

## Joel Finard

---

Larchmont, NY

+1.914.833.7633

[Finard@CapMarketConsulting.com](mailto:Finard@CapMarketConsulting.com)

Joel Finard is the founding Principal of CapMarket Consulting with more than 30 years of experience in the financial markets. During that time, he has consulted extensively to the financial services industry; provided expert testimony in complex litigations; served as an NASD arbitrator; worked on the trading desks of top tier banks; managed money at a large insurance company; and taught economics at the graduate level.

Finard has assisted companies with the review and analysis of financial market activities, practices and behaviors as well as the valuation of complex financial market transactions. He has provided expert testimony in numerous large high profile litigations and has been retained for his capital markets expertise by: the U.S. Department of Justice; the Canadian Department of Justice; the Commodity Futures Trading Commission (CFTC); Corporate and Individual Plaintiffs and Defendants. His testimony spans areas that include management oversight and internal controls, the valuation of financial products, structured finance and structured financial transactions, financial markets, and financial risk management. Mr. Finard has been qualified and testified as an expert in multiple US District Courts, US Tax Court, Canadian Tax Court, and the US Court of Federal Claims.

Before founding CapMarket Consulting, Mr. Finard was a partner at Deloitte LLP in charge of Deloitte's Capital Market Consulting Practice serving financial institutions. At Deloitte he specialized in providing clients with range of consulting services including: internal controls; forensic/internal/whistle blower investigations; structured finance; quantitative valuation; credit market and operations risk management; and expert testimony. Before joining Deloitte, he was a Vice President of Capital Markets Products at HSBC in New York where he structured and executed billions of dollars of capital markets transactions. Prior to HSBC, Mr. Finard managed an investment portfolio and structured financial transactions for the Travelers Companies. Before entering business, he taught Economics at the Columbia University Graduate School of Business. Mr. Finard received MA and MPhil degrees in Economics from Columbia University, and has been a Chartered Financial Analyst (CFA) since 1992.

## Joel Finard

### AREAS OF EXPERTISE

---

- Management Oversight and Internal Controls
- Forensic and Whistle Blower Investigations
- Structured Finance / Structured Financial Transactions / Derivative Products
- Transfer Pricing and Tax Related Issues in the Financial Markets
- Securities Analysis, Transaction Valuation and Model Assessment
- Credit Risk Assessment and Management
- Market and Liquidity Risk Assessment and Management

### NOTABLE EXPERT TESTIMONY

---

#### **Pritired vs USA**

- Retained by the United States Department of Justice. In dispute was the use of foreign tax credits in cross-border structured finance transactions. District Court Judge Jarvey ruled in favor of the United States and wrote about Finard's testimony: *"These are very persuasive pieces of evidence that genuinely support his opinion."*

#### **CalPERS vs Moody's and S&P**

- Retained by CalPERS. At issue were ~\$1.3 billion of "Aaa" rated debt securities that were purchased by CalPERS and subsequently defaulted. CalPERS claimed the "Aaa" rating of investment safety provided by the rating agencies was a "negligent misrepresentation." Settlement payments of \$255 million to CalPERS are among the largest recoveries obtained from Moody's and S&P in a private lawsuit for civil damages related to ratings.

#### **Anschutz vs USA**

- Retained by the United States Department of Treasury (IRS). The tax characterization of ~\$375 million from variable prepaid forward contracts was in dispute. Judge Goeke ruled in favor of the United States and was affirmed on appeal. The Finard Report was cited extensively in the Tenth Circuit's decision by Chief Justice Briscoe.

#### **CFTC vs MF Global and Jon Corzine**

- Retained by the CFTC to analyze internal control at MF Global and CEO Corzine's role related to internal control. The report and testimony included analysis of the control environment using the COSO Internal Control - Integrated Framework.

## Joel Finard

### **Chemtech (Dow) vs USA**

- Retained by the United States Department of Justice. At issue was \$1 billion of tax deductions claimed by Chemtech a Special Limited Investment Partnership (SLIP), created by Dow Chemical Company, that received an investment from a number of foreign banks. In dispute, among other things, was whether the investment in the SLIP was debt or equity. Finard provided analysis and testimony related to the capital markets risk and reward attributes of the banks' investment in the SLIP. District Court Judge Jackson ruled in favor of the United States and imposed a 20% penalty.

