

FINANCIAL INSTITUTIONS REGULATORY DISPUTES & INVESTIGATIONS

*Shift culture – manage conduct –
avoid fines and litigation*

24 – 25 November 2015

Grange Tower Bridge Hotel
London, UK

Enforcement Updates & Expert Guidance from:

FCA	XXIV Old Buildings
Payment System Regulator	Fountain Court Chambers
London Solicitors' Litigation Association	Vedanta Hedging Clifford Chance
Lloyds Banking Group	Cooke, Young & Keidan
HSBC	CMS Cameron McKenna
NIBC Bank	Dentons
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Maximise your learning without taking extra time out of the office!

PRACTICAL WORKING GROUP:

» Tuesday, 24th November

Individual Accountability Regime: 10 Do's and Don'ts to Satisfy the Regulators and Still Protect Your Firm And its Staff

PLUS! SEPARATELY BOOKABLE:
EARLY RISER MASTER CLASS:

» Wednesday, 25th November

De-risked Strategies for Recovering Losses from Defective and Inappropriate Financial Products

Join an exceptional line up of top regulators, senior banking counsel, barristers and litigation experts for advanced, closed-door discussions about high-risk investigation and enforcement, including:

- The FCA's new competition powers and enforcement priorities: where is the regulator heading next?
- Fair Markets Review and the expected regulatory litigation response
- The regulator's view on financial institutions culture and conduct risk management performance
- Benchmark investigations: bringing follow-on claims based on competition violations
- Foreign exchange markets – implications of manipulation and mis-selling
- Cyber security inspections from the regulators and potential claims resulting from breaches
- SME Interest Rate Hedging Products – FCA Review Scheme
- The Senior Managers Regime; the Certification Regime; and new Conduct Rules
- Dealing with multiple regulators and enforcement agencies in multiple jurisdictions

Two days of networking and interactive sessions covering the latest high profile and legally novel cases:

- Criminal offences in relation to manipulating benchmarks
- Mis-selling of interest rate swaps by reference to LIBOR

Lead Sponsor – Exclusive:



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“The scale of misconduct in some financial institutions has risen to a level that has the potential to create systemic risks”

Mark Carney, The Governor, Bank of England

Financial markets and new products continue to evolve rapidly against an ever tightening regulatory backdrop. The recent and ongoing probes and investigations by national and global regulators, coupled with a sharp escalation in the number of claims by disgruntled clients, are resulting in a high stream of litigation and massive regulatory fines and penalties. Misconduct, when it comes to light, can lead to costly legal battles, criminal liabilities and reputational devastation. The revelation that a number of institutions are being investigated by regulators across the globe raises an alarming spectre of copycat litigation across multiple jurisdictions.

The total cost of litigation for the 16 largest global banks since 2010 equals a record £205.6bn of fines, settlements and provisions – up almost a fifth from the previous year (Source: CCP Research Foundation Annual Study)

LIBOR fixing is a hot topic in particular with the Hayes “game changer” verdict that is dividing opinion. The conviction paves the way to for more individuals being charged. With the slew of high-profile cases currently going through the Courts, it is widely predicted that the worst of the litigation is still to come.

Building upon C5’s stellar reputation for regulatory enforcement events, this timely conference will focus on the most complex legal and business challenges affecting high risk investigation and enforcement areas for financial institutions.

