

GUERNSEY INTERNATIONAL **LEGAL** ASSOCIATION

“Financial Law Reform for Cross Border Securities Transactions ”

Speakers

Christophe Bernasconi First Secretary Hague Conference on Private International Law
Peter Werner Senior Director of Policy International Swaps and Derivatives Association, Inc
Edward Murray Partner Allen & Overy LLP

Local Panel

Nik van Leuven QC Director General, GFSC
Jonathan Hooley Adviser on External Affairs to the States of Guernsey
Jarrold Cowley-Grimmond Commercial Lawyer, Commerce and Employment Department

Monday 14 June 2010 - 16.00-18.00 - Old Government House Hotel

Reception - 18.00-19.00 - OGH

Dinner - 19.00 - TBA

The Guernsey International Legal Association in association with Ogier would like to invite GILA members and their guests to a lecture/panel discussion on Financial Law Reform for Cross Border Securities Transactions with a special emphasis on Private International Law (“PIL”) and recent developments relating to the Hague Securities Convention.

The speakers are renowned industry specialists (individual bios attached) who will talk on global financial law reform for cross border securities transactions, focusing on recent developments in private international law, i.e. the Hague Securities Convention, UNIDROIT Securities Convention, Collateral Directive and Settlement Finality Directive. This will be followed by a discussion by a Guernsey panel of finance specialists on the impact these may have on Guernsey and the position Guernsey should adopt in order to provide legal certainty in international financial transactions, i.e. should we adopt an EU or Hague Convention approach to PIL rules going forward?

As Guernsey does not form part of the UK or EC, EU Directives and UK law do not have direct effect, so Guernsey has legislative freedom to follow the UK/EU or adopt (or not) a parallel position on laws impacting the UK/EU. Should the States of Guernsey adopt its own position on PIL rules or wait and see what the rest of the world does?

It should be noted that Switzerland and Mauritius deposited their instrument of ratification of the Hague Securities Convention, the US hopes to deposit its instrument of ratification soon, Australia is actively considering the Hague Securities Convention and so are some other States in various parts of the globe. The EC, on the other hand, is developing a new Directive on intermediated securities which is likely to include a private international law rule which may or may not be compatible with the Hague Securities Convention. **What should Guernsey do?**

GILA - Evening Lectures - *“Financial Law Reform, Cross Border Securities Transactions”*

Monday 14 June 2010 - 4.00 pm-6:00 pm - Old Government House Hotel

Please reserve your place by email and send any preliminary enquiries to diane.bailey@ogier.com (tel. 752226). Kindly await confirmation of availability from GILA. Once you receive confirmation of your place, please kindly return the booking form and payment to Diane Bailey, Ogier, Ogier House, St Julian’s Avenue, St. Peter Port, Guernsey, GY1 1WA. Please make cheques payable to “GILA”.

I wish to attend		
Name: _____	<input type="checkbox"/>	Talk Only GILA Member Free/Non-member £35
E-mail address: _____	<input type="checkbox"/>	Talk and Dinner GILA Members £35/Non-members £75

Dr Christophe Bernasconi, LL.M., First Secretary, Hague Conference



Dr Christophe Bernasconi has been with the *Permanent Bureau of the Hague Conference on Private International Law* since 1997. He joined as a Secretary, and became First Secretary in May 2000, having primary responsibility for the Hague Conventions on *Judicial and Administrative Cooperation* (the Apostille, Service, Evidence and Access to Justice Conventions) and *Finance Law* (the Securities Convention).

Dr Bernasconi is also in charge of developing the broad range of services now provided by the Permanent Bureau (the Secretariat of the Hague Conference) to support Contracting States in the effective implementation and practical operation of these Treaties. He also regularly contributes to the work relating to the other Hague Conventions, in particular in the areas of *Commercial Law, Litigation, and Family Law*.

Dr Bernasconi has a distinguished academic background including a law degree (*magna cum laude*; bilingual German and French) from Fribourg University in Switzerland, an LL.M. from McGill University in Montreal in comparative law (with a Masters' Thesis on Oligopolies in unfair competition law) and a doctoral degree (*summa cum laude*) from Fribourg University (on the characterization process in Private International Law). Dr Bernasconi has been an active member of the International Bar Association Capital Markets Forum Subcommittee on Legal Certainty for Intermediated Securities, and was also Co-Rapporteur of the International Law Association's Committee on Transnational Enforcement of Environmental law.

