


Strengthening Insolvency Systems in Asia and the Pacific

Pre-Conference Booklet • 15–16 December 2022



ASIAN DEVELOPMENT BANK
LAW AND POLICY
REFORM PROGRAM





Strengthening Insolvency Systems in Asia and the Pacific

15–16 December 2022

Pre-Conference Booklet



A business district in Tokyo, Japan (photo by Richard Atrero de Guzman/ADB).

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Factory of Inner Mongolia Yili Industrial Group Co., Ltd., the largest dairy products manufacturer in the People's Republic of China (photo by Deng Jia/ADB).





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Corporate insolvency law can serve as a powerful tool to promote economic growth. *Ex ante*, a well-functioning insolvency framework can facilitate entrepreneurship, innovation and access to finance. *Ex post*, corporate insolvency law can perform several functions, including the reorganization of viable companies in financial distress, the liquidation of non-viable businesses in a fair and efficient manner, and the maximization of the returns to creditors. Therefore, having an efficient insolvency framework is essential for any economy and even more for emerging markets due to their greater financial needs.

— Aurelio Gurrea-Martínez. 2020. *Insolvency Law in Emerging Markets*, Ibero-American Institute for Law and Finance, Working Paper 3/2020.



Astana Bridge over the Ishim River in Kazakhstan (photo by Igor Burgandinov/ADB).



CONFERENCE DETAILS

01

Strengthening Insolvency Systems in Asia and the Pacific

Date: 15-16 December 2022

Time: 09:00-17:00 (GMT +8).

Venue: Auditorium Halls 1 & 2, Asian Development Bank Headquarters, 6 ADB Avenue, Mandaluyong City, Metro Manila, The Philippines.

Organizers: Asian Development Bank, Singapore Management University, Singapore Global Restructuring Initiative, University of Chicago Law School's Center on Law and Finance, University of Cambridge's Centre for Corporate and Commercial Law, and INSOL International.

Format: Hybrid event

Audience: The event will be open to regulators, judges, government officials, and central banks from all over the world. An invitation-only policy will apply to the rest of participants.

Background and objective: A well-functioning insolvency system is essential for the competitiveness and growth of an economy. Yet, many countries in Asia and the Pacific still have inefficient insolvency frameworks. The lack of an attractive legal, market, and institutional environment to deal with financial distress may hamper entrepreneurship, access to finance and economic growth. Additionally, a weak insolvency framework may increase the level of non-performing loans in the banking sector. If so, it can end up jeopardizing the stability of the financial system and even lead to sovereign debt issues. To address those problems while facilitating economic recovery in the post-pandemic world, this event will seek to analyze how countries in Asia and the Pacific can strengthen their insolvency and restructuring frameworks. To this end, the event will discuss modern trends and developments in corporate restructuring and insolvency and how an insolvency system should be designed or improved taking into account the legal, market, and institutional features existing in a particular jurisdiction.

Topics to be discussed in the event will include: (i) strategies to effectively promote workouts; (ii) design of hybrid procedures and formal insolvency proceedings; (iii) adoption of simplified insolvency frameworks for micro and small enterprises; (iv) implementation of rescue financing provisions; (v) directors' duties and liability in the zone of insolvency; (vi) governance models of insolvency and restructuring proceedings; (vii) regulatory framework of insolvency practitioners; (viii) treatment of contracts in insolvency and restructuring proceedings; (ix) valuation of assets and ranking of claims in insolvency proceedings; (x) treatment of corporate groups in insolvency; (xi) personal insolvency; and (xii) cross-border insolvency. Additionally, all the panels will be encouraged to discuss market and institutional challenges and reforms that can make an insolvency regime more effective. While the event will provide lessons for the improvement of insolvency regimes in Asia Pacific, it will pay special attention to emerging economies in Asia and the Pacific currently considering the possibility of strengthening their insolvency frameworks. A list of background materials for the event is included as Annex 1.

Accommodation: Attendees will need to manage their accommodation in Manila. Hotels close to the conference venue include:

- Discovery Suites Manila: <https://www.discoverysuites.com/>
- Edsa Shangri La: <https://www.shangri-la.com/manila/edsashangrila/>
- Joynostalg Manila by Accorhotels: <https://www.joynostalgmanila.com/>



The giant Euro sign in front of the European Central Bank in Frankfurt am Main, Germany (photo by Mika Baumeister on Unsplash).

The Selamat Datang Monument in Jakarta, Indonesia during Car-Free Day (photo by Gerhard Jörén/ADB).





AGENDA AND BACKGROUND MATERIALS

02

OPENING CEREMONY

15 December 2022

Conference time by location

08:30–19:00	Manila, Philippines Time (GMT +8)
01:30–12:00	London, United Kingdom Time (GMT +0)
19:30–06:00	Chicago, Illinois, United States of America Time (GMT -5)
06:00–16:30	New Delhi, India Time (GMT +5:30)
10:30–21:00	Sydney, Australia Time (GMT +10)

REGISTRATION AND COFFEE

08:30–09:00 Manila	10:30–11:00 Sydney	06:00–06:30 New Delhi
19:30–20:00 Chicago	01:30–02:00 London	

WELCOME BY ORGANIZERS

09:00–09:10 Manila	11:00–11:10 Sydney	06:30–06:40 New Delhi
20:00–20:10 Chicago	02:00–02:10 London	

Nicholas Moller, *Principal Counsel, Asian Development Bank (ADB)*

Anthony Casey, *Deputy Dean and Donald Ephraim Professor of Law and Economics, The University of Chicago Law School*

Felix Steffek, *Associate Professor, Faculty of Law of the University of Cambridge*

Aurelio Gurrea-Martinez, *Assistant Professor of Law and Head, Singapore Global Restructuring Initiative, Singapore Management University*

Scott Atkins, *President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright*

OPENING ADDRESS

09:10–09:15 Manila	11:10–11:15 Sydney	06:40–06:45 New Delhi
20:10–20:15 Chicago	02:10–02:15 London	

Thomas Clark, *General Counsel, ADB*

PLENARY SESSION 1

PANEL 1

STRATEGIES TO EFFECTIVELY PROMOTE WORKOUTS

(50 mins.) 09:15–10:05 Manila 11:15–12:05 Sydney 06:45–07:35 New Delhi
 20:15–21:05 Chicago 02:15–03:05 London

CHAIR

Nicholas Moller, *Principal Counsel, ADB*

PANELISTS

Scott Atkins, *President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright*

Adam Badawi, *Professor of Law, UC Berkeley*

Antonia Menezes, *Senior Financial Sector Specialist, World Bank*

Stephanie Yeo, *Partner, WongPartnership*

PANEL 2

HYBRID PROCEDURES AND FORMAL INSOLVENCY PROCEEDINGS

(55 mins.) 10:05–11:00 Manila 12:05–13:00 Sydney 07:35–08:30 New Delhi
 21:05–22:00 Chicago 03:05–04:00 London

CHAIR

Aurelio Gurrea-Martínez, *Assistant Professor of Law and Head, Singapore Global Restructuring Initiative, Singapore Management University*

PANELISTS

Scott Atkins, *President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright*

Anthony Casey, *Deputy Dean and Donald Ephraim Professor of Law and Economics, The University of Chicago Law School*

Edmund Ma, *Senior Associate, Baker McKenzie*

Yu-Wen TAN, *Director, Corporate Insolvency Division, Insolvency and Public Trustee's Office – Singapore*

Mahesh Uttamchandani, *Manager for Digital Development in East Asia and the Pacific, World Bank*

COFFEE BREAK (15 mins.)