Benefit from thought leadership on contentious regulatory issues delivered to you directly by regulators, claimants and defendants including:

- Toughening the regulation around rigging benchmarks without impairing their usefulness
- Formulating an effective response to damages claims resulting from cartel findings
- Confidentiality, privilege and disclosure of communications between financial institutions and regulators
- Fair Markets Review and possible regulatory litigation response
- The implications of recent landmark cases on the concept of contractual estoppel
- LIBOR criminal prosecution and actions against individuals
- Criminal violations in connection with a global FX manipulation scheme
- Mis-selling of interest rate swaps by reference to LIBOR and possible unwinding of a legal settlement
- Actionable measures to prevent a corporate culture being dominated by “a few bad apples” and to turn traders into the first line of defence against possible breaches in regulatory compliance
- Responding to the increasing importance of cyber security inspections from the regulators

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PRACTICAL WORKING GROUP – Tuesday, 24th November

Individual Accountability Regime:

10 Do’s and Don’ts to Satisfy the Regulators and Still Protect Your Firm and its Staff

PLUS! EARLY RISER MASTER CLASS – Wednesday, 25th November

De-risked Strategies for Recovering Losses from Defective and Inappropriate Financial Products

To register, please call us at **+44 (0)20 7878 6888**, or book online at **www.C5-Online.com/FinCompliance**

We look forward to welcoming you at the event.

Anita Arthur

Industry Manager, C5 Communications Ltd

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8.00 **Registration, Refreshments and Networking**

9.00 **Chair's Opening Remarks**

9.15 **Competition Enforcement and Litigation in the Financial Sector**

Mark Bethell

Manager, Competition Department
FCA

Carole Begent

Head of Legal
The Payments System Regulator

Sharon Horwitz

Director, Sector Regulation Unit
Competition and Markets Authority

Manish Das

Head of Competition Law
Lloyds Banking Group

Joshua Sherer

Senior Legal Counsel
Head of Competition Law,
Global Banking and Markets
HSBC

- The FCA's new competition powers and an enforcement focus on wholesale banking
- How the FCA and CMA will work together
- Updates on recent investigations and settlements of manipulative anti-competitive conduct
- What types of financial services have been affected by anti-competitive behaviour and how wide is the market for potential claims? Who are the potential victims?
- Right to compensation from the banks for losses caused to the buyers of instruments in which LIBOR is referenced
- LIBOR fixing and competition law: Bringing follow-on claims based on competition law violations
- Actions for damages for breaches of competition law
- Adapting existing business models and practices in line with the FCA's new competition powers
- Formulating an effective response to damages claims resulting from cartel finding

10.30 **Morning Refreshments**

11.00 **LIBOR Fixing Claims and the Implications of the Latest Cases Progressing through Courts**

John Bramhall – Moderator

Partner, **DAC Beachcroft** and President
London Solicitors' Litigation Association

David M. Ellis

Senior Managing Director
FTI Consulting

Stephen Elam

Senior Associate
Cooke, Young & Keidan

Edward Cumming

Barrister
XXIV Old Buildings

- Crossover between investigations and civil claims
- *Property Alliance Group Ltd vs. The Royal Bank of Scotland PLC*: the implications. Legal professional and without prejudice privilege in the context of regulatory investigations
- Disclosure of communications with the regulators: Fair game for civil claims?
- Disclosure of communications with the regulators: fair game for civil claims?
- Losses allegedly arising out of LIBOR fixing – *Graiseley Properties* and the rescission argument: the present state of LIBOR litigation in the UK
- How the most recent LIBOR cases are being presented and investigated
- Benchmark criminal prosecution. Actions against individuals: criminal charges and civil fines

12.15 **Further Regulation of Financial Benchmarks**

Greg McEneny

Head of Legal, Wholesale Markets
Lloyds Banking Group

- What regulatory litigation response should be expected as a result of the Fair Markets Review?
- Which additional markets will be moved to the regulated area?
- What other indices are expected to be regulated?
- Challenges with proving misconduct: what further litigation is likely to come out of the market conduct of banks?