### **Enron Securities Litigation**

- Retained by the Regents of the University of California as an expert in financial institutions, investment banking, capital markets activities and structured financial transactions. Enron shareholders claimed losses of more than \$40 billion as a result of the fraud at Enron. Finard's analysis and testimony focused on numerous structured transactions. Settlement payments in excess of \$7.2 billion were paid for the benefit of Enron shareholders.

### **Salem Financial (BB&T) vs USA**

- Retained by the United States Department of Justice. At issue was the representation of a cross-border structured transaction called STARS. The amount in dispute, including penalties, was \$772 million. Finard performed a capital markets analysis of the STARS deal, and testified about whether the stated business objectives of the deal were consistent with the capital markets risk and reward attributes of the deal. Judge Wheeler, in the Court of Federal Claims, ruled in favor of the United States imposed penalties and wrote *"the conduct of those persons ... who were involved in this ... transaction was nothing short of reprehensible."*

### **McKesson Canada Corp and Her Majesty the Queen (Canada)**

- Retained by the Canadian Department of Justice. The case involved proposed transfer pricing used in a structured receivables-backed financing of ~C\$460 million between Canadian and Luxembourg McKesson entities. The disputed tax revenue represented hundreds of millions of Canadian dollars. Judge Boyle ruled in favor of Canada.

### **Merck vs USA**

- Retained by the United States Department of Justice. At issue was the use of structured derivative transactions resulting in disputed tax revenue of ~\$500 million. Finard analyzed and testified regarding risk management and hedging objectives related to the transactions as well as the characterization of the transactions from a capital markets practitioner's perspective. District Court Judge Hayden ruled in favor of the United States.

## Joel Finard

### SUMMARY OF PROFESSIONAL EXPERIENCE

---

- CapMarket Consulting**, Larchmont, NY 2002 - Present  
Founding Partner  
CapMarket Consulting provides expert testimony, litigation consulting, and advisory services in a range of issues in the financial markets including: structured finance; structured financial transactions; valuation; complex securities litigation; transfer pricing; tax disputes; internal controls; and risk management – credit, market, liquidity, and operations risk.
- CFOWeb.com (Integral)**, New York, NY, Palo Alto, CA, & London 2000 - 2001  
Managing Director – Global Services
- Deloitte LLP**, New York, NY 1993 - 1999  
Partner – Capital Markets Consulting Group  
A founding member and the Partner in charge of Deloitte's Capital Markets Consulting Practice serving banks and securities dealers. The practice consisted of assessing and advising on internal controls, management oversight, control breakdowns, litigation consulting, trading risks, trading technology, the characterization of structured transactions, and valuation/model testing.
- HSBC**, New York, NY 1990 - 1993  
Vice President - Capital Markets / Structured Products  
Created and executed structured financial transactions; priced and executed over-the-counter US\$/FX derivatives transactions; and advised clients on hedging and risk management strategies.
- First Interstate Bank**, New York, NY 1989 - 1990  
Assistant Vice President - Capital Markets
- Travelers Companies – Securities Department**, Hartford, CT 1987 - 1988  
Portfolio Manager / Capital Markets Manager
- Columbia Graduate School of Business**, New York, NY 1984 - 1987  
Adjunct Faculty of Economics

### EDUCATION AND PROFESSIONAL ACCREDITATIONS

---

- CFA (Chartered Financial Analyst)
- NASD Qualified Arbitrator
- MPhil, Economics, Columbia University
- MA, Economics, Columbia University
- BA, Economics, Magna Cum Laude, University of Massachusetts at Amherst

## **Joel Finard**

### **SELECT CONSULTING ENGAGEMENTS**

---

#### **MANAGEMENT OVERSIGHT / INTERNAL CONTROLS**

##### **Assessments of Internal Control Frameworks for Trading & Operations**

- Engaged by leading financial institutions to assess the strengths and weaknesses of their internal controls for capital markets trading and operations activities. Performed numerous controls and operations assessments of capital markets activities at large financial institutions with trading activities that included: U.S. Government and corporate fixed income; OTC fixed income and FX derivatives; commodities/foreign currency spot, forwards and options; and structured products.

