The Future of Group Actions and Third Party Funding

Woodsford Litigation Funding Insight

Executive Summary

In recent years, a number of high-profile claims have focussed minds on the availability of collective redress in England & Wales and across the European Union. Two major shareholder actions have been brought in the English courts under the (seldom-used) Group Litigation Order ("**GLO**") regime: against the UK banking giants RBS (in the RBS rights issue litigation) and against Lloyds/HBOS. In addition, a GLO has also been granted in the claims made by motorists in the UK in the VW diesel emissions litigation. These actions have been followed by a number of claims before the Competition Appeal Tribunal ("**CAT**") in London in relation to cartel activity by various truck manufacturers. Woodsford has also recently funded the first 'stand-alone' competition claim to be brought in the CAT, which is set to be a landmark decision in competition law in England. Finally, a representative action, the "Google You Owe Us" claim, was launched in the English Courts on behalf of a group of claimants relating to privacy breaches through the use of the "Safari workaround".

The general consensus in both the legal and funding communities is that the number of group actions being brought looks set to grow. Woodsford agrees, and will certainly continue to invest in group actions globally. The heightened focus on data protection issues and the recent implementation of the General Data Protection Regulation (with there being a number of 'hacks' of household names in the recent past, such as of the airline British Airways and of Tesco Bank (an online bank run by UK supermarket giant Tesco)) have highlighted possible growth areas for future collective redress actions in England.

Further, institutional investors (traditionally reluctant to participate in litigation) are developing an increasing appetite to participate in securities group actions, having recognised that, in appropriate circumstances, participation in group actions is in the best interests of their stakeholders in that it can lead to both financial recovery and can act as an effective way to keep corporate behaviour in check.

If, as in most cases, those claims are grouped together and supported by third party litigation finance, the proposition becomes an enviable one for claimants: if the claim succeeds, the claimant recovers the majority of its losses. In this way, an investor's claim which, taken individually might otherwise have been uneconomic to litigate, is unlocked, realising value for the investor. If the claim does not succeed, the investor bears no liability for the legal costs incurred in bringing the claim (and, more often than not, the adverse cost risk is also borne by the funder or an insurer).

Litigation funding plays a key role in enabling these claims to be brought and for access to justice to be achieved. All of the cases mentioned above were supported by third-party funding. Without such support, these claimants would be left without the opportunity for redress, since it would simply not be economically viable for such claims to be progressed. Bringing these defendants to account also serves a wider purpose, as it deters future misconduct. Thus, such claims form an important part of the regulatory framework.

There are further benefits to funded actions. Litigation finance providers generally undertake significant due diligence before agreeing to provide funds in respect of a particular case (given that their investment is generally non-recourse). When carried out by a sophisticated and experienced team, such as that at Woodsford which is made up of an expert team of litigation and finance professionals, claimants have the benefit of an objective analysis of the claim, which is carried out before substantial resources have been expended. A litigation finance provider's decision to proceed with investment is a good indication that the claim is meritorious and worth pursuing. Woodsford's team of expert litigation lawyers and finance professionals have years of experience undertaking financial and legal structuring of group actions, providing a critically valuable resource at the outset of a claim.

Additionally, claimants who are supported in such group actions by a leading litigation funder like Woodsford (a founder member of the Association of Litigation Funders in London), with a transparent onshore structure, supported by deep-pocketed shareholders and having a track record of success, will ensure that the courts have confidence in the claimants' claim (for example when claimants are seeking certification of a class representative before the CAT). Equally, institutional shareholders will gain comfort that the kind of high stakes litigation in which they become involved is backed by a funder which has extensive financial resources and experience of handling such actions.

While class action regimes are already well developed in certain other jurisdictions, the group action regime in England is relatively young. As it begins to mature, and its use grows, so too does a concern that England will adopt a more litigious 'class action culture' like that (said by many to be) seen in the United States. The following whitepaper will outline the key features of the regime in England & Wales and identify some key features that differentiate the avenues for redress available to claimants in England from the approach taken in the United States and Australia.

Avenues for redress

English law provides for various methods of multi-party case management, which are available when claimants have identical or similar claims. These are set out below. The principal mechanisms used to litigate collective claims in England differ from the 'opt-out' class action familiar from the United States, where claimants who fall within a defined class are included automatically in the claim, unless they take positive steps to 'opt out'. Multiple claims in the English courts normally proceed on an 'opt-in' basis, with claimants issuing claims which are then managed together by the court, either using the court's general case management powers (to which no specific 'group action' rules apply), or under a GLO. While claims may also be brought as representative actions, which are indeed 'opt out', they are very limited in potential application and seldom used. Changes to legislation in 2015 created England's only real 'opt-out' regime: for competition claims brought in the Competition Appeal Tribunal.

