



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

P.R.I.M.E. Finance Newsletter - Summer 2013

Latest news: The next P.R.I.M.E. Finance Annual Conference will take place on 27 and 28 January 2014 at the Peace Palace in The Hague.

1. Annual Conference

It is our pleasure to announce that the next Annual Conference will take place on 27 and 28 January 2014 at the Peace Palace in The Hague. The Conference will feature many of the distinguished members of our Panel of Experts, offering a unique chance to network with them and hear from them about recent developments and what issues they expect will be important in future complex product and other financial market disputes. Further information concerning the Conference will be available on our website shortly (www.primefinancedisputes.org).

In a short period of time, P.R.I.M.E. Finance's Annual Conference has established itself as the premier event in the field.

The Opening Conference of 2012 and the second Conference were each a great success. Our sincere thanks to those of you who could join us at the prior sessions. For the full program of the last year's Annual Conference, please [click here](#).

2. P.R.I.M.E. Finance Makes Available Model Arbitration Clauses for use with ISDA Master Agreements

P.R.I.M.E. Finance completed in June 2013 a project to develop forms of amendment agreements to be used to modify existing International Swaps and Derivatives Association ("ISDA") Master Agreements to provide for arbitration in accordance with the P.R.I.M.E. Finance Arbitration Rules in lieu of litigation in the courts of either New York or London. These forms of Arbitration Amendment Agreements may be used with either 1992 or 2002 ISDA Master Agreements, which have been used to document more than 90% of the outstanding transactions in the global derivatives markets. The P.R.I.M.E. Arbitration Amendment Agreements provide for arbitrations to be conducted in Singapore, Hong Kong, Paris, Geneva, Zurich, The Hague, London or New York, as the parties may elect. P.R.I.M.E. expects to publish soon (in Japanese) a similar form for arbitrations to be conducted in Tokyo. Only P.R.I.M.E. Finance offers this geographic flexibility while using one set of rules and providing access to one international panel of leading experts on disputes involving complex financial products. With the recent publication of these forms of Arbitration Amendment Agreements, parties are now in a position to incorporate P.R.I.M.E. arbitration into their existing master agreements, which P.R.I.M.E. anticipates will produce a flow of P.R.I.M.E. arbitration proceedings in coming years. The development of these clauses by P.R.I.M.E. Finance has sparked considerable interest as they are the first of their kind to be standardized for use with the ISDA Master Agreement. For client bulletins and press coverage of the clauses, please [click here](#).

Following consultation with its members about arbitration in the financial markets, ISDA, in its memorandum of June 11, 2013, announced that it has received significant support for the addition of P.R.I.M.E. Finance arbitration clauses in ISDA Master Agreements. To read ISDA's memorandum, please [click here](#).

3. Judicial Support for Domestic Courts

3.1 P.R.I.M.E. Finance Meets with Appellate Judges in New York

On April 16, 2013, P.R.I.M.E. Finance Expert, **Daniel Cunningham**, together with Charles Smithson of Rutter Associates, Inc., conducted an interactive session for New York's Appellate Division Justices. The purpose of the session was to support those jurists in their understanding of the economic basics of derivatives and the key legal issues that arise under ISDA Master Agreements.

3.2 Supreme Court of Singapore and P.R.I.M.E. Finance Session in Singapore

On April 23, 2013, P.R.I.M.E. Finance conducted a three-hour presentation to the judges of the Supreme Court of Singapore. The presentation provided an introduction to derivatives and the ISDA Master Agreement, its history, its place in the financial markets, current legal issues arising from its use, as well as a review of recent case law arising out of derivatives cases in England and New York and of issues that have arisen out of those cases. The presentation of P.R.I.M.E. Finance was well received. The session provided a unique opportunity for P.R.I.M.E. Finance to assist a judicial audience that sits in a leading regional financial center. The presentation was made by three P.R.I.M.E. Finance Experts, **Jeffrey Golden, Daniel Cunningham** and **Jonathan Ross**.