13.00 **Networking Lunch**

14.00 **Revisiting the Power of Contractual Estoppel in Mis-selling of Complex Financial Instruments**

Richard Coleman QC

Fountain Court Chambers

Kelwin Nicholls

Partner
Clifford Chance LLP

- The banks' duty of care in giving advice, how is this applied?
- Application of the principle of contractual estoppel: implications of two recent significant cases:
 - *Crestsign Limited vs. NatWest and RBS*
 - *Creditsuisse International vs. Stichting Vestia*
- Developing the concept of "mezzanine" duty between the duty to advise and the duty not to misstate: will this open a new route for establishing actionable misinterpretations for counterparties?
- Challenges with establishing actionable misrepresentations by claimants
- What should banks be doing to incorporate the latest arguments into their litigation defence strategies?

14.45 **Countering Imminent Cyber-security Threats for the Financial Services Industry**

Speaker TBC

- Responding to the increasing importance of cyber security inspections from the regulators
- Practical recommendations for keeping up with increased cyber security risks
- Reducing potential exposure to litigation and minimising the value of potential claims resulting from cyber-security breaches
- Developing a robust and well-run cyber-incident response plan

15.15 **Afternoon Refreshments**

16.00 **PRACTICAL WORKING GROUP:**

Individual Accountability Regime: 10 Do's and Don'ts to Satisfy the Regulators and Still Protect Your Firm And its Staff

Simon Morris
Partner
CMS Cameron McKenna

The new regime for individual responsibility at banks and major broker dealers creates new responsibilities and significant new areas of regulatory and litigation risk. The Working Group will cover the following hugely topical areas:

- The overall architecture and likely impact of the new regime
- Best practice for firms in establishing new systems and controls
- Senior managers – how they will be affected
- Documenting responsibilities – what to state and what to avoid
- Reversal of burden of proof – practical steps to safeguard against the new risks
- Certified and conduct staff – the duties, the oversight and the training
- The impact on employment rights – what it is and how best to manage
- Some golden rules – 10 do's and don'ts to satisfy the regulators and still protect your firm and its staff

17.30 **Conference Adjourns**

WHO WILL YOU MEET AT THE CONFERENCE:

Regulatory and Enforcement Agencies

Barristers and Private Practice Lawyers specialising in:

- Financial Disputes/Investigations/Enforcement
- Litigation/ Commercial litigation
- Financial Regulation/Regulatory compliance
- Financial services; Banking & Finance/Finance; Capital markets/Commercial agreements

Financial Institutions:

- Legal counsel, general counsel
- Regulatory affairs, enforcement, investigations and compliance

- Competition offenses
- Dispute resolution and litigation
- Fraud and commercial disputes

Financial Consultancies; Forensic Accountants specialising in:

- Forensic investigation services
- Commercial disputes
- Financial institutions fraud and regulatory compliance

Litigation/Arbitration Funders

(8.00 – 10.00)

De-risked Strategies for Recovering Losses from Defective and Inappropriate Financial Products

Led by:

Neil Purslow

CIO

Therium Capital Management Limited

Hanif Virji

Partner

AHV Associates LLP

This Master Class will provide guidance on all aspects of recovering losses from the sale of defective and inappropriate financial products starting with identifying potential claims through to how to de-risk the prosecution of those claims and how to achieve a successful outcome. The session will also cover alternatives to claiming, such as selling potential claims. Drawing on the leaders' extensive experience in funding and prosecuting financial services litigation, the session will cover:

- How and where do claims arise?
- What kinds of financial products are giving rise to claims currently?
- How to identify potential claims
- How can the prosecution of claims be de-risked?
- What are the options for dealing with costs and risk: litigation funding, contingency fees and insurance
- Obtaining and working with litigation funding in financial services cases; what do these mean in practice?
- What are the strategies for achieving a successful and economic result?
- What are the alternatives to claiming?
- Monetising potential claims
- Recent practical case study. Lessons to be learnt

About Your Master-Class Leaders:

Neil is one of the most established litigation funders with a market leading track record of generating superior returns for its investors. Neil sits on the Board of the Association of Litigation Funders, the self-regulatory body for the litigation funding industry in England and Wales of which Therium is a founding member. Prior to founding Therium, Neil was in-house litigation counsel for Marsh & MacLennan Companies, Inc (MMC), and prior to that he was in legal practice in the City of London and with US firm Reed Smith.