##### **Bank Compliance of Internal Guidelines and Industry Practices**

- Retained by investors in a large litigation involving numerous fraudulent representations of structured financial transactions. Analyzed the role played by financial institutions that engaged in the transactions and evaluated the financial institutions' compliance with internal policies, accepted industry practices, and government regulations when entering into these deals.

#### **FORENSIC AND WHISTLE BLOWER INVESTIGATIONS**

##### **Investigated Trading Frauds**

- Investigated frauds related to trading activities. Investigations generally examined trading history, control activities, and risk management infrastructure. Investigations included: Commodities trading fraud that resulted in a loss in excess \$2 billion; FX fraud in excess of \$500 million; Options desk fraud of \$250 million; Treasury desk trading cover up of more than \$1 billion in trading losses.

##### **Whistle Blower Investigations**

- Retained in numerous whistle blower investigations. Led an independent investigation at one of the largest Supranational Banks related to the profits generated from structured transactions. Retained by outside counsel of one the world's largest banks on a whistle blower investigation related to the bank's Funds Transfer Pricing (FTP) and Contingent Liquidity Risks (SR 16-3). Analyzed and tested the bank's FTP calculations for alignment with bank risks including a review of Basel III regulatory capital risk measures and the regulatory liquidity risk measures used in the bank's FTP process.

## **Joel Finard**

### **STRUCTURED FINANCE / STRUCTURED FINANCIAL TRANSACTIONS & DERIVATIVES**

#### **Complex Litigations Involving Structured Financial Transactions (SFTs)**

- Retained in complex litigations involving SFTs containing a wide range of disputed issues including: contracts; characterization for taxes; credit ratings and/or credit risk; market and theoretical valuations; internal controls; suitability; hedging strategies; liquidity etc.

#### **Structured Credit Enhanced Trading Facility**

- Introduced and structured a special purpose entity that served as a credit enhanced trading facility between a top-tier investment bank and an emerging market bank. The transaction was a win-win with annual volume in billions of US Dollars.

### **TRANSFER PRICING AND TAX RELATED ISSUES IN THE FINANCIAL MARKETS**

#### **Transfer Pricing for Treasury Services**

- Engaged in a range of transfer pricing assignments requiring the evaluation and quantification of credit risk, market risk, liquidity risk, operations risk and risk adjusted return on capital. Applied structured finance techniques to transfer pricing challenges to obtain appropriate market comparable pricing. Advised tax authorities of numerous countries as well as tax payers throughout the world.

#### **Tax Related Litigations**

- Engaged in a range of transfer pricing and tax related litigations. Disputed issues included: the characteristics of structure financial transactions; the basis of foreign tax credits claims; and analysis of the debt vs equity attributes of the transaction.

### **TRANSACTION VALUATION / MODEL ASSESSMENT**

#### **Valuation Assignments**

- Performed a wide assortment of valuations from portfolio's of transactions to complex highly structured deals. Valuation analysis has included a range of asset classes (FX, fixed income, equities, commodities) for over-the-counter financial transactions and exchange traded products as well as private market deals. Provided valuation support and expert testimony on disputes related to valuation related issues.

#### **Quantitative Model Benchmarking Engagements**

- Retained to analyze and benchmark a assortment of quantitative models used to value credit risk, market risk and financial transactions including: value at risk; derivative transactions; structured products such as asset backed securities; fixed income securities; commodity transactions; and equity securities. Provided model assessment and expert testimony on disputes related to quantitative models related to litigations.

## **Joel Finard**

### **CREDIT RISK ASSESSMENT & MANAGEMENT**

#### **Litigations Involving Credit & Collateral Risk Management Practices**

- Retained in multiple litigations involved in analyzing credit and collateral risk management practices for banks and rating agencies. The rating agency litigations involve the evaluation of the credit risk methodology used to provide “AAA” ratings on Structured Investment Vehicles (SIVs).

#### **Evaluated Credit Risk Frameworks**

- Reviewed and analyzed counterparty credit risk models and collateral risk management practices. Engagements included the credit risk assessment of capital requirements of a Special Purpose Entities (SPE) used for investment and credit enhance trading purposes.

### **MARKET AND LIQUIDITY RISK ASSESSMENT & MANAGEMENT**

#### **Review of Risk Management Activities**

- Engaged to evaluate risk management operations and procedures including benchmarking market, liquidity and operational risk management practices versus industry best practices for a range of over-the-counter, exchange traded and structured capital markets products.