Dr Bernasconi is regularly invited to speak at conferences and seminars around the globe. He has published widely, including for Private International Law publications and major Law Journals. Dr Bernasconi was a key contributor to the Explanatory Report on the Securities Convention, and is the leading author of the latest edition of the *Practical Handbook on the Operation of the Hague Service Convention*. Dr Bernasconi has also taught at the prestigious Hague Academy of International Law (Seminars in 2000, full course in 2004). He became an Honorary Fellow of the Australian and New Zealand College of Notaries (ANZCN) in 2009.

Dr Peter M Werner, Senior Director of Policy, ISDA

Peter M. Werner is a Senior Director of Policy at ISDA's European office in London. At ISDA, Mr. Werner is responsible for addressing matters of global and regional law reform (contract, insolvency, collateral, international law) as well as legal and policy developments in the areas energy/commodities and developing products. He is also responsible for emerging markets in Central and Eastern Europe, Africa and the Middle East, including Islamic law matters.



Before joining ISDA in early 2001, Mr. Werner worked with the United Nations and, most recently, as a solicitor/barrister based in Frankfurt. Mr. Werner is qualified in Germany and holds a Ph.D. in international law. Mr. Werner serves as vice-chairman of the Private International Law Committee of the ABA Section of International Law. He is also a member of the Banking Law Committee of the IBA. E-mail: pwerner@isda.org

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Edward Murray, Partner, Allen & Overy LLP.

Edward Murray is a partner in the Derivatives and Structured Finance group in Allen & Overy LLP, specialising in derivatives, structured financings and related collateral arrangements. He joined Allen & Overy in London in April 1990 and became a partner in 1993. He was based in the Paris office of the firm from 1999 to 2002.

Ed has a distinguished academic background including Trinity College, Dublin, BA (Moderatorship) 1980, Harvard Law School, JD (cum laude) 1985, admitted to the Bar of the State of New York 1986, qualified as a solicitor in England and Wales 1992.

In October 2009 Ed was appointed a Recorder of the Crown Court.



Ed is a senior member of the Allen & Overy team advising ISDA as its principal global external counsel and has advised ISDA over many years on a variety of documentation, netting, collateral, regulatory and law reform issues. He is Chairman of ISDA's Financial Law Reform Committee, which co-ordinates ISDA's lobbying efforts with international organisations, European institutions and national authorities on financial law reform matters.

Ed has written on legal aspects of derivatives, collateral and related topics and is a regular speaker at financial and legal conferences and seminars. He is Visiting Professorial Fellow at the Centre for Commercial Law Studies, Queen Mary, London and a visiting lecturer at the Université Panthéon-Assas (Paris II). He has also lectured at the London School of Economics & Political Science and the Bucerius Law School in Hamburg.

Ed was heavily involved in financial market preparations for the introduction of the euro and, among other roles, acted as principal counsel to the City of London Joint Working Group on EMU Legislation. He was a member of the EU Commission's Forum Group on Collateral, a group of national experts that advised the Commission during the preparation of the European Directive on financial collateral arrangements, which entered into force on 27 June 2002. During 2007 he acted as an adviser to the UK delegation to the UNCITRAL Working Group on Secured transactions. He has been a member of the Bank of England's Financial Markets Law Committee since September 2005 and is a member of the UK Treasury's Banking Liaison Panel established under the Banking Act 2009.

Published work

- ➔ "UK Financial Derivatives and Commodities Markets" in M Blair QC and G Walker (eds), *Financial Markets and Exchanges Law* (Oxford University Press, Oxford 2007).
- ➔ "Implementation of the EU Financial Collateral Directive in the United Kingdom", *International Bar Association Banking Newsletter*, September 2004
- ➔ "Trading Derivatives with Trustees", *Derivatives Week*, January 2004, co-author: Rachel Hughes
- ➔ "Continuity of contracts under English law: a perspective from a Member State outside the euro zone", *Proceedings of International Symposium: The Euro and Non-participating Countries* (Publications du Centre d'Etudes Juridiques Européennes, Geneva - Schulthess, Zurich), 1999
- ➔ "The ISDA Credit Support Documents", chapter 11 of *Cross-Border Securities Repo, Lending and Collateralisation* edited by Kathleen Tyson-Quah, 1997.

