

# Chancery Bar Association's Shanghai Conference

Fairmont Peace Hotel, 20 Nanjing Road East, Shanghai, 200002

Friday 11th May 2018, 9.30am-5.30pm

Followed by a rooftop reception

(6 hours CPD applied for)

9.30 - 10.00	Introduction of Chancery to China and China to Chancery	<b>David Yu</b> , President of the Shanghai Bar Association <b>Amanda Tipples QC</b> , Chairman of the Chancery Bar Association <b>Duncan McCombe</b>
10.00 - 11.00	Fiduciary Duties in International Litigation and Arbitration <ul style="list-style-type: none"><li>• <i>What are fiduciary duties and when do they arise – trust, company, agency and contractual considerations</i></li><li>• <i>Remedies for breach of fiduciary duty against perpetrators and third parties</i></li><li>• <i>Required state of mind for recovery against third parties such as bankers, lawyers and agents</i></li><li>• <i>The link with anti-money laundering regulation in establishing liability against third parties</i></li></ul>	Elizabeth Jones QC, Lesley Anderson QC, Tom Asquith & Gareth Tilley
11.00 - 11.30	Morning Refreshment Break	
11.30 - 12.15	Anti-suit, freezing and other injunctions in support of Chinese proceedings <ul style="list-style-type: none"><li>• <i>What is an anti-suit injunction (ASI) and what is it not</i></li><li>• <i>Why is such a remedy available</i></li><li>• <i>Why might I want one</i></li><li>• <i>How does the court decide whether or not to grant an ASI</i></li><li>• <i>What are the procedural pitfalls</i></li> <li>• <i>How English injunctive proceedings can support the enforcement of Chinese litigation/arbitration.</i></li><li>• <i>The test for English freezing injunctions</i></li><li>• <i>Ancillary orders</i></li><li>• <i>Practical consequences</i></li></ul>	Rory Brown  Peter de Verneuil Smith
12.15 - 12.35	Disclosure of Trust Documents	William East
12.35 - 13.00	Maximising your claim – the Bottom Line <ul style="list-style-type: none"><li>• <i>Be sure the lawyers look down to the bottom line</i></li><li>• <i>What you win when (if) you win</i></li><li>• <i>The importance of interest – and attention to it</i></li><li>• <i>How costs can hit the winner's bottom line</i></li><li>• <i>Enhancing your awards of interest and costs</i></li></ul>	Nicholas Davidson QC
13.00 - 14.00	Buffet Lunch	
14.00 - 14.45	Belt and Road: Dispute resolution and good faith in contracts <b>Fair play? The relevance of good faith in the performance of development and joint venture agreements</b> <ul style="list-style-type: none"><li>• <i>Comparative analysis of the role of good faith in Chinese and English contract law</i></li><li>• <i>Examination of the treatment of express provisions imposing duties of good faith in both jurisdictions and current state of the authorities regarding the implication of a duty of good faith in English law</i></li><li>• <i>Lessons to be learned for drafting joint venture and development agreements in the context of the Belt and Road Initiative</i></li></ul>	Camilla Lamont

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*continued*

## **Dispute Resolution on the Belt and Road**

- *The challenges of resolving disputes arising from Belt and Road Projects*
- *The choice of forum and the choice of law*
- *The role of Arbitration*
- *The role of Mediation*

Colin Wright

14.45 -15.30

## Key Issues in Arbitration

- *Reviewing and enforcing international arbitration awards in the English courts*
- *Seat and choice of law*
- *Choice of arbitrators*
- *Choice of tribunal institution*
- *How easy is it to challenge an international award in the English courts*
- *What appeal processes are there*
- *What difficulties may be encountered in enforcing an award through the English courts*

Timothy Harry &  
Cecilia Xu Lindsey

15.30 -16.00

*Afternoon refreshment break*

16.00 -16.30

## The incorporation of the English doctrine of fiduciaries into Chinese law

- *Discussion of the apparent difficulties created by the attempt to transplant the obligations of fiduciaries under English law into Chinese trust law and company law*
- *Resolution of these apparent difficulties provided the underlying basis of English fiduciary law is clearly and properly understood*

John McGhee QC

16.30 -17.30

## Company/Insolvency Panel

### **The use of schemes for both solvent and insolvent restructurings**

- *Issues arising in relation to Insolvent Restructurings, with particular reference to the restructuring of the Ocean Rig group of companies (one of the world's largest ever restructurings)*
- *Issues arising in relation to Solvent restructurings, and with reference to the merits or otherwise of Schemes over "Mergers and Fair Value regimes"*

Michael Todd QC &  
Ben Shaw

### **Offshore Fair Value Petitions**

- *How the Mergers and Fair Value regime operates in Cayman*
- *What approach has the Cayman Court taken to determining "fair value"*
- *Interim applications in fair value proceedings – the scope of discovery and other remedies available to disgruntled shareholders*

Bhavesh Patel

### **Cross-Border Company Liquidations**

- *When will courts in common law jurisdictions wind up companies incorporated in another jurisdiction*
- *What recognition and assistance will courts in common law jurisdictions grant to liquidators of companies appointed in jurisdictions other than the company's seat of incorporation*
- *Where we are now with the concept of 'modified universalism' in common law insolvency proceedings*

Oliver Phillips

17.30 -19.30

*Rooftop Reception*

**NB: This event is free to practitioners in **China and Hong Kong** but booking is essential as space is limited. Please [click here to book](#).**

**Learning objective:** To explore recent developments in the law relating to companies, insolvency, fiduciary duties, injunctions, contract, arbitration, interest and costs.

**Learning rationale:** To enable participants to understand the recent case law and other developments in these areas and the likely impact they may have on litigation in China, UK and offshore countries.