3.3 P.R.I.M.E. Finance Meets with the Judges of the Korean High Court in Seoul

On May 10, 2013, P.R.I.M.E. Finance had a two-hour discussion with more than 40 judges of the Korean High Court in Seoul. The judges were trial and appellate judges. The session provided an introduction to derivatives and the ISDA Master Agreement, its history, its place in the financial markets and current legal issues arising from its use. The discussion also focused on lessons that practitioners and the markets have learned from recent English and New York cases involving derivatives and complex financial transactions. The session provided a unique opportunity for P.R.I.M.E. Finance to support a judicial audience and a court that has heard a considerable number of derivatives-related disputes. The session was led by two P.R.I.M.E. Finance Experts, **Jonathan Ross** and **Chin-Chong Liew**. This session took place with the support of the International Bar Association (IBA).

4. Appointment of New Advisory Board Member

On 9 July, 2013, **Ambassador Hugo Siblesz**, Secretary-General of the Permanent Court of Arbitration, was appointed as an Advisory Board Member of P.R.I.M.E. Finance.

5. News of our Experts

5.1 Individual News

The Honourable Arthur Emmett, member of our Panel of Experts, has been appointed to the New South Wales Court of Appeals. A formal ceremony took place on March 7, 2013.

Robin Dicker, QC, and **Gabriel Moss, QC**, members of our Panel of Experts, argued in *Re Nortel; Re Lehman*, UK Supreme Court appeals concerning statutory schemes relating to the protection of employees' pensions and corporate insolvency.

Juan Fernández-Armesto, Arbitrator, a member of our Panel of Experts and former Chairman of the Spanish Securities and Exchange Commission, has issued his first decision as Vice President of the Board of Appeal of the European Supervisory Authorities.

Lord Gold, member of our Panel of Experts and former senior partner at Herbert Smith, has been appointed as Chairman of the litigation support company Proven.

The Honourable James Spigelman, member of our Panel of Experts and former Chief Justice of the New South Wales Supreme Court, has been appointed to the Hong Kong Court of Final Appeal as a non-permanent Judge for a period of 12 to 18 months.

Mark Yallop, member of our Panel of Experts, has been appointed the CEO of the UK businesses of UBS.

5.2 Nominee Expert List

The number of expressions of interest and nominations to join our Panel of Experts now exceeds the current number of appointed Experts. We would like to ensure all nominees that their applications will be given careful consideration by the Selection Committee. We welcome further nominations, including self-nominations.

For further information, please contact the Secretariat, at secretary@primefinancedisputes.org or Willem Calkoen, Member of the Management Board, at willem.calkoen@nautadutilh.com or telephone +31 (0)6 53 49 04 51.

6. Education

6.1 Collaboration with the International Bar Association in Asia

In Asia, P.R.I.M.E. Finance is collaborating with the International Bar Association (IBA) with the view of providing support and education to local lawyers, law firms, bar associations, law societies and judiciaries in relation to derivatives and disputes arising out of derivative transactions. P.R.I.M.E. Finance shares the IBA's commitment to providing easiest access to justice and better judicial outcomes in this important region.

On May 9, 2013, P.R.I.M.E. Finance Experts **Jonathan Ross** and **Akihiro Wani** made a presentation to a group of leading Japanese lawyers and derivatives experts in Tokyo. On May 10, P.R.I.M.E. Finance experts, **Jonathan Ross** and **Chin-Chong Liew**, completed a similar presentation to a group of leading Korean lawyers and derivatives experts in Seoul. The purpose of these presentations was to provide information about the resolution of disputes involving derivatives and complex financial transactions in the international markets. Our Experts discussed the role of domestic judges in those disputes and the support that P.R.I.M.E. Finance and the IBA could provide to lawyers, bar associations, law societies and judges in the region in relation to these types of disputes. The rise and role of arbitration in relation to these disputes were also discussed.