In Australia, the model is 'opt out', but with the possibility of classes of claimants being defined in such a way that only those claimants who have retained a particular law firm or who have entered into an arrangement with a particular litigation funder are able to be members of the class. Such classes are commonly described as "closed" as all the members are known to the law firm and/or litigation funder. The real effect of closed classes is to convert the 'opt-out' regime into an 'opt-in' regime for these actions.

The avenues of collective redress available to claimants in England & Wales are:

Representative actions

In circumstances where more than one potential claimant has the "same interest" in a claim, a representative or representatives with the same interest as the proposed group claimants may bring or defend an action on behalf of all of those claimants by way of a 'representative action'. In order for the claimants to be considered to hold the "same interest", "[a]*t all stages of the proceedings, and not just at the date of judgment at the end*": (i) it must be possible to say of any particular person whether or not they qualify for membership of the represented class of persons by virtue of having "the same interest"; and (ii) the parties must have the same interest in the proceedings, they must have a common grievance, and the relief sought must be beneficial to all. This test makes the bringing of representative actions (especially in competition law claims) problematic in practice, because even minor divergences in the individual claimants' claims can prevent the "same interest" criteria from being fulfilled.

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While representative actions are similar to the US class action in concept in that they are 'opt out' and that one claimant can represent all other parties with an identical interest in the claim, representative actions are rarely used in practice as they are not available where there is a divergence of interests of the claimants in any real way. For example, if the claimants are seeking different measures of loss or are subject to different lines of defence, then a representative action will not be available to those claimants as a group. While no official statistics exist in respect of the number of representative claims that have been brought, the very small number of published decisions in those case suggests that it is only a very small number since their launch in 2000.

It is therefore more difficult to get a representative action off the ground in England than it is in the United States, where the threshold for certification of the 'class' is lower. In Australia, no certification is required at all.

Group litigation orders ("GLO")

In circumstances where claimants' claims give rise to common or related issues of fact or law (in contrast to the "same" interest requirement for a representative action) a GLO can be granted by the court to manage multiple claims together (under rule 19.10 of the Civil Procedure Rules ("CPR") 19.10). A GLO may also include issues specific to individual claimants. Introduced in 2000, GLOs operate on an 'opt-in' basis, being simply a number of individual claims that are collated for case management purposes at the request of a party (alternatively, the court may make a GLO of its own initiative).

GLOs may provide for a 'test claim' on particular issues that are then determined by the court and applied to the claimant group as a whole. All of the parties to the GLO are bound by any judgments made on these 'GLO issues' and by any orders made in the GLO claims.

GLOs have also, historically, been used relatively infrequently, with only 105 GLOs having been made at the time of writing (and of those, 36 were prior to 2003). GLOs have, on the whole, been limited to personal injury (such as the British Steel Coke Oven Workers Litigation) and product liability claims.

However, GLOs are seeing use in other contexts: a high-profile example of the use of a GLO is the case of the Lloyds shareholder action – where the High Court granted a GLO in relation to the group action to be pursued by certain shareholders in British high-street bank Lloyds TSB Plc for losses said to have been suffered as a consequence of Lloyds TSB's acquisition of HBOS Plc. There has also been a recent refusal of a GLO. In a recent judgment in the litigation brought by various shareholders against Tesco Plc for alleged over-statement of its trading profits, the claimants' application for a GLO was refused principally on the ground that an insufficient number of claimants had come forward or (in the court's view) were likely to come forward to issue claims such as to make case management by any other method within the court's discretion so difficult as to make a GLO necessary. It remains to be seen whether this 'minimum threshold' approach will be adopted by future courts considering GLO applications. Proceedings are brought on an 'opt in' basis under a GLO, so claimants need to register to participate (the court will normally sanction forms of advertisements to be placed in national and regional newspapers advising of the existence of the claim).

Court's case management powers

An alternative to a GLO is for multiple cases to be run concurrently and potentially heard together. The court will then exercise its general case management powers to ensure that the proceedings are operated efficiently and fairly as between the different claimants and as against the defendant. This might be suitable for group parties where claims can be "conveniently disposed of in the same proceedings" (CPR Rule 7.3). Proceedings can be issued without the permission of the court (where this threshold is satisfied), however permission should be sought where additional parties are added to the proceedings after service of the claim form.