11:00–11:15 Manila 13:00–13:15 Sydney 08:30–08:45 New Delhi
 22:00–22:15 Chicago 04:00–04:15 London

PANEL 3

GOVERNANCE OF INSOLVENCY AND RESTRUCTURING PROCEDURES: DEBTOR IN POSSESSION, INSOLVENCY PRACTITIONER, OR HYBRID MODEL?

(60 mins.) 11:15–12:15 Manila 13:15–14:15 Sydney 08:45–09:45 New Delhi
 22:15–23:15 Chicago 04:15–05:15 London

CHAIR

Adriana Robertson, *Donald N. Pritzker Professor of Business Law, The University of Chicago Law School*

PANELISTS

Jared Ellias, *Professor of Law, Harvard Law School*

Kotaro Fuji, *Counsel, Nishimura & Asahi*

Aurelio Gurrea-Martínez, *Assistant Professor of Law and Head, Singapore Global Restructuring Initiative, Singapore Management University*

Wai Yee WAN, *Associate Dean (Research and Internationalisation) and Professor, School of Law, City University of Hong Kong*

Paul Zumbro, *Partner, Cravath, Swaine & Moore LLP*

PANEL 4**REGULATORY FRAMEWORK OF INSOLVENCY PRACTITIONERS**

(40 mins.)	12:15–12:55 Manila 23:15–23:55 Chicago	14:15–14:55 Sydney 05:15–05:55 London	09:45–10:25 New Delhi
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CHAIR

Scott Atkins, *President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright*

PANELISTS

Ravi Mital, *Chairman, Insolvency and Bankruptcy Board of India (IBBI)*

Catherine Robinson, *Senior Lecturer, Faculty of Law, University of Technology Sydney, Australia*

BREAK (1 hour and 5 mins.) Lunch Break for Manila participants

12:55–14:00 Manila 23:55–01:00 Chicago	14:55–16:00 Sydney 05:55–07:00 London	10:25–11:30 New Delhi
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PANEL 5**VALUATION OF ASSETS AND TREATMENT OF CLAIMS AND CONTRACTS IN INSOLVENCY PROCEEDINGS**

(1 hr. and 30 mins.)	14:00–15:30 Manila 01:00–02:30 Chicago	16:00–17:30 Sydney 07:00–08:30 London	11:30–13:00 New Delhi
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CHAIR

Anthony Casey, *Deputy Dean and Donald Ephraim Professor of Law and Economics, The University of Chicago Law School*

PANELISTS

David Chew, *Partner, DHC Capital*

Debanshu Mukherjee, *Co-Founder, Vidhi Centre for Legal Policy, India*

Elizabeth McColm, *Partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP*

Deepak Rao, *General Manager, Insolvency and Bankruptcy Board of India (IBBI)*

Wataru Tanaka, *Professor, Institute of Social Science, The University of Tokyo*

COFFEE BREAK (20 mins.)15:30–15:50 Manila
02:30–02:50 Chicago17:30–17:50 Sydney
08:30–08:50 London

13:00–13:20 New Delhi

PANEL 6**DIRECTORS' DUTIES AND LIABILITY IN THE ZONE OF INSOLVENCY**(60 mins.) 15:50–16:50 Manila 17:50–18:50 Sydney 13:20–14:20 New Delhi
02:50–03:50 Chicago 08:50–09:50 London**CHAIR****Felix Steffek**, Associate Professor, Faculty of Law of the University of Cambridge**PANELISTS****Jared Ellias**, Professor of Law, Harvard Law School**Aurelio Gurrea-Martínez**, Assistant Professor of Law and Head, Singapore Global Restructuring Initiative, Singapore Management University**Jason Harris**, Professor of Corporate Law, University of Sydney Law School**Neeti Shikha**, Lecturer, University of Bradford School of Law, United Kingdom**Paul Zumbro**, Partner, Cravath, Swaine & Moore LLP**PANEL 7****AVOIDANCE ACTIONS**(50 mins.) 16:50–17:40 Manila 18:50–19:40 Sydney 14:20–15:10 New Delhi
03:50–04:40 Chicago 09:50–10:40 London**CHAIR****Jared Ellias**, Professor of Law, Harvard Law School**PANELISTS****Sumant Batra**, Founder, Insolvency Law Academy**Charles Booth**, Michael J. Marks Distinguished Professor in Business Law and Director, Institute of Asian-Pacific Business Law (IAPBL), William S. Richardson School of Law, University of Hawai'i at Manoa**Brook Gotberg**, Francis R. Kirkham Professor of Law, Brigham Young University**Joshua Macey**, Assistant Professor of Law, The University of Chicago Law School**RECEPTION**18:00–19:00 Manila
05:00–06:00 Chicago20:00–21:00 Sydney
11:00–12:00 London

15:30–16:30 New Delhi

DINNER19:00 Manila
06:00 Chicago21:00 Sydney
12:00 London

16:30 New Delhi

PLENARY SESSION 2

16 December 2022

Conference time by location

08:00–12:30 Manila, Philippines Time (GMT +8)
01:00–05:30 London, United Kingdom Time (GMT +0)
19:00–23:30 Chicago, United States of America Time (GMT -5)
05:30–10:00 New Delhi, India Time (GMT +5:30)
10:00–14:30 Sydney, Australia Time (GMT +10)

COFFEE

08:00–08:30 Manila	10:00–10:30 Sydney	05:30–06:00 New Delhi
19:00–19:30 Chicago	01:00–01:30 London	

PANEL 8

INSOLVENCY FRAMEWORKS FOR INDIVIDUALS AND MICRO AND SMALL ENTERPRISES

(50 mins.)	08:30–09:20 Manila	10:30–11:20 Sydney	06:00–06:50 New Delhi
	19:30–20:20 Chicago	01:30–02:20 London	

