

CONTENTS

<i>Foreword</i>	<i>vii</i>
<i>Preface</i>	<i>ix</i>
Chapter 1 People's Republic of China Securitisation – Legal and Rating Developments	1
1. Introduction	1
2. China Securitisation Legal Framework	2
PSF (for financial institutions only)	2
ABSP (for non-financial institutions)	4
NAFMII (for non-financial institutions)	5
3. Onshore PRC securitisation rated AAA (international rating scale)	6
4. Local Government bond repackaging (offshore) completed by BOC Shanghai	7
5. Conclusion	10
Chapter 2 The Chinese Credit Rating Agencies on the Run	11
1. The Chinese debt market is the third largest in the world	11
2. Internationalisation of the Chinese debt market	12
(i) Panda Bond	12
(ii) Dim Sum Bond	12
(iii) Bond Connect	13
3. The Chinese credit rating agencies	13
4. Market share	16
5. Rating principles and methodologies	22
6. Types of rating	22
(i) Private rating and public rating	22
(ii) Issuer rating and debt rating	22
(iii) Solicited rating and unsolicited rating	23
7. Rating process	23
8. Debt product rating	24
9. Regulators	25
10. Are Chinese credit ratings “overrated”?	25
11. Definition of default	28

12. Rating definitions	28
(i) Long-term credit ratings	28
(ii) Long-term credit rating outlook	30
(ii) Short-term credit ratings	30
13. Mapping of Long-term and Short-term Credit Ratings	30
14. Going international	31
15. Looking forward	32
Chapter 3 Islamic Securitisation: The Next Frontier	33
Chapter 4 Global Development of Islamic Banking and Bonds (SUKUK)	39
1. Introduction	39
2. Terminologies in Islamic Finance	39
3. Medjelle, Islamic Banking and its Growth	43
4. Development of Islamic Banking	44
5. Need for a Legal Framework	46
6. Conclusion	47
Chapter 5 Arbitration Clause in Islamic Finance Facility: A New York Convention and Model Law Perspective	49
1. Introduction	49
2. Islamic Banking and/or Finance and Role of Shariah Committee	50
3. Sukuk and Arbitration Clause	51
4. The New York Convention	52
5. Model Law	52
6. Conclusion	53
Chapter 6 Accounting for Securitisation of Financial Assets	55
1. Introduction	55
2. Overview of Accounting for Assets Securitisation	56
3. Criteria for Derecognition of Financial Assets	57
1. Pass-through Test	60
2. Test of Risks and Rewards	61
3. Test of Control	62

4. Accounting Treatment for Transfer of Financial Assets	63
5. Consolidation of Special Purpose Vehicles	64
6. Disclosures about Transfer of Financial Assets	68
Chapter 7 Corporate Governance: What is it and Why is it Important?	71
1. Introduction	71
2. Laws And Regulations Matter	71
3. Does It Matter In Practice?	72
4. Defining Corporate Governance	73
5. Different Models For Corporate Governance	74
6. What's Next?	77
7. Misgovernance In South Africa – A Trilogy Of Case Studies	78
8. Conclusion	81
Chapter 8 The Offshore Toolkit: Using Cayman Islands and British Virgin Islands Entities to Structure Effective Securitisation Transactions	83
1. Introduction	83
2. The Offshore Legal Framework	84
A “creditor-friendly” jurisdiction	84
Ease of establishing an off-balance sheet structure	84
Obviating insolvency risk	85
3. Choices of SPV Vehicle	87
Cayman Islands segregated portfolio companies	87
Cayman Islands limited liability companies	88
BVI restricted purpose companies	89
BVI segregated portfolio companies (SPCs)	90
Chapter 9 The Concept of the Trust in Common Law and Civil Law and its Impact on Structured Finance	91
1. Introduction	91
2. Part I - English Trust Law	92
(i) The Nature of Common Law Trusts	93

(ii) The Fiduciary Nature of the Trust and the Beneficiary's Interest	94
(iii) The limits of following and tracing trust property	99
3. Part II - History of Chinese Trusts	102
(i) An Autonomous Trust	104
(ii) An Agency Contract	105
(iii) Obligations	106
(iv) Settlor's Power	106
(v) Obligation to Beneficiary	109
(vi) Registration of Obligation	110
4. Conclusion	112
Chapter 10 Target Redemption Forwards and Contractual Estoppel	113
1. Overview	113
2. Introduction	113
3. Estoppel by Contract and Mis-selling of Derivatives	116
4. Freedom of Contract, Standardised Fairness and Contractual Estoppel	119
4.1 Efficacy in Evidential Rules	121
5. Conclusion	123
<i>Index</i>	125