

Financial Law Amity Symposium
11 & 12 February 2019
NUS Law (Bukit Timah Campus) Moot Court



Front row (from left to right): Prof Mads Andenas, QC (University of Oslo), Emeritus Prof Peter Ellinger (NUS Law), Assoc Prof Sandra Booyesen (Deputy Director, CBFL, NUS Law), Asst Prof Christian Hofmann (CBFL, NUS Law), Asst Prof Summer Sung Eun Kim (University of California), Dr Kalavathy Maruthavanar (University of Malaya), Asst Prof Lin Lin (NUS Law)
Second row (from left to right): Prof Michael Schillig (King's College London), Assoc Prof Giuliano G. Castellano (University of Hong Kong), Prof Charl Hugo (University of Johannesburg), Prof Hans Tjio (NUS Law), Dr Vincenzo Bavoso (University of Manchester), Assoc Prof Simin Gao (Tsinghua University), Prof Ruth Efrat Plato-Shinar (Netanya Academic College)

The Centre for Banking & Finance Law held a Financial Law Amity Symposium at the Faculty of Law, National University of Singapore on 11 – 12 February 2019. Fifteen academics from around the world - China, Hong Kong, Israel, Norway, Malaysia, Singapore, South Africa, the United Kingdom and the United States, presented and discussed their research on a variety of topics relating to banking and financial law. Topics converged around three main areas: financial regulation and the adequacy/suitability of recent reforms, the protection of consumers in their dealings with financial institutions, and developments relating to the crypto-economy including initial coin offerings and artificial intelligence. The event facilitated the forging of new academic links and the inspiration of fresh ideas and insights into the law relating to banking and finance.

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FINANCIAL LAW AMITY SYMPOSIUM

11 & 12 February 2019

NUS Law (Bukit Timah Campus), 469G Bukit Timah Road, Singapore 259776
Moot Court



The Financial Law Amity Symposium organised by Centre for Banking & Finance Law (CBFL) brings together fifteen academics from around the world - China, Hong Kong, Israel, Norway, Malaysia, Singapore, South Africa, the United Kingdom and the United States, who presented and discussed their research on a variety of topics relating to banking and financial law. Topics converged around three main areas: financial regulation and the adequacy/suitability of recent reforms, the protection of consumers in their dealings with financial institutions, and developments relating to the crypto-economy including initial coin offerings and artificial intelligence. The event facilitated the forging of new academic links and the inspiration of fresh ideas and insights into the law relating to banking and finance.

CONVENORS

Associate Professor Sandra Booyen
Deputy Director
Centre for Banking & Finance Law
NUS Law

Assistant Professor Christian Hofmann
Executive Committee Member
Centre for Banking & Finance Law
NUS Law

PROGRAMME

MONDAY, 11TH FEBRUARY 2019

TIME	PROGRAMME
9.15am to 9.30am	Welcome & Opening Remarks
MORNING SESSION	
9.30am to 10.15am	Product Suitability for Consumer Investors Dora Neo, National University of Singapore
10.15am to 11.00am	Law and Ethics: The Bank's Fiduciary Duty Towards Retail Customers Ruth Plato-Shinar, Netanya Academic College
11.00am to 11.30am	AM Break
11.30am to 12.15pm	Prudential Regulation and Secured Transactions Law: Is a Sound and Inclusive Credit Environment Achievable? Giuliano Castellano, University of Hong Kong
12.15pm to 1.00pm	Trusts and Company Charges Hans Tjio, National University of Singapore
1.00pm to 2.00pm	Lunch
AFTERNOON SESSION	
2.00pm to 2.45pm	Prematurity and Incubation: Tradition, Transplantation and Bifurcation of Financial Development and Law in China Simin Gao, Tsinghua University
2.45pm to 3.30pm	Demand Guarantees in South Africa, The People's Republic of China and Singapore Charl Hugo, University of Johannesburg
3.30pm to 4.00pm	PM Break
4.00pm to 4.45pm	Customer-Oriented Corporate Governance Summer Sung Eun Kim, University of California Irvine
4.45pm to 5.30pm	The Legal Nature of A Bank Deposit: Insights from Roman Law Sandra Booyesen, National University of Singapore
5.30pm	End of Day 1 Symposium