CHAIR

Nicholas Moller, *Principal Counsel, ADB*

PANELISTS

Scott Atkins, *President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright*

Charles Booth, *Michael J. Marks Distinguished Professor in Business Law and Director, Institute of Asian-Pacific Business Law (IAPBL), William S. Richardson School of Law, University of Hawai'i at Manoa*

Jason Harris, *Professor of Corporate Law, University of Sydney Law School*

John Martin, *Partner, Norton Rose Fulbright Australia and President, International Insolvency Institute*

Andres Martinez, *Senior Financial Sector Specialist, World Bank*

PANEL 9

RESCUE FINANCING AND ADMINISTRATIVE EXPENSES

(60 mins.)	09:20–10:20 Manila	11:20–12:20 Sydney	06:50–07:50 New Delhi
	20:20–21:20 Chicago	02:20–03:20 London	

CHAIR

Richard Squire, *Alpin J. Cameron Chair in Law, Fordham University School of Law*

PANELISTS

Jared Ellias, *Professor of Law, Harvard Law School*

Aurelio Gurrea-Martínez, *Assistant Professor of Law and Head, Singapore Global Restructuring Initiative, Singapore Management University*

Justice Christopher Sontchi, *International Judge, Singapore International Commercial Court*

Paul Zumbro, *Partner, Cravath, Swaine & Moore LLP*

COFFEE BREAK (15 mins.)10:20–10:35 Manila
21:20–21:35 Chicago12:20–12:35 Sydney
03:20–03:35 London

07:50–08:05 New Delhi

PANEL 10**CORPORATE GROUPS**(50 mins.) 10:35–11:25 Manila 12:35–13:25 Sydney 08:05–08:55 New Delhi
21:35–22:25 Chicago 03:35–04:25 London**CHAIR****Felix Steffek**, *Associate Professor, Faculty of Law of the University of Cambridge***PANELISTS****Edith Hotchkiss**, *Professor of Finance, Carroll School of Management, Boston College***Raelene Pereira**, *Partner, Rajah & Tann Singapore LLP***Richard Squire**, *Alpin J. Cameron Chair in Law, Fordham University School of Law***Urmika Tripathi**, *Legal Analyst for Asia, REDD Intelligence***PANEL 11****CROSS-BORDER INSOLVENCY**(45 mins.) 11:25–12:30 Manila 13:25–14:30 Sydney 08:55–10:00 New Delhi
22:25–23:30 Chicago 04:25–05:30 London**CHAIR****Justice Christopher Sontchi**, *International Judge, Singapore International Commercial Court***PANELISTS****Joshua Macey**, *Assistant Professor of Law, The University of Chicago Law School***Dan T. Moss**, *Partner, Jones Day***Felix Steffek**, *Associate Professor, Faculty of Law of the University of Cambridge***Deeptanshu Singh**, *Manager, Insolvency and Bankruptcy Board of India (IBBI)*

ANNEX 1: Background Materials

PANEL 1. STRATEGIES TO EFFECTIVELY PROMOTE WORKOUTS

An out-of-court restructuring (“workout”) provides several advantages, including flexibility, confidentiality, and saving the costs and stigma associated with insolvency proceedings. Therefore, promoting the use of workouts is generally considered a desirable practice, especially in countries without efficient insolvency frameworks. However, for a variety of reasons, including opportunistic behavior of debtors and creditors, regulatory barriers, and lack of a rescue culture, completing a workout is often challenging even for viable companies only facing financial trouble. For that reason, regulators or private actors may be required to adopt certain practices to effectively promote workouts. To that end, jurisdictions around the world have adopted several approaches, including: (i) the publication of good practices for workouts by association of banks or insolvency practitioners; (ii) the enactment of good practices and promotion of inter-creditor agreements facilitated by central banks; (iii) regulation of workouts in the insolvency legislation, even providing workouts with various tools existing in formal reorganization procedures. Likewise, as a means to further incentivize workouts, countries may adopt various changes in the regulatory framework for businesses, including changes in the tax legislation, amendments to the rules governing directors’ duties and liability in the zone of insolvency, and changes in the regulatory framework for financial institutions. This panel will discuss the most effective strategies to promote workouts, as well as the country-specific and firm-specific factors that may affect the design and effectiveness of these strategies.

Relevant readings:

- ◆ World Bank. 2022. *A Toolkit for Corporate Workouts*. Washington, D.C.
- ◆ INSOL International. 2017. *Global Principles for Multi-Creditor Workouts*. London.
- ◆ Financial Stability Board. 2022. *Thematic Review on Out-of-Court Corporate Debt Workouts*. Basel, Switzerland.
- ◆ Jose M. Garrido. 2012. *Out-of-Court Debt Restructuring*. Washington, D.C.: World Bank Group.
- ◆ Scott Atkins and Kai Luck. 2020. *The Value of Informal Workouts and the Framework to Guide their Development in the Asia-Pacific*. Singapore: Singapore Global Restructuring Initiative Blog.

PANEL 2. HYBRID PROCEDURES AND FORMAL INSOLVENCY PROCEEDINGS

Countries around the world design insolvency proceedings very differently. For example, while certain jurisdictions have a single-entry insolvency process that may end up with a reorganization plan, a going concern sale or a piecemeal liquidation, other jurisdictions provide various insolvency proceedings – at least one of them primarily focused on reorganization and at least another one primarily focused on liquidation. Additionally, many jurisdictions provide hybrid procedures, such as a scheme of arrangement, preventive restructuring frameworks and pre-packs, that facilitate a debt restructuring – generally when a company is not formally insolvent yet. This panel will discuss the most desirable way to design an insolvency and restructuring framework, with particular emphasis on the type of procedures that should be ideally adopted taking into account the market and institutional environment existing in a country.

Relevant readings:

- ◆ World Bank. 2021. *Principles for Effective Insolvency and Creditor/Debtor Regimes*. Washington, D.C.
- ◆ World Bank. 2022. *A Toolkit for Corporate Workouts*. Washington, D.C.

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- ◆ Jose M. Garrido. 2012. *Out-of-Court Debt Restructuring*. Washington, D.C.: World Bank Group.
 - ◆ United Nations Commission on International Trade Law (UNCITRAL). 2004. *Legislative Guide on Insolvency Law*. New York.

PANEL 3. GOVERNANCE OF INSOLVENCY AND RESTRUCTURING PROCEEDINGS: DEBTOR IN POSSESSION (DIP), INSOLVENCY PRACTITIONERS (IPs) OR HYBRID MODEL?

