



# Bringing and Defending Financial Mis-selling Claims Conference

A comprehensive guide to the key legal and  
regulatory issues for claimants and defendants

London - 4 October 2012  
6 CPD Hours



# OUTLINE

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Recent years have seen a regular flow of mis-selling scandals and consequent claims against banks and other providers of financial services which have been a rich source of work for lawyers and claims management companies.

This one day conference, which is aimed at lawyers acting for those bringing and defending financial mis-selling claims, looks in detail at current sources of claims including the swaps mis-selling scandal and the Keydata collapse. It provides guidance on the legal issues and the often complex quantification of damages and examines the powers of the regulators to compensate victims of mis-selling.

## CHAIRMAN/SPEAKERS

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**CHAIRMAN: Toby Riley-Smith** is recommended as a leading junior for banking and finance, product liability and consumer credit by the *Legal 500* and *Chambers*. He is the co-author, with Richard Mawrey QC, of *Blackstone's Guide to the Consumer Credit Act 2006*, a contributor to *Halsbury's Laws of England* and to *Product Liability Law and Insurance*, and one of the contributing editors to *Goode: Consumer Credit Law and Practice*.

**William Hibbert** is ranked in *Chambers* as a leading junior in Banking and Finance and Consumer Law and by *Legal 500* in Consumer and Product Liability. His practice includes advising on the Financial Services and Markets Act 2000 and FSA Handbook compliance issues, including advising on the activities of insurance, collective investment schemes, and deposit taking.

**Andrew Maguire** is an experienced Chancery and Commercial litigator specialising in banking and financial services disputes, particularly mis-selling claims. Andrew is currently involved in the Arch Cru litigation and was instructed in a judicial review of the decision by FSCS to impose an additional levy on IFAs arising from the Keydata collapse. Andrew is recommended by *Chambers 2012* under Chancery and Commercial Dispute Resolution.

**Ian Mason** is an Editor at Practical Law Company (PLC), contributing to financial services and financial crime content. Ian joined PLC in May 2012, prior to which he was a partner in the Financial Services Group at Baker & McKenzie. He also previously served as a Head of Department in the Enforcement Division at the FSA.

**Damian McPhun** specialises in professional liability claims. He has considerable experience of defending claims against financial services professionals and also advises insurers on all

aspects of professional liability policy coverage. Damian has dealt with cases by way of litigation, arbitration and the regulatory regime, including referrals to the Financial Ombudsman Scheme. He is acting on claims against IFAs arising out of the Arch Cru funds and in the FSCS Keydata litigation.

**Robert Morfee** specialises in investment and financial services disputes. Robert holds the Professional Investment Certificate of the Institute of Financial Services. He is also an associate member of the Association of Pensions Lawyers. Robert has been recognised as a banking and finance expert by the *Legal Experts directory* and by *Chambers 2012* which describes him as having an "impressive financial services litigation and professional negligence practice".

**Jane Thompson** has been a qualified IFA since 1998, having previously worked as a research scientist. Having trained with Prudential, she became an IFA and eventually took over compliance and training for a firm of IFAs in Bristol. In 2006 Jane was asked to assist a Barrister with problems regarding his pension advice. This led to substantial compensation being paid, and subsequently she has been involved with over 30 cases, all but one of which have settled out of court.

**John Virgo** specialises in financial product mis-selling. He was recently engaged in litigation surrounding the AIG collapse (in particular *Rubenstein v HSBC Bank PLC*). He is currently engaged in a large number of interest rate swap mis-selling cases against major banks. He has also appeared in a number of judicial review hearings relating to the jurisdiction of the Financial Ombudsman Service. He co-authors *Financial Advice and Financial Products, Law and Liability (OUP)* and has recently edited a book on *Market Abuse (OUP)*.

# PROGRAMME

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- 9.00 Registration and Coffee**
- 9.30 Chairman's Introduction**  
*Toby Riley-Smith, Henderson Chambers*
- 9.45 Keydata: The FSCS's Allegations of Mis-selling**
- The background and history of the Keydata investments
  - The nature of the Keydata products
  - The role and involvement of the FSA
  - The FSCS litigation  
*Damian McPhun, Beale & Co LLP*
- 10.30 The Swaps Mis-selling Scandal**
- Swaps and hedges - how do they work?
  - How are they sold?
  - Regulatory framework pre - and post MiFID
  - Disclosure
  - Damages for derivative mis-selling  
*John Virgo, Guildhall Chambers*
- 11.15 Coffee**
- 11.30 Discretionary Fund Management Claims - Liabilities and Remedies**
- Fund manager's obligations
    - Regulatory
    - In tort/contract
  - Trustee's obligations
  - Exclusion/exoneration clauses
  - Remedies
    - Damages for breach of statutory duty, contract and tort
    - Account
- Robert Morfee, Clarke Willmott LLP*
- 12.15 The FSA Response to Mis-selling**
- Recent FSA enforcement cases
  - Skilled persons reports
  - The future regulatory regime under the Financial Conduct Authority (FCA)  
*Ian Mason, Practical Law Company*
- 1.00 Questions**
- 1.15 Lunch**
- 2.15 Defences to Financial Mis-selling Claims**
- Compliant sale
  - Non-reliance clauses
  - Limitation
  - Causation
  - Contributory negligence  
*Andrew Maguire, St Philip's Chambers*
- 3.00 Getting the Best out of your Expert**
- Qualifications and experience
  - Communication
  - How to present your files
  - Educating your witness regarding the law
  - Constructive criticism
  - Pitfalls to avoid  
*Jane Thompson, Jane Thompson Financial Services*
- 3.45 Tea**
- 4.00 Unfair Relationships**
- The test: a summary and analysis
  - Case-law update
  - Practical application in mis-selling cases  
*William Hibbert, Henderson Chambers*
- 4.45 Chairman's Concluding Remarks and Questions**
- 5.00 Conference Close**

# BOOKING FORM

Please return your completed registration form to:  
The Registrar, Central Law Training Ltd, Wrens Court,  
52-54 Victoria Road, Sutton Coldfield,  
Birmingham B72 1SX  
DX: 708700 Sutton Coldfield.

Tel: 0121 362 7705  
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For further details of CLT Membership Schemes please  
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Please photocopy for additional delegates

## Bringing and Defending Financial Mis-selling Claims 4 October 2012, London

Title:	First Name:	Surname:
Employer's Name:		
Employer's Address:		
Postcode:	DX No:	
Delegate's Email:		
Employer's Website Address:		
Employer's Tel:	Employer's Fax:	
Special Requirements:		
Signed:	Date:	

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I enclose a cheque made payable to CLT for £   
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The fee includes refreshments, lunch, administration and  
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