Hanif started his career in the derivative markets in 1988 in various investment banks including Lazard Brothers and J. P. Morgan where he wrote quantitative models to value derivatives, structured products and was a proprietary trader. Hanif has experience of derivatives based on most asset classes such as interest rates, equities, credit and currencies. Hanif currently acts as an Expert Witness and an expert adviser on financial markets disputes

LEAD SPONSOR – EXCLUSIVE:



FTI Consulting works with financial institutions helping them navigate through a constantly changing

environment of regulation, economic and competitive challenges and litigation threats. Our multi-disciplinary team is composed of professionals with diverse expertise – all of whom have extensive financial services industry knowledge and experience. Our multi-disciplinary teams provide solutions to a wide range of issues including:

- Sophisticated quantitative services for funds and asset managers and independent valuation services
- Rigorous and transparent analysis to support expert testimony in contentious situations across all major asset classes and products
- Managing the risk and complexity of e-discovery, collaborating with clients to develop and implement defensible e-discovery strategies with a keen focus on the productivity of document review
- Helping organisations manage regulatory change and reduce the impact of regulation. Be they regulated firms or their regulators, we assist our clients in responding to events by reducing uncertainty, clarifying facts and circumstances and facilitating remediation

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ECONOMIC CONSULTING

NERA Economic Consulting is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over 50 years, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

SESSION SPONSOR:



Collyer Bristow LLP is a central London law firm, providing a comprehensive range of legal services to commercial organisations and high net-worth individuals, often with a cross border aspect. The firm's "conflict free" Banking and Finance Disputes Group acts for investors, borrowers and financial market counterparties in complex and high value disputes over finance transactions, derivatives, benchmark manipulation and investments.

10:00 Refreshments and Networking

10:25 Chair's Opening Remarks

10:30 Internal Protection Strategies:
Cultural Change and Conduct Risk
Management Performance

Andy Kennell – Moderator
Senior Managing Director
FTI Consulting

Bart Koch
Managing Director
Compliance, Legal, Regulatory Affairs
NIBC Bank

Haydn Main
Head of Legal
Renaissance Capital

Richard Ferris
Chief Counsel
Aon Risk EMEA | Law

- How to prevent a corporate culture being dominated by “a few bad apples”: measures to make traders become the first line of defence against possible breaches in regulatory compliance
- Formulating a response strategy: reporting on suspected irregularities and cooperating with the authorities
- Mitigating legal and compliance risks at a strategic and operational level with the view to preventing similar misdealing in the future
- What provisions should FIs be making for litigation and contingent liabilities? Factoring how legal fees are being structured into law firm selection and evaluation
- Legal project management of financial and banking disputes and investigations: tools for optimising costs and increasing efficiency
- How to successfully transform business process to take control of repetitive production of documents. Handling large volumes of information and data
- What skills and expertise do in-house counsel and private practice lawyers need to have to navigate through the eDiscovery and case review stages?

11:30 SME Interest Rate Hedging Products –
FCA Review Scheme

Jeremy Roe
Chairman
Bully Banks

- The mis-selling of interest-rate hedging products: the mis-sale and the failures in the FCA Redress Scheme. Lessons to be learnt

- Legal challenges to decisions in the Redress Scheme – Judicial Review proceedings against the Skilled Persons (first stage permission decision in *Holmcroft Properties vs. KPMG and Barclays*) and the potential liability of banks and the banks' advisors arising from their conduct of the Redress Scheme (*Suremim vs. Barclays*)
- Consequential losses – foreseeability and causation within the Redress Scheme

Abhishek Sachdev
Derivatives Expert
Vedanta Hedging Ltd

- An update on the latest derivative cases being brought against financial institutions in the UK by UK Corporates: trends, key factors in the cases, types of transactions
- LIBOR Manipulation, ISDAfix and FX Manipulation – the effect on litigation

