HFW

DISPUTE RESOLUTION BULLETIN

JULY 2017

Welcome to the July edition of our Dispute Resolution Bulletin.

This edition features articles on: the English Supreme Court's recent judgment on causation and mitigation; English court's Interpretation of exclusion clauses; Hong Kong court's rejection of Crown Immunity and enforcement against assets of PRC state-owned enterprise; a review of the recent Lehman Brothers administration and how the English court decided what to do with the £8 billion surplus and litigation funding.

Should you require any further information or assistance on any of the issues dealt with here, please do not hesitate to contact any of the contributors to this bulletin, or your usual contact at HFW.

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"Parties in default should be aware that the act of mitigation can come in multiple forms. Common examples of mitigating losses would be entering into a new charterparty agreement to reduce the time the vessel is unemployed, selling a commodity at market value or preventing excessive use of fuel/bunkers to reduce costs."

New Flamenco: Dancing with New Rules on Mitigation

The Supreme Court confirms there needs to be a direct and casual link between the loss caused by the wrongdoer and any benefit obtained by the injured party.

Introduction

The Supreme Court[1] refused to grant a charterer credit for profits realised by the shipowner as a result of selling the vessel earlier than anticipated in order to mitigate losses. The court upheld a strict stance on causation to determine which losses and profits could be claimed by the charterer. Whilst the facts of this case are related to shipping, the principles have wider application in relation to mitigation of losses.

The facts

Fulton Shipping Inc (Fulton/Shipowner) acquired a cruise ship from its previous owners in March 2005. A charterparty agreement was set up between Fulton and Globalia Business Travel S.A.U. (Globalia/Charterer) in August 2005 for two years with an option to extend the agreement for a further year. Instead of exercising this option, the parties orally agreed in a meeting in June 2007 that the charterparty would be extended for a further two years.

The Charterer denied that any agreement was ever made. The Charterer indicated in late 2007 that it wanted to redeliver the vessel, and the Shipowner considered this to be anticipatory repudiatory breach of the charterparty agreement. The vessel was redelivered in October 2007. Shortly before redelivery, the Shipowner entered into an agreement with another party to sell the vessel for US$23.7 million.

Following the financial crisis, the shipping market fell dramatically. If the vessel had been redelivered after the two year extension period (in November 2009), the Shipowner would only have been able to sell the vessel for US$7 million. The Shipowner commenced arbitration proceedings to claim the loss of income from the Charterer's breach of the agreement by early termination. The Charterer sought to obtain credit for the profit retained by the Shipowner for selling the vessel in 2007.

Arbitration and appeals

The dispute was referred to arbitration. The arbitral tribunal concluded that the Charterer was entitled to credit for the realised profit, and left it up the parties to amicably agree on the exact quantum of the credit.

The Shipowner appealed to the High Court under section 69 Arbitration Act[2], to challenge a question of law. The High Court held there was no requirement for the Shipowner to give credit for any benefit when realising the capital value of the asset, because the sale of the vessel was not "legally caused" by the breach of contract. The commercial decision for the Shipowner to sell the vessel could have been taken at any time, and the Shipowner would have to assume risks of the market increasing or decreasing.

Justice Popplewell[3] set out 11 principles for determining when mitigation of loss can be offset against a benefit:

1. For a benefit to be taken into account, the benefit must have been caused by the breach
2. The causation test takes all circumstantial factors into account
3. It is not sufficient that the benefit would not have been obtained but for the breach
4. It makes no difference whether the issue is approached as mitigation of loss or measure of damage
5. In order to be mitigation, any action or inaction must be a reasonable response to the breach and be designed to reduce losses

1 *Globalia Business Travel S.A.U. (formerly TravelPlan S.A.U.) of Spain (Respondent) v Fulton Shipping Inc of Panama (Appellant)* [2017] UKSC 43
2 Section 69 Arbitration Act 1996 *(Appeal on point of law)*: allows a party to appeal to the court on a question of law arising out of an award made in arbitral proceedings. This is used where a party believes that the tribunal have interpreted the law incorrectly. However, this type of appeal is rarely granted.
3 [2014] EWHC 1547 (Comm), Popplewell J at paragraph 64.

