

Robert Purves

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Year Of Call: **2007**



Robert Purves is a commercial lawyer with strong specialism in financial services law and regulation. Robert began his legal career as an Attorney in South Africa (1990) and Solicitor in England (1994), before transferring to the Bar in 2007. From April 2003, Robert was Chief Counsel, Insurance and Prudential Policy at the Financial Services Authority, the UK body then responsible for the licensing, oversight and regulation of almost all financial services business in the UK. Robert is ranked in Financial Services Band 1 in Chambers & Partners 2016 and as a Leading Junior (Banking and Finance) by the UK Legal 500 2016.

Since commencing practice at the Bar, Robert has acted for financial services firms and individuals seeking advice and representation on a wide range of regulatory issues. Robert also acted regularly for the Financial Services Authority until its dissolution in April 2013. He now acts for both the FSA's successor bodies, the Financial Conduct Authority and the Prudential Regulation Authority. Robert has also acted for the UK Financial Services Compensation Scheme and for the Guernsey Financial Services Commission.

The type of issues on which Robert is asked to advise range from technical advice on the law and practice of financial regulation, to advice and assistance in dealing with regulatory enquiries and investigations and applications for regulatory approvals.

Robert is a regular speaker and provider of training on financial services regulation.

Directory Quotes

"He is very sharp, able to absorb a large amount of information rapidly and can cut through the noise to find the important points. He is great at finding innovative solutions."

Chambers & Partners 2021

A hugely prominent figure

Chambers & Partners UK 2016

Expertise

Specialist Regulatory Advice on Financial Services Business

Since commencing practice at the Bar, Robert has acted for financial services firms and individuals seeking advice on a wide range of regulatory issues, for the Financial Services Authority, the Financial Conduct Authority, the Prudential Regulation Authority, the UK Financial Services Compensation Scheme and the Guernsey Financial Services Commission.

Examples of the kind of issues on which Robert is instructed include:-

All aspects of EC Financial Services legislation, including insurance, reinsurance, insurance mediation, banking and investment business directives and regulations.

The scope and content of regulation under the Financial Services and Markets Act 2000, including in relation to Collective Investment Schemes, deposit taking, investment activities and insurance business. On the latter, Robert has a particular area of expertise in relation to the identification of contracts of insurance and the scope of insurance business under FSMA 2000, on which he has advised the FSA Enforcement Division, product providers, product distributors, start-up companies and non-financial regulators, including the Solicitors Regulation Authority.

The scope and content of the FSA, FCA and PRA regime for Approved Persons, including advice on contentious applications for FSA approval and advocacy before the FSA Regulatory Decisions Committee.

The scope and content of the FSA's FSA, FCA and PRA Principles for Business as they apply to regulated firms. FSA, FCA and PRA corporate governance and systems and controls issues in relation to financial services business including banks and insurance firms.

Compliance with the UK implementation of the Markets in Financial Instruments Directive ('MiFID'), including in relation to investment research, best execution, client classification, communications with clients and client money. (See 'Reported Cases')

The interpretation and application of FSA, FCA and PRA prudential requirements applicable to insurance and reinsurance firms and the valuation of insurance and reinsurance exposures for prudential purposes.

The interpretation and application of FSA, FCA and PRA prudential requirements for banks and investment firms.

The location of insurance and reinsurance business under UK law.

The interpretation and application of FSA and PRA rules restricting the business of regulated insurance firms to insurance business and connected business.

Money laundering issues under FSA and FCA rules and money laundering regulations, including in relation to safe-deposit businesses.

Conduct of Business issues under FSA and FCA rules, including issues relating to 'treating customers fairly' and specialist advice on claims against financial advisers and others for breach of statutory duty under the Financial Services and Markets Act 2000.

Challenges to decisions of the Financial Ombudsman Service, both as regards jurisdiction and substantive issues, including by way of judicial review.

Civil liability issues relevant to the obligation of the FSCS to compensate customers of failed firms.