TUESDAY, 12TH FEBRUARY 2019

TIME	PROGRAMME
MORNING SESSION	
9.00am to 9.45am	The (Il-)legitimacy of The EU Post-Crisis Bailout System Michael Schillig, King's College London
9.45am to 10.30am	Contracts, Investor Protection, Prudential Regulation and Systemic Risk Mads Andenas, University of Oslo
10.30am to 11.00am	AM Break
11.00am to 11.45pm	A Systems Approach to Financial Regulation Armin Kammel, California Lutheran University
11.45pm to 12.30pm	The Regulation of Securitised Banking, in the Aftermath of Basel III Vincenzo Bavoso, The University of Manchester
12.30pm to 1.30pm	Lunch
AFTERNOON SESSION	
1.30pm to 2.15pm	Venture Capital in The Rise of The Crypto Economy Lin Lin, National University of Singapore
2.15pm to 3.00pm	The Law and Finance of Initial Coin Offerings Aurelio Gurrea-Martínez, Singapore Management University
3.00pm to 3.30pm	PM Break
3.30pm to 4.15pm	Banking and AI - Studying Its Legal and Ethical Implications Kalavathy Maruthavanar & Chan Chee Seng, University of Malaya
4.15pm to 5.00pm	Drawing The Line Between Monetary Policy and Monetary Financing: The Unresolved Issue in The Law of Central Banking Christian Hofmann, National University of Singapore
5.00pm to 5.15pm	Concluding Remarks
6.15pm	End of Symposium

PARTICIPANTS' PROFILES

Convenor - Sandra BOOYSEN
Deputy Director, Centre for Banking & Finance Law (CBFL)
Associate Professor, NUS Law



Sandra Booyesen is an Associate Professor at the National University of Singapore, Faculty of Law and Deputy Director of the Centre for Banking & Finance Law (CBFL). She serves on the editorial board of two academic journals: *Singapore Journal of Legal Studies and International Banking* and *Securities Law* (published by Brill). Sandra's research interests straddle contract and banking law. She has published her work in a variety of international journals. In 2017, Sandra co-edited a volume entitled *Can Banks Still Keep a Secret? Bank Secrecy in Financial Centres Around the World* which was published by Cambridge University Press. Prior to joining academia, Sandra practiced law in London and Johannesburg, with a focus on commercial litigation. She is admitted as a solicitor in England and Wales, and as an attorney and notary in South Africa.

Convenor - Christian HOFMANN
Executive Committee Member, Centre for Banking & Finance Law (CBFL)
Assistant Professor, NUS Law



Christian Hofmann sat for the first state exam in law (the LLB equivalent) at the University of Freiburg. This was followed by a two-year clerkship for a German court and subsequently the second state exam in law (the bar exam equivalent). He continued his legal education at the University of Halle-Wittenberg for his doctorate degree in law ('Dr. iur.') based on his monograph on the law of cashless payment instruments. He received his professorial qualification ('Habilitation') from Humboldt-University Berlin for his comparative monograph on the protection of minority shareholders and holds 3 LL.M. degrees, one in Global Business Law from New York University (NYU), one in Corporate and Financial Services Law from National University of Singapore (NUS) and one in International Business Law from the University of Halle-Wittenberg.

Christian has held several faculty and research positions. Prior to joining NUS law, he was a senior legal counsel for the German Central Bank ('Bundesbank') and a law professor at the Private University in the Principality of Liechtenstein. He held chairs at the University of Cologne and Goethe-University Frankfurt on a visiting basis ('Lehrstuhlvertreter'), was a visiting scholar and fellow of the Humboldt Foundation at UC Berkeley and a Global Research Fellow at NYU School of Law. Christian specialises in the law and regulation of financial institutions and markets, sovereign debt restructuring and comparative corporate law.

Mads ANDENAS, QC
Professor of Law, University of Oslo



Mads Andenas is Professor of Law at the University of Oslo and the Director of the Centre for Corporate and Financial Law at the Institute of Advanced Legal Studies, the School of Advanced Study, University of London. He was the Director of the British Institute of International and Comparative Law, London and Director of the Centre of European Law at King's College, University of London and a Visiting Research Fellow of the Institute of European and Comparative Law, University of Oxford.

His current project builds on M Andenas, 'Reassertion and Transformation: from fragmentation to convergence in international law' (2015) *Georgetown Journal of International Law* 685–734 and M Andenas and E Bjorge, *A Farewell to Fragmentation – Reassertion and Convergence in International Law*, Cambridge University Press 2015.