6. There must be a sufficiently direct causal connection between the mitigating step and the breach
7. If the benefit arises from a step which the innocent party could have taken regardless of the breach, there is no causal link
8. The benefit does not necessarily have to be of the same kind as the loss
9. The causal link will be judged on an overall common sense analysis of the factual nexus of the case
10. Considerations of justice, fairness and public policy must be taken into account
11. The benefit cannot be credited to the wrongdoer if it is contrary to fairness and justice to allow appropriation of another party's benefit

The Charterers appealed to the Court of Appeal who agreed with the arbitrator's decision, stating that the opportunity to sell the vessel would not have arisen had the Charterer not breached the contract. The Shipowner decided to release equity from the vessel, and therefore is "bringing into account the consequences of their decision to mitigate their losses."[4]

Supreme Court Judgment

1. The Supreme Court determined that the fall in the value of the vessel was irrelevant, as the Shipowner had a **separate interest** in the value of the charterparty agreement, which was injured as a result of the Charterer's early termination.
2. The Court did not agree with submissions that in order for credit to be given, the benefit must be of the **same kind** as the loss (i.e. in this case it would be gain of monies paid under new charterparty agreement at a higher rate offset against the losses suffered by the Shipowner).
3. The difference in the market price of the vessel was not **caused** by the repudiation of the charterparty agreement, and therefore there is no reason for the Shipowner to have to bring the sum (of around US$17 million) 'into account'.
4. The sale of the vessel could have happened at any time, not necessarily at the end of the extended charterparty period, and therefore the sale event was **not an event of mitigation.**

Therefore, the Supreme Court upheld the judgment of the High Court in finding that the arbitral tribunal had made an error on a point of law.

HFW perspective

In order for the wrongdoer to receive credit for the innocent party mitigating its losses, it is important to follow the chain of causation to prove the acts of the innocent party directly acted to mitigate the losses caused by the default of the wrongdoer. The most common example of this would be where a charterparty is severed and the shipowner negotiates a new charterparty agreement at a higher rate that the previously existing agreement. This profit would not have occurred 'but for' the breach of the charterer.

Parties in default should be aware that the act of mitigation can come in multiple forms. Common examples of mitigating losses would be entering into a new charterparty agreement to reduce the time the vessel is unemployed, selling a commodity at market value or preventing excessive use of fuel/bunkers to reduce costs.

From the perspective of the innocent party, it should be aware that mitigation is wider than just obtaining a benefit of the 'same kind' as the loss. The courts are likely to take into account all of the acts, and omissions, of the innocent party to see if it has sufficiently attempted to mitigate risk.

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4 [2015] EWCA Civ 1299, Longmore LJ at paragraph 9.

Interpretation of Exclusion Clauses found in Commercial Contracts

The Court of Appeal has recently handed down judgment in *Persimmon Homes Ltd and others v Ove Arup & Partners Ltd and another*[1] which confirms that exclusion clauses will be interpreted narrowly when negotiated between parties of equal bargaining power. The effect of this decision is that one of the rules of interpretation that commercial parties often seek to rely on – the *contra proferentum* rule – in which any ambiguity in a clause is interpreted against the party seeking to rely on it, now has a very limited role in commercial contracts.

The facts

Ove Arup & Partners Ltd and another (Arup) were engaged as civil engineers to the owners of a site in Wales in connection with a regeneration project. Over a number of years Arup provided a variety of services ranging from advisory only to design and supervisory. One of the subjects which Arup was instructed on related to site contamination, albeit that other consultants were also engaged to advise the owners directly on the presence of contaminants including asbestos.

Once the regeneration project had been completed the owners of the site invited tenders for the purchase of the site. Persimmon Homes, Taylor Wimpey and BDW formed a consortium (the Consortium) with a view to putting in a bid for the purchase of the site. Arup was engaged to provide consultant engineering services to the Consortium in relation to the proposed bid, which was ultimately successful.

During the purchase negotiations between the owners and the Consortium, Arup was engaged by the Consortium to provide further ongoing services which included *"Geotechnical/Contamination investigation"*. The agreement

1 [2017] EWCA Civ 373.

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SENIOR ASSOCIATE

"The case makes clear that, where commercial parties have agreed to allocate risk in a certain way, the Court is now likely to approach the construction of exemption clauses robustly. "

between Arup and the Consortium contained the following clause within the *Professional Indemnity Insurance clauses*:

"The Consultant's aggregate liability under this Agreement whether in contract, tort (including negligence), for breach of statutory duty or otherwise (other than for death or personal injury caused by the Consultant's negligence) shall be limited to £12,000,000 (twelve million pounds) with the liability for pollution and contamination limited to £5,000,000 (five million pounds) in the aggregate. Liability for any claim in relation to asbestos is excluded."