Claims in the Competition Appeal Tribunal

English law also provides for a specific regime for the prosecution of group actions in the Competition Appeal Tribunal

("CAT") for breaches of competition law. Proceedings before the CAT can be brought both on an 'opt-in' and 'opt-out' basis, with the legislative and procedural framework being set out in the Competition Act 1998, the Consumer Rights Act 2015 and the Competition Appeal Tribunal Rules 2015 (SI 2015/1648). Collective actions may be commenced where there are "same, similar or related issues of fact or law" and the claims are suitable to be brought in collective proceedings (section 47B(6) of the Competition Act 1998) and can be brought by multiple claimants or by a specified body on behalf of consumers (such as consumer protection bodies). The CAT will consider all matters it thinks fit in making that determination, including the size of the claim, the costs and the nature of the class.

The CAT must make a "Collective Proceedings Order" or "CPO" certifying a group claim before it can proceed as a collective action (under the Consumer Rights Act 2015). When making an order, the CAT must consider a number of factors, including whether: (i) it is "just and reasonable" for the representative to act on behalf of the class; (ii) the claims concern the "same, similar or related" issues of fact or law and are "suitable" to be brought in collective proceedings; and (iii) whether the action should be on an opt-in or an opt-out basis. At the time of writing, only two applications for CPOs have been heard by the CAT, neither of which resulted in the CAT granting a CPO (Gibson v. Pride Mobility Scooters on December and Merricks v. MasterCard). Two further applications for CPOs were filed in the summer of 2018 (Road Haulage Association Limited v Man SE and Others and UK Trucks Claim Limited v Fiat Chrysler Automobiles N.V. and Others). Finally, Woodsford has recently funded two further CPO applications, which were filed in February 2019 (Justin Gutmann v London & South Eastern Railway Limited and Justin Gutmann v First MTR South Western Trains Limited and Another).

Until recently, collective actions in the CAT have been 'follow on' actions, i.e. claims that follow-on from a decision by a national competition authority finding an infringement of UK competition law or by the European Commission in respect of an infringement of Articles 101 or 102 of the TFEU. However, the two recent actions funded by Woodsford, are the first 'stand-alone' actions in the CAT (being brought as an 'opt out' action), relating to allegations of overcharging of passengers by certain train operators, in respect of which no competition authority or EC decision exists. This represents an important milestone and, it is hoped, will lead to the first CPO being granted since the inception of the regime in 2015 leading to recovery on behalf of thousands of train passengers whose claims would otherwise have gone unremedied.

What is the costs regime for collective actions in England?

The recovery of costs by a defendant against a claimant (or claimants) in the event that the claims fails remains a major differentiator between litigation in the English courts and in the courts of the US.

As a general rule, the English court will exercise its discretion to allow the successful party to recover a proportion of their litigation costs (including fees expended on solicitors, barristers and any disbursements) from the unsuccessful party. In relation to cases brought under GLOs, there are specific rules which distinguish between 'individual costs' (those incurred in relation to an individual claim) and 'common costs' (those incurred on the 'GLO issues' including, for example, the costs incurred by proceeding with a test claim). In general, an order for costs against group litigants imposes several liability for an equal proportion of common costs. In addition to any liability to pay the receiving party, a group litigant who is the paying party will be liable for the individual costs of its claim, and an equal proportion of the common costs.

In proceedings before the CAT, as in the High Court, the successful party will generally be awarded its costs from the unsuccessful party in collective proceedings. However, in 'opt-out' collective proceedings, costs may be awarded to, or against, the class representative, but cannot be awarded to or against members of the class, except in certain circumstances.

In exercising its discretion to award costs, the CAT will consider: (i) the conduct of all parties; (ii) any schedule of incurred or estimated costs; (iii) whether a party has succeeded on part of its case, even if not wholly successful; (iv) any admissible settlement offer; and (v) whether costs were proportionately and reasonably incurred, and whether costs are proportionate and reasonable in amount (CAT Rules, rule 104).

In Australia, claimants are similarly liable for the defendant's costs in the event that a claim fails.

On what fee basis can lawyers act in collective proceedings?

The US and English regimes also take very different approaches to the basis upon which lawyers are allowed to recover success fees from litigation.