Vincenzo BAVOSO
Lecturer, University of Manchester



Vincenzo Bavoso is a lecturer in commercial law in the School of Law, University of Manchester. Before taking up this post, he held academic roles at Durham University and Kingston University. He teaches and researches in the wider areas of financial law and corporate law. Prior to moving to academia, Dr Bavoso worked in private practice, initially in Italy where he was called to the Bar, and then in in-house positions in Monaco and the UK. He has published extensively in the fields of financial regulation, structured finance and corporate governance. His work on securitisation and capital markets has been cited by the EU Parliament, and more recently it has appeared on the working paper series of CEPS (Centre for European Policy Studies) and FEPS (Foundation for European Progressive Studies).

Giuliano G. CASTELLANO
Associate Professor, University of Hong Kong



Giuliano G. Castellano is an Associate Professor of Law at the University of Hong Kong, Faculty of Law, where he teaches in the fields of financial law, financial regulation and regulatory compliance. Within the Faculty of Law, he serves as a Deputy Director of the Asian Institute of International Financial Law (AIIFL). He is a Fellow at the Higher Education Academy in the United Kingdom.

Dr Castellano's research interests lay in the fields of financial regulation, comparative financial law, law & finance, and regulatory theory. His research led him to work in a number of law reform projects promoting financial stability and financial inclusion through legal and regulatory reforms in Asia, Africa, Central America, and Europe. Since 2010, he has been serving as a Legal Expert for the Italian delegation at the UN Commission on International Trade Law (UNCITRAL), Working Group VI. In this capacity, he contributed to the development and the adoption of several international soft-law instruments designed to promote and inclusive access to credit, including the UNCITRAL Model Law on Secured Transactions. His research has been receiving support through various grants and has been featured in international peer-reviewed journals. Currently, he is working on a research project concerning the combined impact of prudential regulation, secured transactions law, and nascent technologies on credit markets.

CHAN Chee Seng
Associate Professor, University of Malaya



Chee Seng received his Ph.D. from University of Portsmouth, U.K. in 2008. Currently, he is an Associate Professor at the Department of Artificial Intelligence, Faculty of Computer Science and Information Technology, University of Malaya, Malaysia. In general, his research interests are computer vision and machine learning; with a focus on image/video content analysis. He is a recipient of the Young Scientist Network-Academy of Sciences Malaysia (YSN-ASM) in 2015, Hitachi Research Fellowship in 2013 and the IET (Malaysia) Young Engineer award in 2010. He is also a senior member of IEEE, a Chartered Engineer (CEng) and a member of IET.

Simin GAO
Associate Professor, Tsinghua University



Simin Gao is an Associate Professor at the Law School of Tsinghua University. She received her doctorate degree in law (S.J.D.) from the University of Pennsylvania Law School and was a former Russell Ackoff Fellow (2011–2012) at Penn's Wharton School of Business. She brings interdisciplinary perspective to a wide range of emerging issues that encompass bankruptcy law, corporation Law, financial law, law and economic and comparative law. She have authored several publications on bankruptcy law, financial law and regulation which appeared on law journals in U.S. and EU, like *American Bankruptcy Law Journal*, *European Business Organization Law Review*, *American Business Law Journal*, *Texas International Law Review*, *Banking Law Journal*, *Manchester Journal of International Economic Law*, and *International Corporate Rescue*. She was the only winner majoring in social science to receive the Extraordinary Excellent Prize of Chinese Government Award for Outstanding Self-financing Student Abroad in 2012. She received the Peking Excellent Junior Scholar grant and several start-up grants from Department of Justice, Department of Education and Tsinghua University. She serves as the editor or peer reviewer for Chinese and U.S. leading law journals.

Aurelio GURREA-MARTINEZ
Assistant Professor, SMU Law



Aurelio Gurrea-Martinez is Assistant Professor of Law at Singapore Management University. Before joining SMU, he was a Fellow of the Program on Corporate Governance and Teaching Fellow in Capital Markets and Financial Regulation at Harvard Law School. He is also the Director of the Ibero-American Institute for Law and Finance. Aurelio has taught, lectured and conducted research at several institutions in the United States, the United Kingdom, Continental Europe, Asia, and Latin America. He has also been invited to present his academic work at several regulators and international organisations around the world such as IOSCO, the OECD, and the U.S. Securities and Exchange Commission. He has received various scholarships and awards, including the Talentia Fellowship given by the Andalusian Government to pursue his studies at the University of Oxford, the Class Prize for Best Paper in Law and Economics at Stanford Law School, and the Silver Medal in International Insolvency Studies given by the International Insolvency Institute. In 2016, he was named Rising Star of Corporate Governance by the Millstein Center for Global Markets and Corporate Ownership at Columbia Law School.