6.2 Seminars in Australia

P.R.I.M.E. Finance conducted two well-attended seminars on arbitration and the financial markets in Melbourne on May 16, 2013 and in Sydney on May 17, 2013, respectively. Presenting were P.R.I.M.E. Finance Experts **Jonathan Ross** (Melbourne and Sydney), **Justice Michael Black** (Melbourne) and **Justice Arthur Emmett** (Sydney). Special thanks to King & Wood Mallesons for hosting these events.

7. Regional Market Seminars 2013 (The Netherlands, Russia, Singapore and The United Kingdom)

7.1 The Dutch- Russian Seminar on Legal Cooperation

2013 marks four hundred years of diplomatic relations between The Netherlands and The Russian Federation. On March 6, 2013, the Ministries of Justice of both states organized a joint event to celebrate this Russia-Netherlands Bilateral Year. Based in The Hague, P.R.I.M.E. Finance was also recognized as having contributed to on-going efforts to foster bilateral relations between both states in the area of the law. **Jeffrey Golden**, Chairman of P.R.I.M.E. Finance, spoke in one of the panels.

7.2 European Market Infrastructure Regulation Seminar

On 27 March, 2013, **Jeffrey Golden**, Chairman of P.R.I.M.E. Finance, discussed the relevance and possible complementary role of P.R.I.M.E. Finance in light of the ongoing regulatory reform of the financial markets in Europe. The event, entitled "*EMIR: Transparency at any price?*", jointly organized by KAS Bank and the Holland Financial Centre at the Peace Palace in The Hague, focused on the impact of European Market Infrastructure Regulation (EMIR) on the functioning of pension funds, insurers, investment funds and banks. Other distinguished speakers included Steven Maijoor, Chair of the European Securities and Markets Authority (ESMA), Guus Warringa, Chief Counsel at APG and Kris Wulteputte, Chief Risk Officer at KAS BANK.

7.3 Singapore International Arbitration Center and P.R.I.M.E. Finance co-host Derivatives Arbitration Seminar

On April 22, 2013, P.R.I.M.E. Finance participated in a joint seminar in Singapore with the Singapore International Arbitration Center on derivatives arbitration, with a focus on Asia. P.R.I.M.E. Finance Chairman, **Jeffrey Golden**, delivered the Keynote speech and presentations were made by P.R.I.M.E. Finance Experts **Daniel Cunningham**, **Carolyn Jackson**, **Ed Murray**, **Jonathan Ross** and **Peter Werner** and **Thomas Jasper**, Member of the Advisory Board of P.R.I.M.E. Finance, on a range of issues of topical interest to market and arbitration specialists in Asia, including recent derivatives cases in England and New York, and lessons learned from those cases. A large audience participated in a lively discussion following the presentations by the P.R.I.M.E. Finance speakers.

7.4 International Legal Forum, St. Petersburg

On May 16, 2013, at the International Legal Forum in St. Petersburg, **Gerard Meijer**, Secretary-General of P.R.I.M.E. Finance, discussed the relevance of predictability and reliability of judicial systems for the functioning of the international financial markets and the contribution of P.R.I.M.E. Finance to this aim.

7.5 Chartered Institute of Arbitrators, London Branch

On June 13, 2013, P.R.I.M.E. Finance Chairman **Jeffrey Golden** and Management Board member **Sandie Okoro** gave the Annual Financial Seminar presentation on "P.R.I.M.E. Finance: Experience and Prospects" at the Chartered Institute of Arbitrators, London Branch.

8. Collaboration with other entities

8.1 P.R.I.M.E. Finance Receives Observer Status to The Hague Conference on Private International Law (HCCH)

P.R.I.M.E. Finance has acquired observer status to The Hague Conference on Private International Law. As an observer, P.R.I.M.E. Finance may be invited to HCCH Council meetings and Conferences. With 72 Members (71 States and the European Union) representing all continents, The Hague Conference on Private International Law is a global inter-governmental organization. A melting pot of different legal traditions, the HCCH develops and services multilateral legal instruments, which respond to global needs.