Lawyers in England are generally permitted to act on contingency fees, i.e. a 'no win-no fee' basis (noting that certain restrictions apply) and the CPR does not alter that position to impose any specific restrictions in relation to collective actions, except as set out below. English law also allows the use of 'conditional fee arrangements' where a lawyer will receive a specified uplift on fees depending on the outcome of the case (again, subject to certain limitations). Lawyers are also able to act on 'damages-based agreements' (or "DBAs") whereby the legal representative is paid a percentage of the damages recovered on success (generally capped at 50%), with no payment of fees to the lawyer being required in the event of loss.

However, for 'opt-out' collective proceedings in the CAT, claimant lawyers are prohibited from acting on a contingency fee basis or a DBA basis. However, contingency fee and DBA arrangements can be used for opt-in collective proceedings (section 47C (8) of the Competition Act 1998).

Conditional fee arrangements (allowing a set percentage uplift on fees depending on the outcome) are not prohibited in relation to either opt-in and opt-out collective proceedings.

In the US, most class actions are brought with the plaintiff's lawyers acting on contingency fee arrangements, so if the plaintiff recovers damages in the class action (by favourable judgment or through settlement), the lawyers will receive a success fee. The court must approve any award of fees to the lawyers, which is based upon either a percentage of the damages or the 'lodestar' (based on the number of hours worked multiplied by a reasonable hourly rate). Courts are able to approve a class action settlement and reject or reduce the fees requested by the lawyers.

In Australia, law firms are prohibited from entering into contingency fee arrangements where the law firm's fee for prosecuting the case is a percentage of the claimant side's recovery of damages in the proceedings, although the Australian Law Reform Commission has recently proposed that this rule be amended to permit contingency fees in class actions.

Third-party funding of collective actions

Third-party litigation funding is both permitted (and judicially endorsed) in respect of claims in the English High Court and collective actions before the CAT (be they 'opt out' or 'opt in' proceedings). It is now common for collective actions in England and Wales to be supported by litigation finance, making justice available to claimants when their individual claims might not be financially viable to litigate on an individual basis. In the MasterCard case, the CAT clarified that funder's fees were 'costs incurred' by the class representative to be paid from any unpaid damages. The CAT noted that, given the restrictions on contingency fees, the collective actions regime was likely to rely on third-party funding to be effective.

In Australia, class actions are routinely funded, with several major professional funders operating in that region (including funders based in Australia and abroad, such as Woodsford). In the 2006 case of *Campbells Cash and Carry Pty Ltd v Fostif Pty Ltd* (2006) 229 CLR 386, the High Court of Australia endorsed third-party funding, and since that time, the Australian litigation funding market has grown significantly. The prevalence of third-party funding of class actions in Australia is, in part, a product of the fact that law firms in Australia are prohibited from entering into 'contingency fee arrangements', that is to say arrangements where the law firm's fee for prosecuting the case is a percentage of the claimant's recovery of damages in the proceedings. As mentioned above, this prohibition is currently under review in respect of class actions.

The Australian class action regime is currently in a state of flux, somewhat. The Australian system is an 'opt out' one, (where claims are brought on behalf of all affected members of a class not just named individuals). However, "closed classes", which permit the class of claimants to be limited to those individuals who enter into an agreement with a funder or retain a particular law firm, have, in certain types of case, become routine. It has also become commonplace for the Courts to allow classes to be opened and then re-closed, to allow settlement to occur on terms that prevent future action being taken by those who decide to not take part in the settlement.

This issue of multiple ‘competing class actions’ has become especially acute in relation to the Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry, also known as the “Banking Royal Commission” and the “Hayne Royal Commission”, which has recently concluded in Australia. The Commission revealed evidence of what was

said to be widespread misconduct in the banking and superannuation industries in Australia, which has led to multiple law firms backed by funders issuing claims against the same defendants in multiple class actions. The courts have then had to determine which lawyers should be allowed to proceed to represent the open class of claimants (and as part of that, which funder should fund), and what should become of other competing claims. This can be further complicated if competing claims are brought in different courts within Australia. The current position (at least in the Federal Court in Australia) appears to be that the court will determine which (single) open class action should proceed (taking into account several different factors, especially to what extent but a key concern amongst which will be to ensure the control of costs and that the financial proposal put together by the law firm and funder will lead to a satisfactory return to the group claimants and save costs). Other classes may be permanently stayed.

The trend for such ‘competing class actions’ is only likely to increase following the continuing fall-out from the Banking Royal Commission, and it remains to be seen how the Australian courts will manage these competing actions going forwards.