A similar limitation and exemption clause was found in each of the three individual warranties provided by Arup to each member of the Consortium with the only difference being that Arup's liability in the warranties was said to be limited to £5,000,000 in the aggregate, rather than the £12,000,000 referred to in the Agreement.

A few years after the agreement between Arup and the Consortium, another contractor encountered asbestos on site and the Consortium maintained that the quantity of asbestos was substantially more than they had expected. The Consortium brought proceedings against Arup for negligence, claiming that Arup had failed to identify and report upon the presence and quantity of asbestos earlier.

The proceedings

The Consortium claimed damages against Arup for breach of contract, negligence and breach of statutory duty. Arup denied liability and relied upon the exclusion clause set out above and within the warranties.

Following a trial of preliminary issues, Stuart-Smith J found that there had been a shift in the approach of the courts to limitation and exclusion clauses since the enactment of the Unfair Contract Terms Act 1977 (UCTA) and that in commercial contracts (to which UCTA does not apply) there was a growing recognition that parties should be free to allocate risks as they see fit. Stuart-Smith J considered that the exemption clauses were clear in their meaning and that they represented an agreed allocation of risk between commercial parties. For this, plus other reasons, Stuart-Smith J found in favour of Arup.

The Consortium then appealed to the Court of Appeal on four grounds, one of them being that the contra proferentum rule and the rules governing the construction of exemption clauses remain in place and that Stuart-Smith J had failed to apply those rules to the issue in question.

Lord Justice Jackson who gave the leading judgment dismissed the appeal, and confirmed that:

"In recent years, and especially since the enactment of UCTA, the courts have softened their approach to both indemnity clauses and exemption clauses…. my impression is that, at any rate in commercial contracts, the Canada Steamship guidelines (in so far as they survive) are now more relevant to indemnity clauses than to exemption clauses.

In major construction contracts the parties commonly agree how they will allocate the risks between themselves and who will insure against what. ***Exemption clauses are part of the contractual apparatus for distributing risk. There is no need to approach such clauses with horror or with a mindset determined to cut them down…****"*

Comment

The case makes clear that, where commercial parties have agreed to allocate risk in a certain way, the Court is now likely to approach the construction of exemption clauses robustly.

It is important that exemption clauses are drafted clearly to exclude liability in circumstances intended by the parties. Please contact Alice Marques or your usual contact at HFW if you would like further advice on this subject.

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Hong Kong court rejects claim of Crown Immunity, and allows enforcement against assets of PRC state-owned enterprise

In the recent case of *TNB Fuel Services Sdn Bhd v China National Coal Group Corporation*[1], the Hong Kong Court of First Instance (the Court) has rejected an attempt by a PRC state-owned enterprise (SOE) to assert Crown immunity in proceedings brought in Hong Kong.

The court's decision offers important clarity on the approach that the Hong Kong courts will take to claims of Crown immunity by PRC SOEs. Except in *"extremely extraordinary"* circumstances, SOEs will not be able to claim Crown immunity in order to escape the jurisdiction of the Hong Kong courts.

Background

The SOE in question was the coal mining conglomerate China National Coal Group Corporation (China Coal). China Coal is wholly owned by the PRC's 'State-owned Assets Supervision and Administration Commission' (SASAC), the entity which supervises and manages the PRC's state-owned assets. SASAC in turn under the supervision of the PRC's Central People's Government (CPG), the sovereign government of the PRC.

In 2014, TNB Fuel Services Sdn Bhd (TNB), a Malaysian company, obtained an arbitration award of just over US$5.2 million against China Coal (the Award). TNB subsequently sought to execute the Award by applying for a charging order over shares in a Hong Kong company owned by China Coal.

In response China Coal asserted Crown immunity on the basis that, via SASAC, it was a part of the CPG, Hong Kong's sovereign government and, since the handover in 1997, the Crown in Hong Kong.

Crown immunity is the doctrine which provides that the Crown is immune from the processes of its own courts. This immunity also covers those acting as agent of the Crown, but does not apply to arbitrations with a Hong Kong seat.

Therefore, if successful, China Coal's argument would have prevented the court from granting execution of the Award against it.

As the case concerned issues of considerable constitutional importance, Hong Kong's Secretary for Justice was added as an intervening party in order to assist the court in its decision.

The decision

All of the parties agreed that the relevant principles were set out in the leading judgment in The Hua Tian Long (No 2)[2], a case in which HFW acted for the successful plaintiff, please see our briefing[3] on the judgment. In short, a company can only assert Crown immunity if it is part of, or controlled by, the Crown (the Control Test).