The governance of insolvency and restructuring proceedings significantly differs across jurisdictions. Broadly understood, there are three primary models for the governance of insolvency and restructuring procedures: (i) the adoption of a debtor in possession model where the company’s management would continue to run the firm without the appointment of an insolvency practitioner (“DIP model”); (ii) the appointment of a trustee/administrator/insolvency practitioner replacing the debtor’s management team (“IP model”); and (iii) the appointment of a monitor overseeing the procedure and the debtor’s management team (“hybrid model”). This panel will discuss the legal, market, and institutional factors affecting the choice of the governance model of insolvency and restructuring proceedings.

Relevant readings:

- ◆ UNCITRAL. 2004. *Legislative Guide on Insolvency Law*. New York.
- ◆ Kenneth Ayotte, Edith S. Hotchkiss, and Karin S. Thorburn. 2014. *Governance in Financial Distress and Bankruptcy*, in Mike Wright, Donald Siegel, Kevin Keasey and Igor Filatotchev (eds.). United Kingdom: The Oxford Handbook of Corporate Governance, Oxford University Press.
- ◆ Aurelio Gurrea-Martinez. 2020. *Insolvency Law in Emerging Markets*. Ibero-American Institute for Law and Finance, Working Paper 3/2020.
- ◆ World Bank. 2021. *Principles for Effective Insolvency and Creditor/Debtor Regimes*. Washington, D.C.
- ◆ Jared A. Ellias, Ehud Kamar, and Kobi Kastiel. 2022. *The Rise of Bankruptcy Directors*. *Southern California Law Review*. 95 (5).

PANEL 4. REGULATORY FRAMEWORK OF INSOLVENCY PRACTITIONERS

This panel will discuss the optimal way to design a regulatory framework for insolvency practitioners. To that end, it will discuss the qualifications of insolvency practitioners and whether countries should adopt a licensing regime for insolvency practitioners and, if so, how. Moreover, it will discuss whether countries should adopt a regulatory agency to oversee insolvency practitioners. Finally, the panel will discuss the duties, liability, and remuneration of insolvency practitioners.

Relevant readings:

- ◆ UNCITRAL. 2004. *Legislative Guide on Insolvency Law*. New York.
- ◆ International Association of Insolvency Regulators. 2018. *The Regulatory Regime for Insolvency Practitioners*. United Kingdom.
- ◆ World Bank. 2021. *Principles for Effective Insolvency and Creditor/Debtor Regimes*. Washington, D.C.

PANEL 5. VALUATION OF ASSETS AND TREATMENT OF CLAIMS AND CONTRACTS IN INSOLVENCY PROCEEDINGS

An insolvency proceeding should maximize the returns to creditors by promoting the most efficient allocation of the debtor's assets. Therefore, valuation will play an essential role when determining the fate of a financially distressed firm. Additionally, creditors should be paid according to a set of contractual and statutory priorities. To that end, while some jurisdictions only respect (if so) the preferential treatment of secured creditors and most unsecured creditors are paid *pari passu*, other jurisdictions provide a preferential treatment to certain creditors such as tax authorities, employees, and tort claimants; and some legislations subordinate certain claims such as shareholder loans. This panel will discuss the most desirable way to determine the valuation and treatment of assets and claims in insolvency proceedings. It will also discuss the treatment of contracts in insolvency and restructuring proceedings, with particular emphasis on the contracts in which none of the parties have materially performed their contractual obligations (“executory contracts”) and contractual provisions allowing a party to terminate the contract if the counterparty becomes insolvent (“*ipso facto* clauses”).

Relevant readings:

- ◆ UNCITRAL. 2004. [Legislative Guide on Insolvency Law](#). New York.
- ◆ Lucian A. Bebchuk and Jesse M. Fried. 1997. [The Uneasy Case for the Priority of Secured Claims in Bankruptcy: Further Thoughts and a Reply to Critics](#). *Cornell Law Review*. 82 (1279).
- ◆ Martin Gelter. 2006. [The subordination of shareholder loans in bankruptcy](#). *International Review of Law and Economics*. 26 (478).
- ◆ Christopher F. Symes. 2005. [Reminiscing The Taxation Priorities In Insolvency](#). *Journal of the Australasian Tax Teachers Association*. 1 (435).
- ◆ Christopher S. Sontchi. 2012. [Valuation Methodologies: A Judge's Views](#). *ABI Law Review*. 20 (1).
- ◆ Michael Crystal and Rizwaan Jameel Mokal. 2006. [The Valuation of Distressed Companies - a Conceptual Framework](#).
- ◆ Kenneth Ayotte and Edward R. Morrison. 2018. [Valuation Disputes in Corporate Bankruptcy](#). *University of Pennsylvania Law Review*. 166 (1819).
- ◆ Gerard McCormack, Andrew Keay, Sarah Brown, and Judith Dahlgreen. 2016. [Study on a new approach to business failure and insolvency: Comparative legal analysis of the Member States' relevant provisions and practices](#). Brussels: European Commission. pp. 137-183.
- ◆ Susana Dávalos. 2017. [The Rejection of Executory Contracts: A Comparative Economic Analysis](#). *Mexican Law Review*. 10 (69).
- ◆ Jesse M. Fried. 1996. [Executory Contracts and Performance Decisions in Bankruptcy](#). *Duke Law Journal*. 46 (517).
- ◆ George G. Triantis. 1993. [The Effects of Insolvency and Bankruptcy on Contract Performance and Adjustment](#). *The University of Toronto Law Journal*. 43 (679).
- ◆ Jay L. Westbrook. 1989. [A Functional Analysis of Executory Contracts](#). *Minnesota Law Review*. 74 (227).
- ◆ Kwan Kiat Sim Ho, Zi Wei, and Naomi Lim. 2022. [A Comparative Review of Legislative Restrictions on the Enforcement of Ipso Facto Clauses](#). *INSOL International*.

PANEL 6. DIRECTORS' DUTIES AND LIABILITY IN THE ZONE OF INSOLVENCY

When a company becomes factually insolvent but it is not yet subject to a formal insolvency proceeding, the shareholders –or the directors acting on their behalf– may engage in various forms of behavior that can divert or destroy value at the expense of the creditors. For this reason, many jurisdictions around the world impose special directors' duties and liability in the zone of insolvency. The way to regulate directors' duties and responsibilities in the zone of insolvency, however, significantly differs across jurisdictions. Namely, countries around the world have adopted different approaches including: (i) the imposition of a duty to initiate insolvency proceedings; (ii) the imposition of a duty to recapitalize or liquidate companies experiencing significant losses; (iii) the imposition of general duties towards the company's creditors, including a duty to minimize losses for the creditors; (iv) the imposition of a duty to prevent the company from incurring new debts; (v) the imposition of a duty to prevent the company from incurring new debts that cannot be paid in full; and (vi) the imposition of a duty to keep acting in the best interest of the corporation as a whole. This panel will explore the advantages and weaknesses of each regulatory model of directors' duties in the zone of insolvency, as well as a variety of country-specific and firm-specific factors that may affect the desirability of a particular approach. It will also discuss different mechanisms to deal with wrongful behavior in the zone of insolvency, including disqualification and liability of corporate insiders.