8.2 P.R.I.M.E. Finance and NIAS Institutionalize relationship and Formalize Woolf Fellowship; Professor Cally Jordan, P.R.I.M.E. Finance Expert is Appointed Woolf Fellow

P.R.I.M.E. Finance and The Netherlands Institute for Advanced Study in Wassenaar (NIAS) have formally established a P.R.I.M.E. Finance Fellowship Program. This fellowship has been named the Woolf Fellowship in honor of P.R.I.M.E. Finance's Advisory Board Chairman, **the Rt. Hon the Lord Woolf of Barnes. Sir David Baragwanath KNZM, QC**, President of the UN Special Tribunal for Lebanon, and Advisory Board Member of P.R.I.M.E. Finance, laid the first foundations for this project through his work with NIAS along with **Jonathan Ross**, a member of our Panel of Experts. Their work and its importance made the formalization of the Woolf Fellowship possible.

Each year, P.R.I.M.E. Finance and NIAS will invite a fellow to NIAS to undertake research with a view to publication in a leading academic or market periodical. The Fellowship is awarded in principle for one semester of five months each year. In line with the goals and objectives of NIAS and P.R.I.M.E. Finance, prominent scholars from the legal and financial sciences and governance studies, holding a Ph.D., J.D. or LL.D. degree or equivalent, or holding appointment as a member of the P.R.I.M.E. Finance's Expert list, are eligible for the Fellowship Program. The research projects must be related to P.R.I.M.E. Finance's core activities. This program seeks to develop a body of scholarly literature that can contribute to judicial predictability and legal certainty in one of the more complicated areas of law.

Cally Jordan, Associate Professor at Melbourne Law School and P.R.I.M.E. Finance Expert is currently finishing her term as a Woolf Fellow.

9. Incoming Requests for P.R.I.M.E. Finance Dispute Resolution Services

Since our last newsletter, we have received numerous requests for the expert witness services offered by P.R.I.M.E. Finance. The parties to the different cases represent various jurisdictions, including: Hong Kong, Australia, Germany, the United States and the United Kingdom.

For inquiries or to make such a request, kindly contact the Secretariat at: secretary@primefinancedisputes.org.

10. Press Coverage

[Click here](#) to find recent press articles concerning the P.R.I.M.E. Finance project.

11. LinkedIn Update

P.R.I.M.E. Finance has created a new group on LinkedIn to foster a global network of discussion and to serve as a portal for information about disputes related to complex financial products.

It is an excellent opportunity to gain insight into recent case law and associated topical issues regarding complex financial transactions. Furthermore, it offers a unique chance to network and personally discuss these developments with our Experts and be informed on issues they expect being important in future complex financial disputes. Accessible to all financial actors, this group serves as a platform where all parties involved in the area of finance can discuss and exchange information.

Some of the interesting features include:

- Information on global events, support session and seminars conducted by P.R.I.M.E. Finance,
- Comments by our experts on current and future developments within the market and jurisprudence,

- An updated collection of articles related to P.R.I.M.E Finance’s activities,
- News about our Experts.

To join our group, please [click here](#).

12. Contact Us

For questions, please contact the Secretariat, at secretary@primefinancedisputes.org or telephone +31 (0)70 30 28 165 or Jeffrey Golden, Chairman, P.R.I.M.E. Finance Foundation, at j.golden@primefinancedisputes.org or Willem Calkoen, Member of the Management Board, at willem.calkoen@nautadutilh.com.

If you do not wish to receive our future newsletters, please reply to secretary@primefinancedisputes.org indicating “unsubscribe” in the subject line.



www.primefinancedisputes.org

T: + 31 (0)70 8200 400

THE HAGUE

THE NETHERLANDS

E: SECRETARY@PRIMEFINANCEDISPUTES.ORG