The court therefore had to determine whether China Coal was subject to the control of the CPG, and whether it could exercise independent powers of its own.

The starting point in applying the Control Test was to determine whether China Coal was 'controlled' by the CPG as a matter of PRC law. The Secretary of Justice sought the opinion of the PRC state body responsible for Hong Kong affairs. Its reply to the Secretary of Justice was fatal to China Coal's case and, as shown in the extract below, gives an interesting insight into the PRC's views on the application of Crown immunity to SOEs (emphasis added):

"a state-owned enterprise is an independent legal entity [...] all state-owned enterprises of our country respond to litigation arising from their activities of production and operation in the capacity of independent legal persons. Therefore, ***save for extremely extraordinary circumstances where the conduct was performed on behalf of the state via appropriate authorization, etc, the state-owned enterprises of our country when***

ANDREW JOHNSTONE
PARTNER

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1 [2017] HKCFI 1016; HCCT 23/2015 (8 June 2017)
2 [2010] 3 HKLRD 611
3 http://www.hfw.com/Crown-immunity-and-sovereign-immunity

STRACHAN GRAY
ASSOCIATE

"Going forward, this decision will provide significant comfort to parties that have commercial relationships with PRC SOEs."

carrying out commercial activities shall not be deemed as a part of the Central Government, and shall not be deemed as a body performing functions on behalf of the Central Government".

Added to this, a review by the court of the PRC legal framework governing state-owned assets concluded that PRC law clearly provides for and ensures the operational independence of SOEs from the CPG/SASAC.

The court found that under PRC law, far from 'controlling' SOEs, SASAC in fact performed a role analogous to that of a majority shareholder. This level of 'control' did not meet the threshold necessary for the Control Test to apply in China Coal's favour.

As China Coal was not therefore a part of, or controlled by, the CPG via SASAC it could not escape any execution of the Award ordered in the Hong Kong courts. TNB's application for the charging order was accordingly granted.

HFW perspective

Following this judgment, it is now clear that PRC SOEs operating under the supervision of SASAC will not be able to claim Crown immunity in Hong Kong, unless there are exceptional circumstances.

Crucially, the facts of the case also indicate that the PRC authorities will generally not support a claim of Crown immunity made by a SOE.

Finally, the court's decision provides helpful clarity on the circumstances in which Crown immunity will apply in Hong Kong. It confirms the validity of the Control Test established in The Hua Tian Long (No 2) as the means by which the Hong Kong courts will in future examine an entity's claim of Crown immunity.

Going forward, this decision will provide significant comfort to parties that have commercial relationships with PRC SOEs.

The judgment is available at http://www.hklii.hk/eng/hk/cases/hkcfi/2017/1016.html

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Lehman Brothers Administration: Court considers what to do with the £8 billion surplus

The English Supreme Court has considered various new categories of creditor claims against a company with unlimited liability in administration where, unusually, there was enough money to pay all creditors and a surplus existed.

In proceedings commonly referred to as the Waterfall I litigation, the Supreme Court considered issues relating to the distribution of funds from the estate of Lehman Brothers International Europe (in administration) (LBIE), in circumstances where there was a surplus of assets amounting to approximately £8 billion.

Unsurprisingly, various unsecured creditors, including another Lehman group company, Lehman Brothers Holdings Intermediate 2 Limited (LBHI2), sought a recovery against the surplus. The Waterfall I litigation was intended to resolve certain lacunas in UK insolvency legislation relating to currency conversion claims, statutory interest, and the ranking of subordinated debt, in addition to other issues concerning LBIE's, somewhat unusual, structure as an unlimited company.

The issues:

Ranking of subordinated debt

The court first considered where subordinated debts ranked in the order of payments. LBHI2 was the holder of subordinated loans made to LBIE. LBHI2 contended that its claims should rank ahead of statutory interest payable under the Insolvency Rules 1986 and other non-provable

liabilities. In contrast, the LBIE administrators argued that LBHI2 was not entitled to prove for the subordinated debt until all liabilities, including statutory interest and non-provable liabilities, were paid in full. LBHI2 was effectively arguing that it should be paid before claims for statutory interest and non-provable liabilities.