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Nik van Leuven QC, Director General, GFSC



Nik van Leuven's legal career extended over 38 years, both in private practice and public service. He was called to the Guernsey Bar in July 1971, and in September 2002 took up appointment as Procureur – that is, Guernsey's Attorney-General – having been senior partner of Ozannes which he and his colleagues had developed into one of the Channel Islands' principal law firms. In private practice, he was primarily engaged in commercial, corporate and trust law, but also appeared in a number of high profile Royal Court cases, both civil and commercial. He also served as an independent non-executive director on a number of regulated institutions, including banks and insurers. He was actively engaged in the development of the concept of protected cell companies, and was principally responsible for the drafting of the 1997 protected cell legislative regime, which provided a model now adopted by many jurisdictions worldwide. He was the first Bâtonnier (chairman) of the Guernsey Bar Council, in office in 1985 and 1986.

Before becoming Procureur, he had been a Douzenier for St Peter Port from 1971 to 1976, and was a member of the Chief Pleas of Sark from 1997 to 2002.

As Procureur, he had a multiplicity of functions, and particular responsibility for criminal prosecutions, and drafting and delivering the legislative programme of the States of Guernsey to which he was principal legal adviser. He also sat as a member of the States of Deliberation. The Procureur's offices – St James' Chambers – processed requests for co-operation and assistance in law enforcement matters, and he personally was active in engaging with the EU, OECD and IMF – not to mention Whitehall – in developing and informing those policies and practices which presently shape Guernsey's response to international pressures and initiatives. He chaired a number of law enforcement executive and advisory groups, including the Bailiwick Financial Crime Committee, and was actively engaged in advising on the reshaping of Guernsey's law enforcement authorities. He retired on 31st May 2009 to take up appointment on the following day as Director General of the Guernsey Financial Services Commission.

Jonathan Hooley, Adviser on External Affairs to the States of Guernsey

Jonathan is a Guernsey born chartered accountant who spent most of his career working as an international tax adviser in London. He is also a chartered tax adviser and a chartered director. After taking a degree in law and accountancy Jonathan trained with KPMG in London, qualifying in 1979. He became a partner of KPMG in London in 1987 and continued to work with KPMG until September 2007 when he retired as the Senior Partner of KPMG in the Channel Islands. On retiring from KPMG, Jonathan was appointed as the chairman of the Channel Islands Stock Exchange, an organisation with which he has been closely associated since its establishment in 1998. Jonathan also acts as a non-executive director for a number of other financial companies. While in public practice, Jonathan advised the States of Guernsey on an informal basis for a number of years on its response to the OECD and EU tax initiatives. On his retirement he was appointed as an adviser on external affairs to the States of Guernsey.



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Jarrold Cowley-Grimmond, Commercial Lawyer, Commerce and Employment Department



Jarrold, joined the Commerce and Employment Department in July 2008. He previously practised as a Barrister-at-Law in Queensland, Australia, where he predominantly appeared before the Supreme Court and the Federal Court of Australia in commercial matters. Before being called to the Bar he had previously been a Senior Lawyer in Crown Law, the Queensland Government's legal advisers. His duties included providing legal advice for the Crown Solicitor, the Solicitor-General, and the Attorney-General on matters involving constitutional law, administrative law, intellectual property and information technology law, corporate governance and general commercial law.

He was educated at the University of Queensland, obtaining a Bachelor of Arts majoring in Economics, and the Queensland University of Technology from where he obtained a Bachelor of Laws (with Honours) and Master of Laws. Jarrold oversees the preparation of commercial legislation and particularly in relation to issues regarding the development of the finance industry. He works with the Law Officers of the Crown at St James' Chambers but is seconded to the Commerce and Employment Finance Sector Development team. The Finance Sector Development team has previously consulted on changes to Guernsey's private international law. Jarrold is presently working on Guernsey's response to emerging international issues such as the EU's Alternative Investment Fund Managers Directive.

About GILA:

Established in 1989, the objectives of GILA are to provide a forum, both instructive and social, for lawyers qualified in all jurisdictions to meet to discuss topics of mutual interest including prospective legislation affecting the Channel Islands and practitioners. The membership currently stands at over 180, which is representative of both of the increase in members of the Guernsey Bar and the increase in lawyers from various jurisdictions practising in the finance industry in Guernsey.

GILA is accredited by the Solicitors Regulation Authority and attendees at GILA lectures may obtain CPD points.

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