Relevant readings:

- ◆ INSOL International. 2017. *Directors' in the Twilight Zone V*.
- ◆ UNCITRAL. 2020. *Directors' obligations in the period approaching insolvency (including in enterprise groups)*.
- ◆ Douglas G. Baird. 1991. *The Initiation Problem in Bankruptcy*. *International Review of Law and Economics*. 11 (223).
- ◆ Aurelio Gurrea-Martinez. 2021. *Towards an Optimal Model of Directors' Duties in the Zone of Insolvency: An Economic and Comparative Approach*. *Journal of Corporate Law Studies*. 21 (365).
- ◆ Jared A. Ellias and Robert J. Stark. 2020. *Delaware Corporate Law and the 'End of History' in Creditor Protection*.
- ◆ Jason Harris and Anil Hargovan. 2021. *Potential liability for directors during corporate restructuring: comparative perspectives*, in Paul J. Omar and Jennifer L.L. Gant (eds.), *Research Handbook on Corporate Restructuring* (Edward Elgar).

PANEL 7. AVOIDANCE ACTIONS

Most insolvency jurisdictions include provisions that facilitate the avoidance of certain transactions entered into by a debtor prior to the commencement of an insolvency proceeding. These transactions seek to prevent or otherwise reverse transactions that can be detrimental for the creditors. Despite the benefits eventually created by these mechanisms, the use –and even existence– of avoidance actions is not costless. On the one hand, the initiation of these actions may generate litigation costs. On the other hand, the existence of avoidance provisions may harm predictability and legal certainty, especially in jurisdictions where it is relatively easy to avoid a transaction, usually because bad faith is not required, the lookback period for the avoidance of transactions is too long, or no financial conditions are required to avoid a transaction. This panel will discuss how countries should design avoidance provisions taking into account the conflicting policy goals often existing in the design of avoidance actions as well as the particular features of a country.

Relevant readings:

- ◆ UNCITRAL. 2004. *Legislative Guide on Insolvency Law*. New York.
- ◆ Jay Westbrook, Charles D. Booth, Christoph Paulus & Harry Rajak. 2010. *A Global View of Business Insolvency Systems* (World Bank & Kluwer/Martinus), pp. 105-116.
- ◆ Rolef de Weijs. 2011. *Towards an Objective European Rule on Transaction Avoidance in Insolvencies*. *International Insolvency Review*. 20 (219).
- ◆ Brook Gotberg. 2014. *Conflicting Preferences: Avoidance Proceedings in Bankruptcy Liquidation and Reorganization*. *Iowa Law Review*. 100 (51).
- ◆ Gerard McCormack, Andrew Keay, Sarah Brown, and Judith Dahlgreen. 2016. *Study on a new approach to business failure and insolvency: Comparative legal analysis of the Member States' relevant provisions and practices*. Brussels: European Commission. pp. 137-183.
- ◆ Aurelio Gurrea-Martinez. 2018. *The Avoidance of Pre-bankruptcy Transactions: An Economic and Comparative Approach*. *Chicago Kent Law Review*. 93 (711).
- ◆ Kristin van Zwieten. 2018. *Related Party Transactions in Insolvency*. European Corporate Governance Institute (ECGI) - Law Working Paper No. 401/2018.
- ◆ Oriana Casasola. 2020. *The Harmonisation of Transaction Avoidance: A Compromise Solution*. Norton Journal of Bankruptcy Law.

PANEL 8. INSOLVENCY FRAMEWORKS FOR INDIVIDUALS AND MICRO AND SMALL ENTERPRISES

Micro and small enterprises (MSEs) represent the vast majority of businesses in most countries around the world. Despite the economic relevance of small businesses, most insolvency jurisdictions in Asia – and elsewhere – do not provide suitable insolvency frameworks for MSEs. This panel analyses how countries can adopt more attractive insolvency frameworks for small businesses. To that end, it will take into account the approaches that have been adopted by various jurisdictions, as well as the policy recommendations suggested by organizations such as the Asian Business Law Institute, the International Insolvency Institute, the World Bank, and the United Nations Commission on International Trade Law (UNCITRAL). Moreover, it will discuss how these approaches and policy recommendations should be adjusted to different market and institutional environments. Lastly, this panel will discuss whether and, if so, under which conditions, countries should provide a discharge of debt for consumers and individual entrepreneurs.

Relevant readings:

- ◆ UNCITRAL. 2021. *Legislative Recommendations on Insolvency of Micro- and Small Enterprises*.
- ◆ World Bank. 2021. *Principles for Effective Insolvency and Creditor/Debtor Regimes*. Washington, D.C.
- ◆ Aurelio Gurrea-Martinez. 2022. *Guide on the Treatment of Insolvent Micro and Small Enterprises in Asia*. Singapore: Asian Business Law Institute and International Insolvency Institute.
- ◆ Federico J. Díez, Romain Duval, Jiayue Fan, José Garrido, Sebnem Kalemli-Özcan, Chiara Maggi, Soledad Martínez-Peria, and Nicola Pierri. 2021. *Insolvency Prospects Among Small and Medium Enterprises in Advanced Economies: Assessment and Policy Options*, IMF Staff Discussion Notes 2021/002.
- ◆ Jason Harris and Christopher Symes. 2021. *The chimera of restructuring reform: An opportunity missed for MSMEs in pt 5.3B*, *U. of Adelaide Law Research Paper No. 2021-48*.

- ◆ Jason J. Kilborn. 2021. *Tightening Up Loose Credit and Loosening Up Tight Bankruptcy in Singapore: An Asian Paradigm For Personal Debt and Insolvency Reform*.
- ◆ World Bank. 2014. *Report on the Treatment of the Insolvency of Natural Persons*, Washington, D.C.
- ◆ Jose Garrido, Sanaa Nadeem, Nagwa Riad, Chanda DeLong, Nadia Rendak, and Anjum Rosha. 2020. *Tackling Private Over-Indebtedness in Asia: Economic and Legal Aspects*. Washington, D.C.: IMF Working Paper.
- ◆ Kenneth Ayotte. 2007. *Bankruptcy and Entrepreneurship: The Value of a Fresh Start*. *The Journal of Law, Economics, and Organization*. 23 (161).
- ◆ John Armour and Douglas Cumming. 2008. *Bankruptcy Law and Entrepreneurship*. *American Law and Economics Review*. 10 (303).