Currency conversion claims

Many unsecured creditors of LBIE originally had claims denominated in US dollars. It is a principle of UK insolvency legislation that foreign currency debts are exchanged into pounds sterling as at the date of the insolvency, in this case the administration. Accordingly, unsecured creditors' claims were converted to sterling on 15 September 2008. Since that date however, the pound has depreciated as against the US dollar causing unsecured creditors to suffer currency conversion losses, totalling in the region of £1.3 billion. As a result, the creditors sought to recover the difference.

How does this work in practice? By way of example, if a creditor (C) with a claim of US$100 had its claim converted to £65 as at the date of the administration but, due to currency fluctuations in the period between the date of administration and the date of payment, that £65 claim would now be worth US$80 when payment is made; C would have lost US$20. It is that US$20 shortfall that the creditors in Waterfall I sought to claim.

Payment of statutory interest

In accordance with the Insolvency Rules 1986, unsecured creditors are entitled to statutory interest on the debts proved in the administration. Statutory interest accrues from the date of the administration until the date of repayment of the debt. Whilst the Insolvency Rules 1986 applied to the case at hand, the analogous provision for payment of interest in the event of a surplus is now contained within rule 14.23 of the Insolvency (England and Wales) Rules 2016.

The question that arose in this case was whether the statutory interest from the date of administration could be claimed once LBIE was then put into liquidation - could this interest only be claimed whilst LBIE was in administration?

The Supreme Court judgment

In respect of the above issues, the Supreme Court held that:

- Statutory interest and non-provable liabilities must be satisfied before any of the surplus monies can be used to pay subordinated debts.
- It is not open to foreign currency creditors to claim for any currency exchange shortfall as a non-provable debt of an administration.
- The payment of statutory interest accruing whilst a company is in administration is only payable during the period of the administration, and cannot for example be claimed during subsequent liquidation proceedings.

The Supreme Court recognised that a number of gaps exist in UK insolvency legislation, but declined to either give guidance on or rewrite the statutory provisions on the basis that the legislation had not intended for these gaps to be filled. In so doing, the court has left this task for the legislature.

HFW perspective

The judgment is noteworthy insofar as it addresses a number of gaps in the UK insolvency regime, however whether it has wide application is yet to be seen especially given the rarity of administrations resulting in a surplus to creditors and the fact that unlimited companies are not commonly utilised. It also remains to be seen how such issues will be dealt with under the Insolvency (England and Wales) Rules 2016, which have now superseded the Insolvency Rules 1986.

There are a range of options available to potential creditors which may help mitigate the risk of losing money when a counterparty becomes insolvent and is unable to pay its debts:

RICK BROWN
PARTNER

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DAVID CHALCRAFT
ASSOCIATE

"The judgment is noteworthy insofar as it addresses a number of gaps in the UK insolvency regime, however whether it has wide application is yet to be seen especially given the rarity of administrations resulting in a surplus to creditors and the fact that unlimited companies are not commonly utilised."

- Depending on the value at stake, potential creditors may wish to take security in the form of a fixed charge over an asset(s) of the counterparty. This way, if the counterparty does become insolvent, the asset over which the fixed charge exists will not fall into the insolvent estate.
- Retention of title provisions can be very effective, especially with the sale and purchase of goods. These provisions usually provide that the seller will retain legal ownership of the goods until they have been paid for in full by the buyer.
- Small and medium sized enterprises may also choose to insure against the risk of a counterparty's insolvency by taking out insurance. Trade credit insurance will insure against accounts receivable losses should a counterparty enter into insolvency.
- Larger enterprises may also be able to hedge their potential exposure, especially in relation to currency fluctuation losses.

As the Waterfall I name suggests, there is further litigation in the pipeline, aptly named Waterfall II and Waterfall III, which will focus on interest on debts, set-off, and contributory claims. These cases are expected to further shape the UK's insolvency legislation so watch this space for further changes to the legislative landscape later this year.

The judgment is available at https://www.supremecourt.uk/cases/docs/uksc-2015-0137-judgment.pdf.

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Litigation Funding: a review

The current talk of the Disputes world is funding. Litigation, third party call it what you will, funding litigation or arbitration[1] is definitely of the moment, with increasing scope, both geographically and in terms of types of actions being funded.

Litigation funding is a financing arrangement in which the funder agrees to pay the client's (who is usually, but not exclusively, the claimant party) legal fees to include experts, external counsel and other disbursements, in accordance with an agreed budget.

Background

Funding's evolution has increased at pace over the last 10 years' and has come a long way since for example the 1960s and before in England, when it was considered champertous and to engage in 'maintaining' the litigation would be considered a criminal offence, since abolished by the Criminal Law Act 1967 (CLJ 1967).