Charl HUGO
Professor, University of Johannesburg



Charl Hugo holds the degrees BA (Law) and LLB from the University of Pretoria, LLM from the University of South Africa and LLD from the University of Stellenbosch. He qualified as an Attorney in 1985 after which he joined the lecturing staff of the Department of Mercantile Law of the University of Stellenbosch. He became a full professor in 1996, and chaired the Department for the period 2001 – 2004. During this period he achieved a C2 NRF rating. In 2008 he qualified for accreditation by the ADR Group as Civil and Commercial Mediator, and became a member of the Equilore panel of mediators.

Prof Hugo was appointed as Professor by the University of Johannesburg as from January 2013 with the primary responsibility of teaching, researching and stimulating research in banking law, which, together with construction law, are his main fields of interest. He has published 11 chapters in books, 23 journal articles (the vast majority of which in accredited journals) and has participated in 32 conferences (several of which were international). Since 2014, he has been responsible for arranging the *Annual Banking Law Update* in South Africa. As advocate, he has appeared in the High Courts of Cape Town, Kimberley, Johannesburg and Namibia (Windhoek), as well as in the Supreme Court of Appeal in South Africa.

Much of Prof Hugo's work is related to payment in and financing of international trade, and to demand guarantees – all of which relate strongly to regulatory instruments drafted by the Banking Commission of the International Chamber of Commerce (ICC). In 2016, Prof Hugo was nominated and accepted by the South African National Committee of the ICC for membership of the Banking Commission of the ICC.

Armin KAMMEL
Professor, Lauder Business School



Armin Kammel is Professor (FH) of Banking Law and Securities Regulation at Lauder Business School (LBS), Vienna, Austria. Moreover, he has been Ehrenprofessor (Honorary Professor) and Faculty Member as well as Program Coordinator (LL.M./MLS in International Banking Law and Capital Markets) at Danube University Krems (DUK), Austria. In addition to this, Dr. Kammel has also been lecturer with numerous prestigious institutions in the U.S., the UK, Austria, Switzerland, Ukraine or Thailand. He is an interdisciplinary lawyer specialised in (international) banking law, securities regulation and business law. He holds degrees in both law and business administration from prestigious universities in his native Austria and abroad.

Summer Sung Eun KIM
Assistant Professor of Law, University of California, Irvine



Summer Kim is an Assistant Professor of Law and Faculty Director of the Korea Law Center at the University of California, Irvine, and School of Law. Professor Kim's research and teaching interests include corporations, financial institutions, corporate finance, corporate governance, contracts and financial regulation. Prior to joining the UCI Law faculty, she held an appointment at the University of Illinois College of Law. Prior to law teaching, Professor Kim practiced law at Kirkland & Ellis in San Francisco and Shearman & Sterling in New York, specialising in the areas of debt finance and capital markets. Professor Kim received her J.D. from Harvard Law School and her B.A. in Economics, *summa cum laude*, from Seoul National University.

Lin LIN
Assistant Professor, NUS Law



Lin Lin is an Assistant Professor at the National University of Singapore, Faculty of Law. She teaches and researches primarily in company law, corporate finance, alternative investments and Chinese corporate law. Dr. Lin has published widely in leading law journals in the US, the UK, Singapore, Hong Kong and China, such as *Stanford Journal of Law, Business & Finance*, *Berkeley Business Law Journal*, *Journal of Corporate Law Studies* and *Columbia Journal of Asian Law*. Her writing has been selected for presentation by the Stanford International Junior Faculty Forum. Her monograph titled, *Venture Capital in China: Changing Laws in an Evolving Market* will be published by the Cambridge University Press. Prior to joining academia, Dr. Lin was a Legal Policy Officer at the Accounting and Corporate Regulatory Authority of Singapore (ACRA). She has worked in the Corporate Finance Department of Allen & Overy Shook Lin & Bok and has served as Assistant Counsel at the Singapore International Arbitration Centre (SIAC). She was a Visiting Scholar at Stanford Law School and the Arthur and Toni Rembe Rock Center for Corporate Governance at Stanford University (2012-2013).