PANEL 9. RESCUE FINANCING AND ADMINISTRATIVE EXPENSES

When a firm becomes insolvent, it may be unable to obtain new finance. As a result, the lack of finance may lead to the loss of suppliers, investment opportunities, and going concern value. To address this problem, several jurisdictions around the world have adopted a system of rescue or debtor-in-possession (“DIP”) or “rescue” financing that seeks to encourage lenders to extend credit to financially distressed firms. This is incentivized by providing DIP lenders with various forms of priority. This panel will discuss the most desirable way to facilitate post-petition financing to viable but insolvent firms. Moreover, it will do so taking into account the particular market and institutional environment existing in a country.

Relevant readings:

- ◆ Kenneth Ayotte and David A. Skeel. 2013. *Bankruptcy Law as a Liquidity Provider*. *The University of Chicago Law Review*. 80 (1557).
- ◆ George G. Triantis. 2017. *Debtor-in-Possession Financing in Bankruptcy* in Adler (ed.), *Handbook on Corporate Bankruptcy Law*, Stanford Public Law Working Paper (Edward Elgar, 2021).
- ◆ INSOL International. 2022. *Comparative Review of Approaches to “Rescue” or “Debtor-in-possession” (DIP) Finance in Restructuring and Insolvency Regimes*.
- ◆ UNCITRAL. 2004. *Legislative Guide on Insolvency Law*. New York. pp. 113-118.
- ◆ Aurelio Gurrea-Martinez. 2022. *The Treatment of Debtor-in-Possession Financing in Reorganization Procedures: An Economic and Comparative Approach*, Singapore Management University School of Law Research Paper No. 3/2022.
- ◆ Kenneth Ayotte and Jared A. Elias. 2022. *Bankruptcy Process for Sale*. *Yale Journal on Regulation*. 39 (1).

PANEL 10. CORPORATE GROUPS

Many businesses are often organized through corporate group structures. Therefore, an insolvency system should respond to this economic reality. To that end, countries around the world have generally adopted three regulatory approaches to deal with corporate groups in insolvency. First, certain jurisdictions treat individual companies separately. Second, other jurisdictions have taken steps to facilitate the coordination of insolvency proceedings affecting corporate groups (“procedural coordination”). Finally, other jurisdictions allow, even if it is in exceptional cases, the consolidation of assets and liabilities of companies belonging to the same corporate group (“substantive consolidation”). More recently, as a variation of the approach facilitating procedural coordination, some countries have adopted some substantive rules that, without

consolidating assets and liabilities, involve the use of certain insolvency provisions to the whole corporate group. Moreover, this latter approach often considers the “interest of the group” instead of the interest of the individual legal entities comprising the corporate group. This panel seeks to explore the most desirable way to deal with corporate groups in insolvency.

Relevant readings:

- ◆ UNCITRAL. 2020. *Model Law on Enterprise Group Insolvency with Guide to Enactment*.
- ◆ INSOL International. 2022. *The Restructuring of Corporate Groups: A Global Analysis of Substantive, Procedural and Synthetic Group Procedures*.

PANEL 11. CROSS-BORDER INSOLVENCY

Many businesses nowadays have assets, creditors, offices, subsidiaries, clients, or employees in different jurisdictions. The existence of an international component may add an additional layer of complexity to a situation of financial distress. To deal with a situation of insolvency with a cross-border element, commentators have generally suggested two different approaches: one of them that seeks to promote a single forum for the management of the insolvency proceeding (“universalism”) and another approach consisting of the opening of insolvency proceedings in those jurisdictions where the debtor has assets and creditors (“territorialism”). The disadvantages of both models led to some intermediate approaches. To that end, the most successful model has been the so-called “modified universalism,” which was the approach embraced by the UNCITRAL Model Law on Cross-Border Insolvency adopted in many jurisdictions around the world. This panel will discuss various approaches to deal with cross-border insolvency. These approaches will include modified versions of universalism and territorialism, as well as innovative contractual approaches suggested in the academic literature. It will also discuss new trends and developments in cross-border insolvency, including the use of insolvency protocols, the guidelines and modalities enacted by the Judicial Insolvency Network, and the UNCITRAL Model Law on Recognition and Enforcement of Insolvency-Related Judgments.

Relevant readings:

- ◆ UNCITRAL. 1997. *Model Law on Cross-Border Insolvency*. New York.
- ◆ Robert Rasmussen. 1997. *A New Approach to Transnational Insolvencies*. *Michigan Journal of International Law*. 19 (1).
- ◆ Lucian A. Bebchuk and Andrew T. Guzman. 1999. *An Economic Analysis of Transnational Bankruptcy*. *The Journal of Law and Economics*. 42 (775).
- ◆ Lynn M. LoPucki. 2000. *The Case for Cooperative Territoriality in International Bankruptcy*. *Michigan Law Review*. 98 (2216).
- ◆ UNCITRAL. 2018. *Model Law on Recognition and Enforcement of Insolvency-Related Judgment*.
- ◆ Jay Lawrence Westbrook. 2018. *Global Insolvency Proceedings for a Global Market: The Universalist System and the Choice of a Central Court*. *Texas Law Review*. 96 (1473).
- ◆ Judicial Insolvency Network. 2016. *Guidelines for communication and cooperation between courts in cross-border insolvency matters*.
- ◆ Aurelio Gurrea-Martinez. 2020. *Insolvency Law in Emerging Markets*, Ibero-American Institute for Law and Finance, Working Paper 3/2020.
- ◆ Ministry of Corporate Affairs, Government of India. 2020. *Report on the rules and regulations for cross-border insolvency resolution*. New Delhi.



Downtown Singapore (photo by Lightscape on Unsplash).



The Petronas Twin Towers in Kuala Lumpur, Malaysia (photo by Lester V. Ledesma/ADB).

INAUGURAL SESSION SPEAKER

03



Inaugural Session Speaker



THOMAS MICHAEL CLARK

General Counsel, Asian Development Bank (ADB)

Mr. Clark holds a Doctor of Laws degree from Columbia University, where he was Notes Editor of the Columbia Law Review, and a Bachelor of Arts degree in Government from Harvard University. He has over 30 years of experience in legal and government affairs practice, spanning the financial services, energy, and infrastructure sectors. After a judicial clerkship on the U.S. Court of Appeals for the D.C. Circuit, and legal practice at the law firms of Sullivan & Cromwell in New York and WilmerHale in Washington, D.C., Mr. Clark joined the General Electric Company, one of the world's largest infrastructure and technology companies. His 22-year career at GE included 16 years based in Japan and covering the Asia-Pacific region, as General Counsel for GE's largest Asian financial services arm, and as Executive Counsel for Government Affairs and Policy, working with regulators and governments throughout the region on key legal and policy initiatives, and holding leadership roles in industry associations and private sector advisory bodies for APEC and ASEAN.