Providing that the funder does not "control" the dispute (which may render it unenforceable s14(2) CLJ 1967), litigation funding is perfectly legal, and as seen in recent cases including *Arkin v Borchard Lines Ltd*[2] which established that a funder's liability would be capped at the amount of their contribution- the highly criticised "Arkin Cap" through to the 2013 Jackson LJ's civil litigation reforms, positively encouraged by the English judiciary.

Benefits of funding

Corporate clients look to litigation funding not because they cannot afford to finance the litigation, but for a number of common reasons, including recognising that funding:

- Frees up capital to use to develop their business, rather than being tied up in the litigation/arbitration.
- Aids otherwise pressurised legal budgets.
- Enables the litigation to be taken off the balance sheet.

1 This article refers uses the phrase 'litigation funding' for convenience and means it to encompass both litigation and arbitration
2 [2005] EWCA Civ 655, the author represented the successful defendants and Part 20 defendants in this case.

- Gives a 'second opinion' on the strength of the case; funders avoid cases they think will fail.

We are now seeing funding supporting cases previously not considered, for example arbitration both in England following cases such as *Essar Oilfields Services Limited v Norscot Rig Management PVT Limited*[3] in which the costs of arranging the funding were considered recoverable in the arbitration, and elsewhere following the introduction of arbitration funding in Singapore, and soon to be in force arbitration funding in Hong Kong, as well in the traditional countries such as the US and Australia which for many years led the developments we now think of as imbedded.

Best practice when working with funders

- Avoid any possibility of the funder exercising control over the litigation, this is likely to render the agreement invalid and unenforceable.
- Take care to maintain legal privilege when informing funders of the merits of the claim; involving your lawyers here will help safeguard the position on privilege.
- Choosing funders who are members of the Association of Litigation Funders (ALF) is recommended. Funding is currently self-regulated, and those who are members of ALF are subject to their code of conduct (which includes provisions on identifying limits on control of case strategy, settlement approval, and withdrawal). ALF also requires its members to adhere to capitalisation requirements, and follow the ALF complaints procedure.

The future of funding

With Singapore now able to use funding in arbitration matters, to our knowledge there is now at least one funding arrangement in place, and with Hong Kong having now legalised the use of funding in arbitration, the Far East has now caught up with the international Disputes community and offers a competitive and accessible funded market.

Looking ahead, we envisage funding becoming more established in the Middle East and Latin America, particularly Brazil, where the international arbitration industry is keen to be competitive and attract parties from the more traditional jurisdictions.

In terms of sectors, we see funding becoming increasingly common in anti-competitive actions, which attract funders because of the sums at stake - particularly if involving a class action e.g. under the Consumer Rights Act 2015, or shareholder disputes, or cartel, and the high percentage that settle before trial – so reducing risk. Another likely area of growth is insolvency work. This follows the end to insolvency's exemption from the Jackson reforms in April 2016 resulting in CFA success fees and ATE insurance premiums no longer being recoverable, making funding an even more attractive option for insolvency practitioners beyond the smaller funder claims traditionally funded.

We are also seeing the increasing funding of portfolios of cases, and ourselves look to arrange funding on this basis where possible.

Funding at HFW

The number of funders in the market has grown exponentially over the last year or so, and so knowing this market is even more important that ever.

At HFW we approach litigation funding in a flexible but organised way and channel funding arrangements through our funding committee that works closely with our fee earners and funders to ensure the process is quick, efficient, and always reflects the needs of the client including budget.

Our lawyers have a well developed and thorough understanding of the preferred funding options most suited

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"Going forward, this decision will provide significant comfort to parties that have commercial relationships with PRC SOEs."

3 [2016] EWHC 2361 (Comm)

to a particular matter, of the funders most able to support the required structure, and where needed, the brokers best placed to go to market to obtain a wider spread of options. This allows us to work collaboratively with clients to identify and negotiate the best structure for their matter.

If you are interested in discussing funding or insurance arrangements on your particular matter please contact either your usual HFW contact, or the funding.committee@hfw.com. For further information on why funding might work for your matter, please see our funding client guide[4].

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4 http://www.hfw.com/Client-guide-funding-disputes-in-England-and-Wales-June-2017

HFW has over 450 lawyers working in offices across Australia, Asia, the Middle East, Europe and the Americas. For further information about our dispute resolution capabilities, please visit hfw.com/Dispute-Resolution

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