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Issues, Opportunities and Rewards for Parties and Their Lawyers: The New Arbitration Funding Landscape in Hong Kong 10.30 am to 12.30 pm on 28 June 2023 [Hybrid]

Date and time: 10.30 am to 12.30 pm on 28 June 2023
Registration: Starts at 10.00 am
Location: Function Hall, 1/F, Main Wing, Justice Place/Online
RSVP: ICC Hong Kong [Email: publn@icchkcbc.org or fax to : 2869 0360]

Introduction:

This seminar will discuss specific issues arising for solicitors, barristers and inhouse counsel from Hong Kong's December 2022 reforms to permit outcome related fee structures for arbitration (ORFSA) and 2019 reforms to allow third party funding for arbitration (TPFA).

Highlights:

Issues to be discussed include:

- How the Hong Kong arbitration funding reforms work
- Structuring arbitration funding (ORFSA and TPFA)
- Pricing models for lawyers
- Risk identification and mitigation for lawyers including using insurance solutions
- Arbitration funding issues for cross border/International legal teams

Who should attend?

- Users of, and advisors to, cross border and international arbitration and related ADR and litigation
- Lawyers practicing in cross border and international arbitration (including barristers, solicitors, in-house counsel and attorneys),
- Arbitrators
- Arbitration funders
- Insurance solution providers

Speakers for Opening Session



Mr Clifford Tavares

Principal Government Counsel, Legal Enhancement and Development Office, Department of Justice

Mr Clifford Tavares is a Principal Government Counsel of the Legal Enhancement and Development Office (LEAD Office) of the Department of Justice (DoJ) of the Hong Kong Special Administrative Region. Before his present post, Mr Tavares specialized in civil litigation, advising on public law, immigration, competition law, town planning, land and building matters. He also supervised work relating to the promotion and development of mediation and arbitration services of Hong Kong.

The LEAD Office assumes the role of the central policy unit of DoJ and assists the Secretary for Justice and the Deputy Secretary for Justice in formulating strategic plans and co-ordination for effective implementation of DoJ's policy initiatives. Mr Tavares currently heads the team in the LEAD Office that helps drive policy initiatives in promoting Hong Kong's legal and dispute resolution services locally and beyond, including in the Greater Bay Area. The major initiatives that Mr Tavares has been involved in include the biennial Mediation Week and "Mediate First" Pledge event, and the Investment Law and Investor-State Mediator Training series. He has recently assisted in the enactment of the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022. Mr Tavares is currently a member of the Judiciary's Working Party on Mediation, as well as a member of the Steering Committee on Mediation and the Advisory Committee on Promotion of Arbitration both chaired by the Secretary for Justice.



Mr Rory McAlpine

Chair of ICC Hong Kong Arbitration & ADR Committee

Rory McAlpine has been the head of Skadden's Asia Pacific International Arbitration Group for the last ten years and is based in Hong Kong. He is the chair of the ICC Hong Kong Arbitration Committee. He has handled arbitrations in LCIA, ICC, HKIAC, SIAC, CIETAC, LMAA and UNCITRAL. Rory has four decades of experience in dispute resolution and is one of the most senior disputes lawyers in Asia. He holds rights of audience in England and in Hong Kong. He acts for corporates and financial institutions in complex and multijurisdictional disputes. As well as arbitration, he handles international litigation and alternative dispute resolution. He was one of the very first law firm to appear in the High Court in England and has conducted dozens of hearings and trials in that jurisdiction and in Asia.

Moderators



Ms. Kim Rooney

Kim Rooney is an arbitrator of international commercial, infrastructure, investment and ITC disputes and a barrister. Represented clients in commercial and investor state arbitrations as advocate. Chairing the Hong Kong Law Reform Commission's Subcommittee on Third Party Funding for Arbitration, she was one of the drafters of the amendments to the Arbitration Ordinance to allow third party funding. A member of the ICC's International Court of Arbitration and the Hong Kong Bar Association's Arbitration Committee; previously a partner of White & Case LLP heading its Asian dispute resolution practice. Also qualified in Western Australia (barrister) and England & Wales (solicitor).