Most recently, Mr. Clark was Managing Director and Co- Head of Americas for the Global Public Policy Group of BlackRock Inc., the world's largest asset management firm, where he drove regulatory policy engagement and thought leadership on infrastructure finance, ESG and sustainability, disclosures related to climate risk and energy transition issues, data privacy and fintech.

As General Counsel at Asian Development Bank (ADB), he is responsible for driving legal strategy and engagement on public policy reforms to support ADB's mission of achieving a sustainable, prosperous, inclusive, and resilient Asia-Pacific region.



Corporate offices in London, United Kingdom
(photo by Abel Pérez on Unsplash).



Container terminal in Hamburg, Deutschland (photo by Dominik Lückmann on Unsplash).



CHAIRPERSONS

in alphabetical order, by surname

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Chairpersons



SCOTT ATKINS

President, INSOL and Co-Head of Restructuring, Norton Rose Fulbright

Scott Atkins is Global Co-Head of Restructuring at Norton Rose Fulbright and Chair of its Australian practice.

Scott is President of INSOL International and an inaugural INSOL Fellow. INSOL International is the world's peak insolvency and restructuring association. He is repeatedly ranked in global legal directories, most recently by Chambers and Partners, as an Eminent Practitioner.

Scott's practice straddles the globe—a reflection of his deep expertise in cross-border insolvency. He has unique experience in advising nations and their governments on insolvency and restructuring law reform, including the systemic and structural reforms required across economies to facilitate and support the effective operation of such laws.

Scott drafted landmark new insolvency and corporate rescue laws for Myanmar which are now in effect. He is a member of a range of taskforces focused on Micro, Small, and Medium Enterprises (MSME) insolvency law reform, and is working with Armenia and Bhutan to modernize their insolvency laws.

ANTHONY CASEY

*Deputy Dean and Donald Ephraim Professor of Law and Economics,
The University of Chicago Law School*



Anthony Casey is Deputy Dean and Donald M. Ephraim Professor of Law and Economics at The University of Chicago Law School. He is also the Faculty Director of the Law School's Center on Law and Finance. His research examines the intersection of finance and law, with a focus on corporate bankruptcy. He has written about topics including asset valuation, creditor priority, the constitutionality of bankruptcy courts, and intercreditor agreements. His broader projects explore business organization, civil procedure, and complex business disputes.

Before entering the academe, Professor Casey was a partner at Kirkland & Ellis LLP. His legal practice focused on corporate bankruptcy, merger litigation, white-collar investigations, and securities litigation.

Anthony Casey *(continued)*

Professor Casey received his JD (with High Honors) from The University of Chicago Law School in 2002. After law school, he clerked for Chief Judge Joel M. Flaum of the United States Court of Appeals for the Seventh Circuit.



JARED A. ELLIAS

Professor of Law, Harvard Law School

Professor Jared A. Ellias writes and teaches about corporate bankruptcy law and the governance of large firms. He has served as a Teaching Fellow and Lecturer at Stanford Law School; a Visiting Associate Professor at Boston University School of Law; the Bion M. Gregory Chair in Business Law at the University of California, Hastings College of the Law; and the William Nelson Cromwell Visiting Professor of Law at Harvard Law School. He joined the Harvard Law Faculty in July 2022.

His research on corporate bankruptcy topics has been published or is forthcoming in leading peer-reviewed law and social science journals (such as the *Journal of Empirical Legal Studies*, the *Journal of Legal Analysis*, and the *Journal of Legal Studies*), as well as in leading student-edited law reviews (such as the *California Law Review*, the *Columbia Law Review Sidebar*, the *Southern California Law Review*, and the *Yale Journal on Regulation*). Professor Ellias' work has been selected twice for the Stanford/Yale/Harvard junior faculty forum and for presentation at the Weil, Gotshal & Manges Roundtable at Yale Law School. One of his articles was designated by *Corporate Practice Commentator* as one of the Top 10 Corporate and Securities Laws Articles of 2020. He has presented research at a wide variety of bankruptcy lawyer conferences and events. He is widely quoted in the press, including *Bloomberg News*, the *Financial Times*, the *New York Times*, the *San Francisco Chronicle*, the *Wall Street Journal*, and the *Washington Post*, among many other media venues.

Professor Ellias frequently advises state and federal lawmakers on bankruptcy-related issues and he has testified on corporate bankruptcy issues before the California State Senate. He advised the California State Senate on the 2019 bankruptcy of the Pacific Gas & Electric Company, one of the top ten largest industrial bankruptcies of all time that touched on many core issues of interest to the State of California.

Chairpersons

AURELIO GURREA-MARTÍNEZ

*Assistant Professor of Law and Head, Singapore Global Restructuring Initiative,
Singapore Management University*



Aurelio Gurrea-Martínez is an Assistant Professor of Law and head of the Singapore Global Restructuring Initiative at Singapore Management University. He is a member of the Academic Steering Committee at INSOL International, founding director of the Ibero-American Institute for Law and Finance, and co-chair of the SMU-Cambridge Roundtable on Corporate Insolvency Law.

Aurelio has taught, studied, or conducted research at several institutions in the United States, the United Kingdom, Continental Europe, Asia, and Latin America, including Harvard Law School, Yale Law School, Columbia Law School, Stanford University, and the University of Oxford. He has also been a Visiting Scholar at the Becker Friedman Institute for Economics at the University of Chicago.

He has been invited to present his academic work before various regulators, governmental agencies, and international organizations, including the World Bank, the International Monetary Fund, the International Organization of Securities Commissions (IOSCO), the Organization for Economic Cooperation and Development (OECD), the Australian Department of the Treasury, and the U.S. Securities and Exchange Commission (SEC). His research interest lies in the intersection of law and finance, with particular emphasis on corporate governance; financial regulation; corporate finance; corporate insolvency law; and how legal and institutional reforms may promote entrepreneurship, innovation, access to finance, and economic growth.



NICHOLAS MOLLER

Principal Counsel, Asian Development Bank

Nicholas Moller is Principal Counsel at the Asian Development Bank (ADB), where he has been working for over 15 years in the Office of the General Counsel. He graduated with BA (Honors) and LLB from the University of Sydney. He obtained his LLM from Washington College of Law. He is admitted to practice in New South Wales Australia. He works on private sector transactions and assists in the management of non-performing loans and workouts. This has included insolvency-related matters in India, Kazakhstan, Papua New Guinea, and the

Nicholas Moller *(continued)*

People's Republic of China, including acting on creditors' steering committees in the banking and finance sector, telecoms, and renewable energy. He takes part in the Special Operations Seminars run by development finance institutions.