12:30 Networking Lunch

13:30 Foreign Exchange Markets – Implications
of Manipulation and Mis-selling

Robin Henry – Moderator
Partner, Banking and Financial Disputes Group
Collyer Bristow LLP

Felicity Ewing
Partner, Financial Markets Litigation
Dentons

- Recent settlements on benchmarking in FX
- Criminal antitrust violations in connection with a global currency manipulation scheme
- Who decides the size of fines? Where do the fines go? How is the allocation being done between multiple regulatory bodies in various jurisdictions?
- What civil litigation relating to Forex are we likely to see?
- Toughening the regulation around rigging the benchmarks without impairing their usefulness
- Forex mis-selling – have lessons about conduct been learnt?

14:30 Dealing with Multiple Regulators and
Investigators in Multiple Jurisdictions

Mark Hunt
Senior Managing Director
FTI Consulting

- Multiple jurisdictions and multiple timetables: where are your potential claimants and what claims are they likely to be brought against your organisation? What do different regulators require in respect of statements of historic conduct?
- Public statements to a national regulator in one jurisdiction: What claims could be arising in another jurisdiction?

- Responding to the increasing level of cooperation between national enforcement agencies, regulatory watchdogs and prosecutors from different countries
- Assessing the cumulative impact of multiple regulatory changes on your balance sheet; the supporting business and operating models
- The importance of integrating stress testing methods into board-room level decision making
- Implementing large scale change programmes to create synergies between regulatory compliance, risk and finance functions to respond more effectively to the global and national regulatory change
- Information sharing and difference in privilege rules across jurisdictions

15.00 Refreshments and Networking

15.30 Rapid Response To Complex Issues in Global Banking and Financial Markets Investigations

Dr. Chudozie Okongwu

Senior Vice-President and Head of the European Securities and Finance Practice

NERA Economic Consulting

- Addressing different types of conduct or issues: trading strategies, concentration, manipulation, valuation, customer gouging

- Covering different asset classes or products: Foreign exchange, commodities, CDS, structured products, funds, benchmarks
- Reviewing the different stages of investigation at which financial analysis can be of use: Pre-involvement by regulators, involvement by regulators, formal investigation, follow-on litigation

16.15 Alternative Structures: How to Fund Claims against Financial Institutions

Neil Purslow

CIO

Therium Capital Management Limited

James Blick

Director

The Judge

- Funded claims: how big is the market, how much is it expected to grow and who are the key providers?
- Factors driving litigation finance or alternative fee arrangements
- The rise of group litigation in the UK
- Is there a need for regulation of the third party litigation funding area?

16.45 Chair's Closing Remarks and End of Conference

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CONFERENCE ADMINISTRATIVE DETAILS

Date: 24 – 25 November 2015

Time: 8.00 – 17.30

Venue: **Grange Tower Bridge Hotel**

Address: 45 Prescott Street, London, E1 8GP, UK

Telephone: +44 (0) 20 7959 5000

An allocation of bedrooms is being held for delegates at a negotiated rate until 23 October 2015. To book your accommodation please call Venue Search on tel: +44 (0) 20 8541 5656 or e-mail beds@venuesearch.co.uk. Please note, lower rates may be available when booking via the internet or direct with the hotel, but different cancellation policies will apply.

TERMS AND CONDITIONS

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FINANCIAL INSTITUTIONS REGULATORY DISPUTES & INVESTIGATIONS

24 – 25 November 2015
Grange Tower Bridge Hotel, London, UK

YOUR REGISTRATION

REGISTRATION CODE: 511L16.S

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FEE PER DELEGATE	Register & Pay by 11 Sept 2015	Register & Pay by 13 Nov 2015	Register & Pay by 24 Nov 2015
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Conference materials are available 2 working days post event*

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