Ms Kathryn Sanger

Kathryn Sanger has over 20 years' experience advising clients on arbitration and litigation proceedings in Asia Pacific. Between 2013 and 2018, Kathryn chaired the HKIAC appointments committee, and she has also served on HKIAC's rules, proceedings and finance committees. Kathryn was co-chair of the Hong Kong Law Reform Commission sub-committee on outcome-related fees for arbitration. She is member of the related advisory board, as well as the third-party funding advisory board and worked on the recent legislation permitting success fees for arbitration in Hong Kong. Kathryn sits as arbitrator and has higher rights of audience in Hong Kong.

Speakers for Panel Discussion



Mr Ben Bury

Ben Bury is a Partner in HFW's Hong Kong and Singapore offices. For 18 years Ben has been advising clients as to disputes arising out of complex and high value construction projects including some of the largest projects in the region. These include the construction of multi-billion dollar onshore and offshore oil and gas facilities, power plants, underground railways and tunneling projects, ports, roads, refineries, mines and processing plants, and reclamation works. He has acted as counsel on arbitrations seated in numerous jurisdictions. Qualified in Hong Kong and England & Wales, he is a Registered Foreign Lawyer in the Singapore International Commercial Court.



Mr Thomas Byrne

Thomas Byrne is a producer and technical account manager in the litigation insurance team at Gallagher with 15+ years of experience in the insurance industry. Known for his expertise and clarity, he collaborates closely with law firms, insolvency practitioners, and litigation funders to discover solutions that cater to their needs as well as those of their clients. In addition to his role as a producer, Thomas also oversees scheme cases within the Practice while managing broader commercial casework. He has experience in a diverse range of forums and has strong insurer relationships.



Mariela Descrivan-Nott

Mariela Descrivan-Nott is a pricing specialist working at Herbert Smith Freehills Hong Kong, recently transferred from the HSF London office where she spent more than three years in the Disputes Pricing Team. She has extensive experience in identifying opportunities to agree innovative fee arrangements that maximise cost efficiency and value for clients. This includes Alternative Funding solutions for clients, with experience in third-party funding and legal expense insurance. Mariela also has project management experience on multi-jurisdictional matters and strategic projects. Mariela was part of a Disputes Pricing Team that were “Highly Commended” at The Lawyer Awards in 2020 for Best Client Service Innovation.



Ms Joanne Lau

Joanne Lau is a Partner in Allen & Overy’s International Arbitration Group based in Hong Kong. She represents clients in both international commercial arbitrations and investment treaty arbitrations, including as an advocate. She has extensive experience acting in arbitrations under various rules and regularly advises clients on complex cross-border disputes, including disputes relating to post-M&A matters, complex financial products, joint ventures and shareholder disputes. She also sits as arbitrator and serves on the HKIAC Proceedings Committee. Joanne is qualified in Hong Kong and England and Wales, and speaks English, Cantonese and Mandarin.



Dr Benny Lo

Dr. Benny Lo is a barrister practising from Des Voeux Chambers, Hong Kong and acts as counsel and advocate in litigation and international arbitration matters. He is particularly experienced in commercial, shareholders, insolvency, healthcare, pharmaceutical and intellectual property disputes. Besides, Benny also sits as an arbitrator and has been appointed to sit as presiding arbitrator, sole arbitrator, emergency arbitrator or co-arbitrator in over 90 international cases, including in an investor-state arbitration brought under the U.S.-Korea Free Trade Agreement. He regularly sits as a deputy judge and judicial officer for the Hong Kong Judiciary.



Ms Emily Tillett

Emily Tillett is a Vice President at Burford leading its investment activity and operations in Hong Kong. A Hong Kong, Australian and New Zealand qualified lawyer, Ms. Tillett has multijurisdictional expertise in complex commercial disputes. Before joining Burford, Ms. Tillett was Of Counsel at Allen & Overy in Hong Kong, where she focused on representing clients in litigation, regulatory investigations and arbitration, including contentious insolvency and fraud matters. She began her career with Minter Ellison and has since advised and acted for corporate and individual clients, including corporations, investment banks, financial services and brokerage firms and professional service providers, on high value, complex disputes.