

# GUIDE TO THE FINANCIAL LIST

Issued 1<sup>st</sup> October 2015

By authority of The Chancellor of the High Court, Sir Terence Etherton, and The Hon. Mr Justice Flaux, Judge in charge of the Commercial Court

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## **A General**

### *1. Introduction*

1.1 This is the general guide to the Financial List. The Financial List is a specialist list set up to handle claims related to the financial markets. It is situated in the Rolls Building in London and operates as a joint initiative involving the Chancery Division and the Commercial Court.

1.2 The objective of the Financial List is to ensure that cases which would benefit from being heard by judges with particular expertise in the financial markets or which raise issues of general importance to the financial markets are dealt with by judges with suitable expertise and experience.

- 1.3 Cases in the Financial List will be managed and heard by specialist judges so as to provide fast, efficient and high quality dispute resolution of claims related to the financial markets.

## 2. *Jurisdiction*

- 2.1 Claims in the Financial List may be commenced in the Commercial Court or the Chancery Division but the Financial List itself operates as a single list. The Chancellor of the High Court and the judge in the charge of the Commercial Court have joint overall responsibility for the Financial List.
- 2.2 CPR Part 63A defines the kinds of claims which may be brought in the Financial List. The definition involves three related but independent criteria. The first criterion relates to the subject matter of the claim as set out in rule 63A.1(2)(a). The defined subject matter is widely drawn but is subject to a requirement that the claim be for more than £50 million or equivalent. Even where that requirement is met the Financial List is not suitable for straightforward claims which require no financial market expertise and such claims may be transferred out of the Financial List under CPR Part 30. The second criterion as set out in rule 63A.1(2)(b) is that the case requires particular expertise in the financial markets (as defined). The third criterion as set out in rule 63A.1(2)(c) is that the case raises issues of general importance to the financial markets (as defined). An example of the application of the second or third criterion could be to a case which relates to the defined subject matter but has a value lower than £50 million. If that case requires financial market expertise or raises issues of general market importance, it will be suitable for the Financial List. The criteria do not override provisions in statute or in the CPR which stipulate that particular cases must be issued in a particular division of the High Court, for example paragraph 1 of Schedule 1 to the Senior Courts Act 1981 (sale etc. of land).
- 2.3 The court has the general power to transfer proceedings into the Financial List under CPR Part 30. This permits the court to order cases into the Financial List which fall within the spirit but not the letter of the three criteria. Cases which fall outside the subject matter definition and/or the financial markets definition may nevertheless require comparable expertise or may be of comparable general importance. Thus, a case concerning insurance, re-insurance or professional negligence, or a case falling within the normal specialist jurisdiction of the Companies Court (insolvencies, capital reductions, schemes of arrangement as well

as shareholder disputes like unfair prejudice petitions and equitable petitions) will not generally fall within the definition of Financial List Claims but if issues arising in such a case were to require financial market expertise or were issues of general market importance, then it may be appropriate to issue the claim in the Financial List or transfer such a case or part of it into the Financial List.

### *3. Financial List judges*

3.1 Cases in the Financial List will be dealt with by specialist Financial List judges. Financial List judges are judges of the Chancery Division and the Commercial Court who have been authorised as such to hear and determine claims in the Financial List.

3.2 Case management in the Financial List will be carried out by judges. That applies to claims issued in the Chancery Division as well as the Commercial Court.

### *4. Users' Committee*

4.1 The Financial List has a Users' Committee which provides a forum in which the court can listen and respond to matters raised by litigators and others concerned with the financial markets. Membership of the committee includes the Financial List judges, representatives of regulatory bodies, general counsel and senior-in house litigation counsel, accountancy firms, City bodies, Market Associations dealing with financial matters, solicitors firms, COMBAR and the Chancery Bar Association. Anyone having views concerning the improvement of financial markets litigation is invited to make his or her views known to the Committee, preferably through the relevant professional representative on the Committee or its secretary.

## ***B Procedure in the Financial List***

### *5. CPR Part 63A and Practice Direction*

5.1 Proceedings in the Financial List are governed by the Civil Procedure Rules. Part 63A relates to the Financial List and the applicable Practice Direction is PD 63AA.

### *6. Designated judges and allocation*

6.1 Proceedings in the Financial List will have a designated judge assigned to them at the time of the first case management conference. The designated judge will normally deal with all subsequent pre-trial case management conferences and other

hearings. Normally, all applications in the case, other than applications for interim payment, will be determined by the designated judge and he or she will be the trial judge.

