

Adam Al-Attar

Called to the Bar 2007

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Adam specialises in insolvency and restructuring, banking and financial services, and the law of trusts.

Adam has had substantial experience of bank and fund insolvencies. He has acted in relation to the insolvencies of *Lehman Brothers*, *MF Global* and *Madoff* feeder funds. He has appeared in the leading contested restructuring cases of *IMO Car Wash*, *Apcoa* and *Ocean Rig* and has a substantial restructuring practice in the UK and offshore jurisdictions.

Adam is ranked in Band 1 in Chambers UK for restructuring and insolvency, and in Band 3 for financial services. In 2014, he was recognised as the Insolvency and Restructuring Junior of the Year at the UK Bar Awards. His entry in the 2017 edition Chambers UK described Adam as a: “*Standout junior exhibiting great strength in bank and fund insolvencies. He regularly attracts instructions in headline cases and demonstrates notable skill in contested restructurings.*”

The 2017 edition of the Legal 500 recorded the follow comments from clients about Adam: ‘*He works efficiently and effectively, and is an excellent advocate.*’ He is ‘*very hardworking and always tremendously well prepared.*’

AREAS OF PRACTICE

Insolvency and Restructuring

Insolvency

Recent cases of note include:

- **Lehman Brothers International Europe**, acted for and advised various counterparties including in relation to subordinated debt and statutory interest; acted for the administrators on discrete issues including third party set-off; acted for GLG in relation to client money issues; currently acting for Wentworth in relation to the **Waterfall II** applications to distribute the surplus in the estate
- **MF Global**, retained to advise the special administrators including in relation to the close-out of exchange traded and OTC derivatives, the transfer of open positions, the settlement of DVP trades, and the operation of clearing house and exchange default rules
- **Primeo**, retained by the joint official liquidators of Primeo Fund in relation to the trial of preliminary issues on the Madoff trustee’s claim for relief under US and Cayman Islands insolvency law to set aside antecedent transactions: **Picard v Primeo Fund**, Cause FSD 275 of 2010, 14 May 2013. The Cayman Court of Appeal handed down judgment on part of the appeal in April 2014: CICA 1/2013 and 2/2013
- **Monarch Airlines**, instructed by the companies to pursue the administration applications, and retained by the administrators on various issues arising out of the airline administration
- **DD Growth**, appeared in the Privy Council for the liquidators of a Cayman fund on a dispute as to the legality of redemption payments funded from the share premium account at a time when the fund was insolvent and had a negative NAV.

Other cases include:

- **Rollings v O'Connell** [2014] EWCA Civ 639, consideration by the appellate court of the power under paragraph 71 of Schedule B1 to override the consent of a fixed charge-holder
- **AIB Group (UK) v St John Spencer** [2012] EWHC 2317 (Ch), contested application to appoint an administrator under paragraph 35 of Schedule B1
- **Rawlinson & Hunter Trustees v Kaupthing Bank** [2011] 2 BCLC 682, jurisdictional challenge under the Credit Institutions Winding Up Regulations to a claim by Kaupthing in the Commercial Court
- **Byers v Yacht Bull Corporation** [2010] 2 BCLC 169, jurisdictional challenge to a tracing claim to assets in France asserted by the liquidator of Madoff's UK company

Restructuring

Recent cases include *Punch Taverns*, *Cattles*, *FU JI Food & Catering Holdings*, *The Co-operative Bank*, *PHS*, *LDK Solar*, *SA Miller*, *CHC Group*, *Algeco Scotsman* and *Frigoglass*.

Contested restructurings include:

- **Re Bluebrook** [2010] 1 BCLC 338, which sets out the proper approach to the valuation of distressed company debt
- **Re Maltby Investments** [2012] EWHC 4 (Ch), in which the court rejected Terra Firma's application for pre-action disclosure of valuations relied on for the pre-pack sale of EMI
- **Drydocks Dubai LLC v Monarch Master Funding**, in which the Dubai entities obtained injunctive relief in support of CVAs sanctioned under Dubai law
- **The Co-Operative Bank** [2013] EWHC 4074 (Ch), a scheme of arrangement to recapitalise a bank which had failed its capital requirement tests and was threatened with resolution by the PRA
- **Re Apcoa Parking Holdings GmbH** [2015] 4 All ER 572, the leading UK scheme case on the validity of change of law schemes and the imposition of new obligation via a scheme
- **Re Ocean Rig Inc**, 15 September 2017, Grand Court of the Cayman Islands, the first cross-border Cayman Islands led restructuring involving a COMI-shift to facilitate recognition under Chapter 15 of the US Bankruptcy Code