Transfers of Insurance Business and Schemes of Arrangement

Robert has regularly been instructed by the FSA and the FCA in relation to applications for the sanction by the High Court of transfers of banking and insurance business, under Part VII of the Financial Services and Markets Act.

Reported cases include

In the matter of Combined Insurance Company of America Ltd and others [2012] EWCH 632 (Ch) (directions as to what notice of an insurance business transfer scheme is to be given to former policyholders of the transferor who are the subject of a Past Business Review required by the FSA);

In the matter of Commercial Union Life Assurance Company Ltd and others [2009] EWHC 2521 (Ch) (the "retribution" of the inherited estate of Aviva group companies); and *In the matter of Names at Lloyd's* for the 1992 and prior years of account;

In the matter of Equitas Limited [2009] EWHC 1595 (Ch) (the transfer of 1992 and prior years insurance business in the Lloyd's of London insurance market, to a stand-alone UK insurance company.)

Instructed by the Financial Services Authority in relation to an application for the sanction of a Scheme of Arrangement in respect of insurance business, under the Companies Act 2006.

Instructed by insurance and other firms to advise on the structure and operation of insurance business transfer schemes under the Financial Services and Markets Act 2000.

Robert has also acted for firms wishing to promote or object to transfers of insurance business under the Financial Services and Markets Act 2000, both in an advisory capacity and as advocate.

Regulatory Experience

From April 2003, Robert was Chief Counsel, Insurance and Prudential Policy at the Financial Services Authority (FSA), the UK body responsible for the licensing, oversight and regulation of almost all financial services business in the UK.

In his role at the FSA, Robert led the team of lawyers responsible for legal advice on all aspects of prudential policy relating to UK financial services firms. This included:-

Implementation of all prudential Directives in relation to insurers and other financial services firms

(e.g. Solvency 1, Solvency 2, Reinsurance Directive, Capital Requirements Directive (CRD), Insurance Winding Up Directive);

Extensive drafting of FSA rules and guidance relating to prudential and other topics;

Transactional advice on the application and interpretation of the prudential components of FSA's Handbook of Rules and Guidance (GENPRU, BIPRU, INSPRU etc.), including advice on the substance, drafting and FSA approval / disapproval of waivers and modifications to the prudential rules;

Transactional advice on the application and interpretation of that part of the FSA's Conduct of Business sourcebook relating to the fair treatment of insurance policyholders. This entailed advice on, amongst other things, all aspects of with profits business, insurance transfers of business, reattributions of inherited estates, approval / disapproval of management actions by insurance firms

Advice on all aspects of the regulation of Lloyd's, Equitas, members of Lloyd's and underwriting agents in the Lloyd's market, including the drafting of the relevant prudential rulebook, the implementation of the relevant Directives, advice on transactions (for example transfers of insurance business) and advice on the regulatory aspects of the relationship between the Society of Lloyd's and its members;

Advice on all aspects of the application and interpretation of the FSA's insurance perimeter (essentially answering the question whether particular insurance business or insurance related transactions and structures fell inside or outside the scope of FSA regulation). This included advice on the regulatory aspects of Alternative Risk Transfer, Financial Reinsurance, Insurance and Reinsurance Special Purpose Vehicles and other forms of non-insurance risk financing.

Within the General Counsel's Division of the FSA, Robert led on issues relating to legal risk in the financial services industry.

Robert was also heavily involved in the development of the legal aspects of the FSA's approach to Principle-Based regulation

Reported Cases

Asset Land Investment Plc and another v The Financial Conduct Authority [2016] UKSC 17. This was the first case on the definition of a Collective Investment Scheme under the Financial Services and Markets Act 2000, s. 235, to come before the Supreme Court. Instructed by the Appellants. Led by Michael Blair QC.

Re Excess Insurance Company Ltd & Ors. [2015] EWHC 3572 (Ch). Instructed by the Bank of England Legal Directorate to represent the Prudential Regulation Authority at the hearing for the sanction of a transfer of insurance business, in respect of which commercial policyholders had lodged objections.