- 6.2 The assignment of designated judges will be the joint responsibility of the Chancellor and the Judge in Charge of the Commercial Court. If the Claimant wishes to draw to the attention of the Chancellor and the Judge in Charge of the Commercial Court any aspect of the case which should be taken into account in deciding which judge to allocate, the Claimant should write to them (copied to the other parties) four weeks prior to the date fixed for the first Case Management Conference, briefly identifying the key issues in the case and any matters considered relevant. Such issues must relate to general rather than individual judge allocation, including whether and, if so, why, it is considered to be more appropriate for a Commercial Court or a Chancery Division Financial List judge, bearing in mind that the standard procedure will be identical for all cases in the Financial List. If practicable, this should be a joint letter agreed to by all parties. If not, the other parties should write with their own comments, copied to the other parties, three weeks prior to the date for the first Case Management Conference.

## *7. Applicability of other procedural guides*

- 7.1 The Financial List will adopt a unified procedure, irrespective of whether the case was issued in the Chancery Division or the Commercial Court. This guide is the primary source of guidance for proceedings in the Financial List. For matters not dealt with in this guide nor in CPR Part 63A or Practice Direction 63AA, the Admiralty and Commercial Court Guide (ACCG) will apply. For any other issues not dealt with in those sources, the Chancery Guide will apply.
- 7.2 References in the ACCG to the Commercial List or the Commercial Court shall be treated as referring to the Financial List for claims in the Financial List. References in the ACCG to Forms shall be treated as referring to the equivalent approved Financial List Forms. References in the ACCG to interlocutory hearings being on Fridays and to trial days not including Fridays apply only to claims in the Financial List proceeding in the Commercial Court. Sections D.4 and N and O of the ACCG shall not apply to claims in the Financial List.

## *8. Transfers*

8.1 Cases may be transferred into and out of the Financial List, if appropriate, in accordance with CPR Part 30 and Practice Direction 63AA paragraphs 4.1 and following.

## **9. *Market test cases***

9.1 The Financial List will conduct a pilot Financial Markets Test Case Scheme, to facilitate the resolution of market issues in relation to which immediately relevant authoritative English law guidance is needed without the need for a present cause of action between the parties to the proceedings.

9.2 The pilot provides a mechanism for the court to grant declaratory relief in a “friendly action” because it is in the public interest to do so in accordance with the guidance provided in *Rolls-Royce plc v Unite the Union* [2009] EWCA Civ 387. Such actions will require there to be a set of facts against which the decision is to be made, which should, if possible, be agreed. The court will also need to be satisfied that all sides of the argument will be fully and properly put.

9.3 The general rule will be that there shall be no order as to costs. If it is considered that a different order may be appropriate this should be raised at the first case management conference.

9.4 The pilot is governed by CPR Practice Direction 51M.

## **C *General Arrangements***

### **10. *Issuing proceedings in the Financial List***

10.1 Proceedings in the Financial List will be issued in the Rolls Building. They may be issued in the Commercial Court or the Chancery Division.

10.2 Within seven days of issue or confirmation of a new case number the Claimant must complete a Claim Information Form providing information about the nature of the claim and of the parties. This will enable the court to gather statistics which will be valuable for the future development of the Financial List.

### **11. *Arrangements for listing***

11.1 Arrangements for listing of cases in the Financial List will be made by the relevant listing office. For cases issued in the Chancery Division that is the Chancery Listing

Office and for cases issued in the Commercial Court that is the Commercial Court Listing Office.

## 12. Contact

12.1 The Financial List is situated in the Rolls Building at 7 Rolls Building, Fetter Lane, London EC4A 1NL.

12.2 For issuing proceedings and listing, contact the appropriate office in the Rolls Building:

	<b>Chancery Division</b>	<b>Commercial Court</b>
<i>Email:</i>		
Issue:	<i>chancery.issue@hmcts.gsi.gov.uk</i>	comct.issue@hmcts.gsi.gov.uk
Listing:	<i>rcjchancery.judgeslisting@hmcts.gsi.gov.uk</i>	comct.listing@hmcts.gsi.gov.uk
<i>Telephone</i>		
	Issue: 020 7947 7783	Enquiries: 020 7947 6112
	Issue fax: 0870 761 7719	Listing: 020 7947 6826
	Listing: 020 7947 7717, 020 7947 6690	Fax: 0870 761 7725
	Listing fax: 0870 739 5869	

12.3 The secretary of the Financial List Users' Committee is Vannina Etori, Legal Adviser to the Chancellor of the High Court. She may be contacted at [vannina.ettori@judiciary.gsi.gov.uk](mailto:vannina.ettori@judiciary.gsi.gov.uk).