The role of funders in US class actions has, traditionally, been more limited: often the US plaintiff bar will act on a fully contingent ‘no win no fee’ basis, effectively self-funding the claim. However, as knowledge about the potential uses and advantages of litigation funding become more widespread, we expect an increase in funding of class actions. In particular, funding may be needed for class actions that require a substantial expenditure on experts or other hard costs. Likewise, for certain large claimholders, funding may allow them to successfully prosecute their own claims on an individual, opt-out basis.

What is happening in the European Union?

It might not be wise to speculate upon whether the United Kingdom (or indeed any part thereof), will in fact leave the European Union in March 2019 as this paper goes to press, remain as part of the existing bloc or be obliged for any substantial period of time to enact or follow any of the legislation or initiatives currently being proposed by the European Commission. However, regardless of where the UK might find itself in coming years, what is known is that the European Commission has itself identified an inadequacy in the mechanisms available to European consumers to seek damages through collective actions in the EU.

The digital era in which we live and the increasingly globalised way in which people consume products now transcends national boundaries and has highlighted the difficulties that consumers seeking to bring collective actions face through a lack of a single, harmonised redress regime throughout the EU. This has been an issue of concern for the EU for a long time. However, a number of large-scale, cross-border infringements of consumer law have developed a Europe-wide or global dimension, for example the Volkswagen diesel emissions case reportedly affects over 8 million consumers across the EU Member States, and the claims being brought against truck manufacturers in respect of cartel activity. These have galvanised the desire of the European Commission to make changes and threw into stark relief the disparity between the opportunities for redress across the globe: in the Volkswagen scandal, the company has already paid out over $15 billion to consumers in the United States, while consumers who have suffered loss in Europe are still waiting for compensation through the courts.

The EU already has in existence a set of consumer rights providing injunctive relief to consumers (the ‘Injunctions Directive 2009/22/EC’) in relation to certain categories of claim and has encouraged Member States to enact legislation to protect consumers’ ability to seek collective redress. However, while many Member States have introduced a collective redress procedure in respect of compensatory relief, this is not universal and every national system is different. As early as 2008, the Commission concluded that this ‘patchwork’ of varied laws and procedures created a “justice gap” where the rights of consumers and businesses was a lottery dependent upon where they were located, which was particularly problematic in the case of cross-border claims.

In April 2018, the European Commission issued its proposals for a new directive on the protection of the collective interests of consumers (the “Proposed Directive”) together with other measures aimed at strengthening the effective enforcement of consumer protection legislation, in its so-called “New Deal for Consumers”. Then, at the end of 2018, the European Parliament’s Legal Affairs Committee passed a legislative proposal to allow collective redress (by way of ‘group’ or ‘class’ actions), bringing the EU towards having a single harmonised regime for the recovery of damages.

The European Commission, careful not to introduce what it perceived to be a 'US-style' class action regime, has provided that claims for collective redress on behalf of consumers may only be brought by "qualified entities" ("QE"), to be designated by each Member State. These are not-for-profit organisations which have a legitimate interest in pursuing the consumers' claims, and are likely to be existing consumer bodies, or regulators. Each Member State will be obliged to make publicly available the organisation and management structure of the QE, its objectives and operational methods (as well as report its activity). The European Commission has also set out certain parameters for the funding of these cases.

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In that regard, the proposed directive:

- requires that there is transparency of the source of funding of the QE, such that the court may assess whether a conflict of interest may arise between the funder and the QE, and for an assessment to be made that the funder is of sufficient wherewithal to meet its financial commitments to the entity bringing the action. The funding arrangements are to be disclosed publicly in plain language.

- envisages QEs having liability for adverse costs if the action does not succeed, although no specific regime is set out. Whether third party funders are proposed to be directly liable for adverse costs in such circumstances is not clear, and may remain a matter for the local law.

- Member States must ensure that the funding party cannot influence the decisions of the QE.

Further, Member States are obliged to ensure that procedural costs are not a barrier to qualified entities advancing claims on behalf of consumers (for example court fees, which can be significant in some Member States, may be waived or limited).

A QE will be able to bring a claim in one or more Member States, provided that they can demonstrate that they represent a group of consumers affected by an alleged infringement. The consumer group will not be obliged to identify all of the consumers concerned when the action is brought. The draft Directive leaves open the question of whether actions are to be brought on an 'opt out' or 'opt in' basis – Member States will be able to make provision in national legislation for either form of redress.

In addition to the remedy that is already available (injunctions), consumers will now be able to receive monetary compensation, repair or replacement. They will also have the option of seeking a declaration that their rights under EU law have been infringed. This will be of significant benefit to consumers when it is impossible (or at least not practical) to assess the losses caused to individual consumers.