QFC Companies Registration Office v International Legal Consultants LLC, Civil and Commercial Court of the Qatar Financial Centre (Appellate Division), 22 March 2015. A successful appeal against a decision of the Qatar Financial Centre Regulatory Tribunal, overturning the decision of the QFC

Companies Registration Office ('the CRO') to impose a financial penalty for breach of a filing obligation. The Appellate Court affirmed that (a) the CRO's late filing penalty scheme was reasonable and proportionate; and (b) on the facts of the case, the CRO had properly exercised its discretion to impose a fine. Instructed by the CRO.

R (A Wealth Management Firm), v Financial Ombudsman Service [2014] EWHC 1440 (Admin). A successful application for permission to seek judicial review of a substantive ombudsman decision, on the grounds that the decision failed to take proper account of the applicable standards under the regulatory system. Led by Rory Phillips QC.

In the matter of Combined Insurance Company of America Ltd and others [2012] EWHC 632 (Ch). The case addressed what notice of an insurance business transfer scheme was to be given to former policyholders of the transferor, who were the subject of a Past Business Review required by the FSA. Instructed by the FSA.

Argentum Lex Wealth Management Ltd v Giannotti [2011] [EWCA Civ 1341] The case concerned the validity of a statutory demand issued on the back of an undertaking by deed poll, given by a financial services firm at the request of the FSA, in favour of a predecessor firm. Instructed by the FSA who appeared as an interested party.

In the matter of Lehman Brothers International (Europe) (in administration) [2009] EWHC 3228 (Ch) Instructed by the Financial Services Authority, led by Robin Knowles CBE QC. This case dealt with the application of the FSA's client money rules to a multi-national investment firm, and in particular with the question of whether the firm was required to "top up" any shortfall of client money, disclosed on the commencement of Administration proceedings.

In the matter of Commercial Union Life Assurance Company Ltd and others [2009] EWHC 2521 (Ch) Instructed by the Financial Services Authority, led by Tom Weitzman QC. This case dealt with a transfer of insurance business under Part VII of the Financial Services and Markets Act 2000, which included a "retribution" of the inherited estate of insurance companies in the Aviva group. In the matter of Names at Lloyd's for the 1992 and prior years of account;

In the matter of Equitas Limited [2009] EWHC 1595 (Ch) Instructed by the Financial Services Authority, led by Christopher Symons QC. This case dealt with a transfer of insurance business under Part VII of the Financial Services and Markets Act 2000 in respect of the 1992 and prior years insurance business written in the Lloyd's of London insurance market and reinsured by Equitas.

Current Publications

Joint Editor of Blair, Walker, Purves, Financial Services Law, Oxford University Press 2014 (3rd Ed.)

Contributor to Elliott, Hewitson, Banking Litigation, Sweet & Maxwell 2011 (2nd ed.)

Contributor to Malek, Odgers, Paget's Law of Banking, LexisNexis 2014, (14th ed.)

Contributed a chapter on European insurance regulation to Burling et. al, Research Handbook on International Insurance Law, Elgar Publishing, 2012.

Academic Qualifications

Bachelor of Arts (Cape Town) 1984.

Bachelor of Laws (Cape Town) 1986.

Bachelor of Commerce (Honours) (Financial Management) (Cape Town) 1990.

Master of Laws (Cambridge) 1988.

Doctor of Philosophy (Cambridge) 2000. Dissertation title: "Aspects of the relationship between insurance and loss-prevention in English and American Law".

Professional Memberships

Middle Temple

British Insurance Law Association

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Employment History

Robert joined the General Counsel's Division of the FSA as a Legal Adviser (Associate) in June 1999. Before that, Robert was employed as an Assistant Solicitor in law firms in the City of London and South Africa. The focus of his practice was general commercial, shipping and insurance litigation.