Bankruptcy and Personal Insolvency

Recent cases include:

- **Davis v Price** [2014] BPIR 494, CA, an appeal which considered the "cut off" date for IVA claims
- **Smith-Evans v Smailes** [2013] EWHC 3199 (Ch), an appeal in which the court held that the failure to obtain a debtor's consent to a modification did not render an IVA a nullity

Banking and Finance

Banking

Advised a syndicate of UK banks in 2013 in relation to the measures taken by Cyprus with respect to **Laiki** and **Bank of Cyprus**

Acting for Nomura International plc in 2013 in relation to claims by and against **Banca Monte dei Paschi di Siena** in Italy and the UK

Acted for **Lehman Brothers** in 2012 on a claim which called into question the scope of cross-affiliate set-off under the ISDA Master Agreement (1992, 2002) and of bilateral set-off under GMRAs, OLSAs and GMSLAs

Retained by **Lehman Brothers** in relation to a claim for damages for alleged fraudulent misrepresentations in relation to a series of CDOs

Libyan Investment Authority v Maud [2016] EWCA Civ 788, an appeal which considered the application of the Libyan sanctions regime to the payment of a commercial guarantee

Financial Services

Client Money:

- **MF Global UK Ltd** (*Client Money Resolution Application*), application by client money trustee to sanction compromise including claims for breach trust to enable closure of trust fund
- **MF Global UK Ltd** (*Client Money Distribution Application*) [2013] EWHC 1655 (Ch), application by client money trustee to distribute client money on assumed facts in the light of unknown claims
- **MF Global UK Ltd** (*Shortfall Application*) [2014] 1 BCLC 91, acted for the administrators of MF Global on their application to consider the extent of clients' shortfall claims against the general estate resulting from a breach of the client money trust
- **MF Global UK Ltd** (*Hindsight Application*) [2013] EWHC 92 (Ch), acted for the administrators of MF Global on their application to determine the scope of the hindsight principle
- **Re Lehman Brothers International (Europe) (No 2)** [2012] 1 BCLC 487 (SC); [2011] 2 BCLC 184 (CA); [2010] 2 BCLC 301, acting for GLG on behalf of segregated clients at all levels of the Lehman Brothers client money litigation under CASS 7
- **Re Global Trader Europe Ltd** [2009] 2 BCLC 18

Client Assets:

Acting for the special administrators of *MF Global* in relation to the 30.7 litigation, which considered, amongst other things, the efficacy of title transfer arrangements in a claim for US\$600m of US treasury bills.

Retained by the special administrators of **Hartmann Capital** and the liquidators on **Independent Derivative Trading**

International and Offshore

Has experience in the following jurisdictions: the BVI, the Cayman Islands, Hong Kong, the Isle of Man, Dominica, St Kitts and Nevis, Anguilla, Guernsey, St Vincent and the Grenadines and Dubai.

Appeared before the Dubai World Tribunal in 2013.

Trusts and Property

Acting in relation to a claim against a Guernsey trustee and fund administrator at a trial that tested the scope of a trustee's duty of care, liability for misrepresentation and indemnity and immunity from liability under the Guernsey Trust Law.

AWARDS AND RECOMMENDATIONS

Chambers &
Partners

Insolvency and Restructuring Junior of the Year 2014

Recommended for Insolvency and Restructuring "*on the basis of his excellent reputation amongst peers and clients.*" He "*has enviable experience of acting in major banking and fund insolvencies*" and is "*highly praised for his advocacy and the robustness of his advice.*" He is "*intelligent, very easy to work with and incredibly helpful*" and "*provides a fast turnaround of work.*"

CAREER

- 2016 Called to the Bar of St Vincent and Grenadines
- 2014 Called to the Bar of the Cayman Islands (ad hoc)
- 2007 Called to the Bar of England and Wales

Adam is registered as an advocate in DIFC and has been admitted to the bar in the BVI (2011).

PUBLICATIONS

- Contributor to ***Company Directors: Duties, Liabilities and Remedies*** (third edition, OUP, 2017)
 - Contributor to ***European Debt Restructuring Handbook*** (first edition, Global Business Law, 2013)
 - Contributor to ***Cross-Border Insolvency*** (fourth edition, Bloomsbury, 2015)
 - Contributor to ***Rowlatt on Principal and Surety*** (sixth edition, Sweet and Maxwell, 2011)
 - Contributor to ***The Law and Practice of Restructuring in the UK and US*** (second edition, OUP, 2017)
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EDUCATION AND QUALIFICATIONS

- 2006 Oxford University, BCL
 - 2005 Oxford University, BA Jurisprudence
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