#### **Regulatory Risk Assessments at Financial Institutions**

- Assisted financial institutions in preparing responses to regulatory authorities concerns related to weaknesses in the risk management control structure. Often led direct negotiations with key regulators on behalf of the institution to design plans to implement identified changes.

## **REPRESENTATIVE LIST OF CLIENTS**

---

- |                 |                              |                       |
|-----------------|------------------------------|-----------------------|
| • Barclays Bank | • International Finance Corp | • RBC Capital Markets |
| • BNP Paribas   | • JP Morgan Chase            | • Société Generale    |
| • Citigroup     | • Merrill Lynch              | • State Street Corp   |
| • Commerzbank   | • Mitsubishi UFJ Financial   | • Sumitomo Mitsui     |
| • Deutsche Bank | Group                        | • UBS                 |
| • Fannie Mae    | • Mizuho Financial Group     | • World Bank          |

## **Joel Finard**

### **PRIOR EXPERT REPORTS & TESTIMONY**

---

Expert Report of Joel Finard in Re: Ace Venture Opportunities v. Audit Ventures LLC; AAA (Arbitration) Case in New York. (2019).

Testimony of Joel Finard in Re: Ace Venture Opportunities v. Audit Ventures LLC; AAA (Arbitration) Case in New York. (2019).

Deposition of Joel Finard in Re: American International Group, v. United States of America; United States District Court Southern District of New York. (2017).

Expert Rebuttal Report of Joel Finard of Charles W. Chigas in Re: American International Group, v. United States of America; United States District Court Southern District of New York. (2017).

Expert Report of Joel Finard in Re: American International Group, Inc. v. United States of America; United States District Court Southern District of New York. (2016).

Deposition of Joel Finard in Re: California Public Employees' Retirement System (CalPERS) v. Moody's Investor Service, Inc.; Superior Court of the State of California in and for the County of San Francisco. (2015).

Deposition of Joel Finard in Re: US Commodity Futures Trading Commission v. MF Global Holdings Ltd., Jon S. Corzine, and Edith O'Brien; United States District Court Southern District of New York. (2015).

Expert Report of Joel Finard in Re: US Commodity Futures Trading Commission v. MF Global Holdings Ltd., Jon S. Corzine, and Edith O'Brien; United States District Court Southern District of New York. (2015).

Testimony of Joel Finard in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2013)

Deposition of Joel Finard in Re: Santander Holdings USA, Inc. v. United States of America; United States District Court for the District of Massachusetts. (2012).

Deposition of Joel Finard in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2012).

Deposition of Joel Finard in Re: Wells Fargo & Company v. United States of America; United States District Court District of Minnesota. (2012).

Expert Rebuttal Report of Joel Finard of William M. Isaac in Re: Santander Holdings USA, Inc. v. United States of America; United States District Court for the District of Massachusetts.



## **Joel Finard**

(2012).

Expert Rebuttal Report of Joel Finard of Thomas Z. Lys in Re: Santander Holdings USA, Inc. v. United States of America; United States District Court for the District of Massachusetts. (2012).

Expert Rebuttal Report of Joel Finard of Christopher M. James in Re: Santander Holdings USA, Inc. v. United States of America; United States District Court for the District of Massachusetts. (2012).

Expert Rebuttal Report of Joel Finard of William M. Isaac in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2012).

Expert Rebuttal Report of Joel Finard of Thomas Z. Lys in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2012).

Expert Rebuttal Report of Joel Finard of Christopher M. James in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2012).

Expert Rebuttal Report of Joel Finard of Gerald A. Hanweck Sr. in Re: Wells Fargo & Company v. United States of America; United States District Court District of Minnesota. (2012).

Expert Report of Joel Finard in Re: Santander Holdings USA, Inc. v. United States of America; United States District Court for the District of Massachusetts. (2012).

Expert Report of Joel Finard in Re: Salem Financial, Inc. as Successor-in-Interest to Branch Investments LLC v. United States of America; United States Court of Federal Claims. (2012).

Expert Report of Joel Finard in Re: Wells Fargo & Company v. United States of America; United States District Court District of Minnesota. (2012).