The aim of the redress scheme is to obtain full compensation for losses caused to consumers affected by the alleged conduct. Losses will be claimed on behalf of all consumers, so in the event that unclaimed losses remain after distribution, the destiny of that unclaimed balance will be determined by the relevant court – it will not go to the QE or the defendant, or the funder. Punitive damages are prohibited under the proposal.

The final decision of a Member State court will be final evidence of a consumers' rights to redress in the Member State in which it was issued and considered to be a rebuttable presumption for any other actions in the EU seeking damages for the same harm from the same defendant.

The European Union regime is therefore moving closer towards a bloc-wide regime for redress, tacitly approving the use of collective actions, within parameters than ensure it is not 'abused'. Some practitioners suggest that less restrictive regimes, such as the 'lawyer-led' US regime, lend themselves to abuse. During the evolution and discussion of the draft Directive, comparisons were often drawn to the US system, and the European Commission appears to have designed key aspects of the draft Directive to avoid the more expansive aspects of the US class action regime.

The future

Despite these progressions towards acceptance of 'class action' regimes in England and Europe, significant differences remain and are likely to remain.

First, while steps have been made in England and the European Union, as explained above, those regimes do not yet fully extend to true 'opt out' regimes as exist in the US.

Second, the US regime allows claimants to seek punitive damages, and while they are granted in somewhat limited circumstances, this does greatly increase the potential liability a defendant may face. That is not the case in England, and if the EC's latest proposal is implemented, will not be the case in the courts of the EU.

Third, many class action claims in the US are guaranteed to be heard by jury trial. That is not an option in England.

Fourth, the adverse costs position in the US remains that a claimant who is unsuccessful will not (except in exceptional circumstances) generally bear any risk of having to pay the defendant's costs. Outside of the US, adverse costs risk remains a dam to the deluge of plaintiff led 'mass tort' litigation that is feared by some quarters. It has been said that the more widespread use of third-party funding in England is redressing that imbalance, given that f unders (or insurers) are willing to take on such adverse costs risks. However, funders carry out very significant due diligence on the cases that they fund, for the very reason that they do not wish to invest in cases that are more likely to fail than to succeed and to be exposed to such adverse costs risks. That adverse costs risk is sufficient enough disincentive for funders to back 'bad claims' in the hope of a settlement and funders taking such an approach will not likely be funding for very long.

While the legislative progress in collective redress described above will likely allow access to justice for more consumers, it seems far less likely that the deluge of litigation (and the abuse that is often assumed to be part of that) will be the inevitable result.

With litigation finance on the rise and continuously taking different forms, it makes sense for lawyers to educate themselves on litigation finance and the numerous finance solutions that are available to their firms and clients. When clients require or may otherwise benefit from litigation finance, it is arguably incumbent upon the lawyer not only to have adequate knowledge of funding and the products available, but also to help the client in deciding which funders to approach and (more importantly) which ones to avoid. In this regard, lawyers should select only reputable and professional litigation finance providers, who are experienced in the practice of dispute resolution.

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About the author

Simon Walsh is a Senior Investment Officer in Woodsford's London office.

Simon has a particular focus on Woodsford's investments in group and representative litigation in England & Wales (such as those brought under section 90 and 90A FSMA and collective actions before the Competition Appeal Tribunal) as well on class actions in the United States, Australia and Canada.

Simon has extensive experience in high value international commercial arbitration and cross-border litigation over a broad spectrum of sectors. Simon also has a detailed knowledge of the enforcement and annulment of international arbitral awards and judgments.

Simon is a solicitor, admitted in England & Wales, and has acted in matters before the English courts (including the High Court, Court of Appeal, and Privy Council) and before international tribunals.

Prior to joining Woodsford, Simon practiced out of the London office of Skadden, Arps, Slate, Meagher & Flom, where he specialised in complex, high value international arbitration and cross-border litigation. Simon holds a Masters Degree in International Trade and Maritime Law from the University of Southampton.

About Woodsford Litigation Funding

Founded in 2010 and with offices in London, the USA, Singapore and Tel Aviv, Woodsford Litigation Funding provides tailored litigation financing solutions for businesses, individuals, and law firms. This includes both single case and portfolio litigation funding, group action funding and arbitration funding. Woodsford's Executive team blends extensive business experience with world-class legal expertise. Woodsford is a founder member of the Association of Litigation Funders of England and Wales.

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