreement. In 1984 he co-authored (with John Price) *Currency and Interest Swaps*. This was followed in 2003 (with a second edition in 2010) by *Henderson on Derivatives*.

There are many of us in the financial markets, including P.R.I.M.E. Finance Experts, who learned a huge amount from Schuy. He was a loyal and supportive colleague and we are privileged to have worked with him.

Schuy was devoted to his family. He leaves behind his wife of 54 years, Paula, their two sons Heath and Schuyler, their wives Marissa and Kate, and five grandchildren.

ROBIN DICKER (2021)

We were saddened to hear the news about the death of Robin Dicker QC shortly before we published this newsletter. Robin was a tremendous lawyer and a great friend to many P.R.I.M.E. Finance Experts. We will include a fuller appreciation of his life and career, and his contribution to P.R.I.M.E. Finance in our next newsletter.

11. P.R.I.M.E. FINANCE SERVICES AND NOMINATION OF NEW EXPERTS

P.R.I.M.E. Finance administers requests for expert witness services. All such enquiries should be directed to Camilla Macpherson, Head of the Secretariat of P.R.I.M.E. Finance, with a copy to the Secretariat.

We continue to expand our global presence and invite nominations to our growing list of Experts. All nominees, unless given written notice otherwise, should assume that their applications remain under consideration. For further information, please see our webpage or contact the Secretariat.

12. FRIENDS OF P.R.I.M.E.

Friends of P.R.I.M.E. is the principal means by which our Experts, market participants and other interested parties can show their financial support for P.R.I.M.E. Finance. The P.R.I.M.E. Finance Foundation is a not-for-profit Dutch foundation, and relies heavily on the *pro bono* spirited efforts and intellectual contribution of its Experts and Board members. P.R.I.M.E. Finance values its independence, and donations through Friends of P.R.I.M.E. help preserve this. We have also established a U.S.-based entity, PRIME Finance Dispute Resolution and Education Foundation, in order to further the educational objectives of P.R.I.M.E. Finance, to apply for grants from U.S.-based foundations and allow our U.S.-taxpayer Friends to become Friends of P.R.I.M.E. by making tax-deductible contributions. All monies raised through Friends of P.R.I.M.E. go directly to program support. Read more and make a donation, by check, wire transfer or credit card (via PayPal), here.

13. PRESS COVERAGE

Find recent press articles and other media coverage concerning P.R.I.M.E. Finance here.

14. CONTACT US

For questions, please contact the Secretariat. Follow P.R.I.M.E. Finance on LinkedIn and Twitter!

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

primefinancedisputes.org

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