Testimony of Joel Finard in Re: McKesson Canada Corporation (Appellant) and Her Majesty the Queen (Respondent), Tax Court of Canada. (2011).

Testimony of Joel Finard in Re: Chemtech Royalty Associates, L.P., by Dow Europe, S.A. as Tax Matters Partner v. USA; US District Court, Middle District of Louisiana. (2011)

Expert Rebuttal Report of Joel Finard in Re: McKesson Canada Corporation (Appellant) and Her Majesty the Queen (Respondent), Tax Court of Canada. (2011).

Expert Report of Joel Finard in Re: McKesson Canada Corporation (Appellant) and Her Majesty the Queen (Respondent), Tax Court of Canada. (2011).

## **Joel Finard**

Testimony of Joel Finard in Re: Pritired1, LLC, Principal Life Insurance Company, Tax Matters Partner, and Principal Life Insurance Company v. United States of America; US District Court for the Southern District of Iowa. (2010)

Deposition of Joel Finard in Re: Pritired1, LLC, Principal Life Insurance Company, Tax Matters Partner, and Principal Life Insurance Company v. United States of America; US District Court Southern District of Iowa. (2010)

Expert Report of Joel Finard in Re: Pritired1, LLC, Principal Life Insurance Company, Tax Matters Partner, and Principal Life Insurance Company v. United States of America; US District Court Southern District of Iowa. (2010).

Deposition of Joel Finard in Re: Chemtech Royalty Associates, L.P., by Dow Europe, S.A. as Tax Matters Partner v. USA; US District Court, Middle District of Louisiana. (2009)

Testimony of Joel Finard in Re: Anschutz Company and Subsidiaries v. Commissioner of Internal Revenue Service; Philip F. & Nancy P. Anschutz v. Commissioner of Internal Revenue Service; US Tax Court (2009)

Expert Report of Joel Finard in Re: Anschutz Company and Subsidiaries v. Commissioner of Internal Revenue Service,; Philip F. & Nancy P. Anschutz v. Commissioner of Internal Revenue Service; US Tax Court. (2008).

Expert Report of Joel Finard in Re: Chemtech Royalty Associates, L.P., by Dow Europe, S.A. as Tax Matters Partner v. USA; US District Court, Middle District of Louisiana. (2008)

Expert Report of Joel Finard in Administrative Proceeding being brought by the Office of Federal Housing Enterprise Oversight, Notice Number 2006-1 In the Matters Of: Franklin D. Raines, J. Timothy Howard, Leanne G. Spencer (2008)

Testimony of Joel Finard in Re: Schering-Plough Corporation v. United States of America; US District Court, District of NJ. (2008)

Deposition of Joel Finard in Re: Bank of India, v. Ravi Subramanian and Rajalakshmi Subramanian,. (2007)

Deposition of Joel Finard in Re: Schering-Plough Corporation v. United States of America; US District Court, District of NJ. (2007)

Expert Report of Joel Finard in Re: Bank of India, v. Ravi Subramanian and Rajalakshmi Subramanian,. (2007)

Expert Report of Joel Finard in Re: Schering-Plough Corporation v. United States of America; US District Court, District of NJ. (2007)

## **Joel Finard**

Deposition of Joel Finard in Re: Enron Corporation Securities Litigation, Mark Newby, et al. Individually and On Behalf of All Others Similarly Situated vs. Enron Corp., et al., The Regents of the University of California, et al., Individually and On Behalf of All Others Similarly Situated, vs. Kenneth L. Lay, et al., US District Court Southern District of Texas Houston Division. (2006)

Rebuttal Report of Joel Finard in Re: Enron Corporation Securities Litigation, Mark Newby, et al. Individually and On Behalf of All Others Similarly Situated vs. Enron Corp., et al., The Regents of the University of California, et al., Individually and On Behalf of All Others Similarly Situated, vs. Kenneth L. Lay, et al., US District Court Southern District of Texas Houston Division. (2006)

Expert Report of Joel Finard in Re: Enron Corporation Securities Litigation, Mark Newby, et al. Individually and On Behalf of All Others Similarly Situated vs. Enron Corp., et al., The Regents of the University of California, et al., Individually and On Behalf of All Others Similarly Situated, vs. Kenneth L. Lay, et al., US District Court Southern District of Texas Houston Division. (2006)