Kalavathy MARUTHAVANAR
Senior Lecturer, University of Malaya



Dr Kalavathy Maruthavanar is a Senior Lecturer attached to the Faculty of Law, University Malaya, Malaysia. UK. She is a qualified lawyer and an Advocate & Solicitor in Malaysia; prior to joining academia she did litigation and banking conveyancing. Dr Kala received her PhD specializing in Consumer Protection in Retail Electronic Banking Law in 2012. She was a Fulbright Scholar at the University of Berkeley, California, USA and in spent her recent sabbatical research leave at the Faculty of Law, University of Nottingham, UK. She has been tutoring and lecturing for the past 2 decades at the Faculty of Law, University Malaya in the field of legal studies, specialising in the commercial areas of banking and corporate law. She has presented papers at international conferences in the area of banking law, focussing on consumer electronic banking products in the retail financial market; and written legal articles pertaining to consumer/bank customer legal rights and dispute resolution. As a member and Editor of CELEST (Centre of Law & Technology, Law Faculty) newsletter; her current research focusses on new electronic innovations offered to customers, crypto-currency and consumer banking dispute resolution.

Dora NEO
Associate Professor, NUS Law



Dora Neo is the Director of the Centre for Banking & Finance Law and an Associate Professor at the National University of Singapore, Faculty of Law. She teaches contract, credit & security and international banking law. Her works include Ellinger & Neo, *The Law and Practice of Documentary Letters of Credit* (Hart Publishing, 2010) and Booyesen & Neo (eds), *Can Banks Still Keep a Secret? Bank Secrecy in Financial Centres Around the World* (Cambridge University Press, 2017). She recently co-wrote a monograph on *Services Trade in ASEAN*, and co-edited a volume on *Financial Services Law and Regulation in Singapore*, to be published in 2019 by Cambridge University Press and Academy Publishing respectively. Her works in progress include an edited volume on secured transactions law in Asia and a study on the basis for modification of contracts. She has taught at institutions such as the University of Aix-Marseille III, the East China University of Political Science and Law, and the Centre for Transnational Legal Studies (London). She is a graduate of Oxford University (first class honours) and Harvard Law School, and was called to the Bar in England and in Singapore.

Ruth Efrat PLATO-SHINAR
Professor, Netanya Academic College



Ruth Plato-Shinar is a Full Professor of Banking Law and Financial Regulation at the Netanya Academic College, Israel, where she also serves as the Director of the Center for Banking Law and Financial Regulation. Prof Plato-Shinar also serves on the Academic Boards of AIIFL at Hong-Kong University, and CCLS at Queen Mary University, London. She is a member of the Advisory Committee of the Israeli Minister of Finance; the Advisory Committee of the Governor of the Bank of Israel; the Advisory Board of the Commissioner of Capital Market, Insurance and savings; and a former Board Member of the Government Fund for Class Actions.

She is the author of the books, *The Banks' Fiduciary Duty* and *Banking Regulation in Israel: Prudential Regulation versus Consumer Protection*.

Michael SCHILLIG
Professor, King's College London



Michael Schillig joined King's College London in 2007, following three years as the DAAD Lecturer in Law at the University of Sheffield. Michael read law at the University of Erlangen-Nuremberg, obtained his LLM from King's College London and his PhD from Humboldt University Berlin. He was a Visiting Scholar at the University of California, Berkeley, and at the University of California, Los Angeles. Michael's research and teaching generally focus on financial law from both a regulatory and transactional perspective, as well as on corporate law, corporate insolvency law and European contract law.

Hans TJIO
Professor, NUS Law



Hans has taught at the Faculty of Law, NUS, since 1990, and was co-Director of the Centre for Banking & Finance Law. He has published widely in international and local journals, and has written or co-written books on company law, securities regulation and trust law. He is also a contributor to *Halsbury's Laws of Singapore* on contract law and to *Palmer's Company Law* (Geoffrey Morse ed).

He was previously seconded to the Monetary Authority of Singapore and the Ministry of Law. He is presently serving on the Securities Industry Council, is Deputy Chairman of the SGX Listing Advisory Committee, and formerly a consultant with Linklaters Singapore and WongPartnership. He has been a visiting professor at Auckland and Shanghai's East China University of Political Science and Law, and a visiting scholar at Stanford and Melbourne. He recently delivered public lectures at the law schools of NTU Singapore, Tsinghua and Zhejiang.

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