Nicholas also works in the Law and Policy Reform team in the Office of the General Counsel and focuses on law reform that seeks to create a better enabling environment for the private sector. This work has included the Myanmar Insolvency Law and an electronic registration system for that law, as well as ongoing insolvency law reform and advisory work in Armenia and Indonesia. He also assisted on business licensing reforms and secured transactions related reform efforts.

Prior to joining ADB, Nicholas worked in a commercial bank and in commercial law firms where he handled banking and finance and infrastructure transactions. This included working for several years in Thailand following the 1998 financial crisis in restructuring and insolvency, for both debtors (listed and non-listed) and local and international creditors.

ADRIANA ROBERTSON

*Donald N. Pritzker Professor of Business Law,
The University of Chicago Law School*



Adriana Robertson is the Donald N. Pritzker Professor of Business Law at the University of Chicago Law School. Her research interests lie at the intersection of law and finance, including securities law, capital markets regulation, corporate finance, and business law.

Before joining the University of Chicago Law School, Adriana held the Honourable Justice Frank Iacobucci Chair in Capital Markets Regulation at the University of Toronto Faculty of Law, with a joint appointment in the Finance area at the Rotman School of Management. In the autumn quarter of 2019, she was the Daniel R. Fischel and Sylvia M. Neil Distinguished Visiting Assistant Professor of Law at the University of Chicago Law School. She has also held visiting professorships at NYU Law School and Yale Law School.

Adriana holds a BA from the University of Toronto (Trinity College), where she was awarded the Lorne T. Morgan Gold Medal in Economics; a PhD in Finance from the Yale School of Management; and a JD from Yale Law School. Her recent work has been featured in major media outlets including The New York Times, The Wall Street Journal, and the Financial Times.

Chairpersons



HON. JUSTICE CHRISTOPHER S. SONTCHI

International Judge, Singapore International Commercial Court

Christopher S. Sontchi is an International Judge of the Singapore International Commercial Court and is the former Chief Judge of the United States Bankruptcy Court for the District of Delaware (from which he recently retired). He is a frequent speaker in the United States and abroad on issues relating to corporate reorganizations. He is a Lecturer in law at The University of Chicago Law School and has taught restructuring to international judges through the auspices of the World Bank and INSOL International.

He was recently elected as a Fellow of the American College of Bankruptcy, and is currently a member of the International American Bankruptcy Institute, INSOL International, Insolvency Institute, Judicial Insolvency Network, and the National Conference of Bankruptcy Judges. He is also a member of the International Advisory Council of the Singapore Global Restructuring Initiative, and the Founders' Committee for The University of Chicago Law School's Center on Law and Finance.

Justice Sontchi has testified before the United States Congress on the safe harbors for financial contracts. He has also published articles on creditors' committees, valuation, asset sales, and safe harbors.

Justice Sontchi attended the University of North Carolina at Chapel Hill where he was elected to *Phi Beta Kappa* and obtained a B.A. with distinction in Political Science. He received his J.D. from The University of Chicago Law School, after which he returned to his native Delaware to serve as a law clerk in the Delaware Supreme Court.

RICHARD SQUIRE

Alpin J. Cameron Chair in Law, Fordham University School of Law



Professor Richard Squire has been a member of the Fordham University School of Law faculty since 2006. He publishes primarily on the subjects of corporate law and corporate bankruptcy, and he has also written articles on antitrust and securities regulation. He has twice been elected Fordham Law School's Teacher of the Year, in 2010 and 2011. He previously taught at Harvard College, where he won the Allyn Young Award for excellence in teaching principles of economics. From 2001 to 2002 he clerked for Judge Robert D. Sack on the U.S. Court

Richard Squire *(continued)*

of Appeals for the Second Circuit, and between 2002 and 2005 he was an associate with Wachtell, Lipton, Rosen & Katz in New York City.

During the fall semester of 2018, he was the Karl W. Leo Visiting Professor of Business Law at Duke Law School.

During the fall semester of 2013, he was the Joseph F. Cunningham Visiting Professor of Commercial & Insurance Law at Columbia Law School.

During the 2012–2013 school year, he was a Florence Rogatz Visiting Professor of Law at Yale Law School.

Professor Squire holds a BA (*summa cum laude*) from Bowdoin College, where he was inducted into the *Phi Beta Kappa* honor society. He obtained an MBA from Harvard Business School and a JD (*magna cum laude*) from Harvard Law School.



FELIX STEFFEK

Associate Professor, Faculty of Law of the University of Cambridge

Felix Steffek is an Associate Professor at the Faculty of Law of the University of Cambridge and Director of Studies at Newnham College. He serves as Co-Director of the Centre for Corporate and Commercial Law (3CL) and Director of International Strategy and Partnerships. He has been awarded a JM Keynes Fellowship in Financial Economics by the University of Cambridge. His research interests cover corporate law, insolvency law, commercial law, dispute resolution, and technology and law.

Felix Steffek is a Member of the European Union (EU) Expert Group on Restructuring and Insolvency Law, the Organization for Economic Co-operation and Development (OECD) Advisory Panel for Access to Justice, and the International Institute for the Unification of Private Law (UNIDROIT) Working Group on Effective Enforcement. He serves on the Editorial Board of the Journal of Corporate Law Studies, the Cambridge Yearbook of European Legal Studies, and other academic journals. He is co-investigator of a UK-Japanese research project on artificial intelligence and legal systems.

He has acted as policy advisor and expert for the European Commission, the European Parliament, the World Bank, the OECD, UNIDROIT, the Financial Stability Board, national governments, courts, parliaments and LawTech start-ups. He received his education at the University of Cambridge (LLM), University of Heidelberg (PhD, undergraduate) and University of Hamburg (Habilitation, court clerkship).



Production line of the rice cracker factory, Trang An, in Viet Nam (photo by Eric Sales/ADB).



CONFIRMED SPEAKERS

(as of 2 December 2022)
in alphabetical order, by surname

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Speakers



SCOTT ATKINS

*President, INSOL International and Co-Head, of Restructuring,
Norton Rose Fulbright*

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ADAM BADAWI

Professor of Law, University of California, Berkeley

Adam Badawi is a Professor of Law at University of California (UC), Berkeley. He writes widely on issues of law and finance with an emphasis on corporate governance, corporate transactions, and shareholder litigation. Much of his recent work uses text analysis and machine learning to analyze debt agreements, merger documents, and shareholder class action complaints. At Berkeley Law, he teaches Contracts, Corporations, Mergers and Acquisitions, and seminars related to these topics.

Professor Badawi's research includes "Does Voluntary Financial Disclosure Matter? The Case of Fairness Opinions in M&A" (forthcoming, *The Journal of Law and Economics*) (with Matthew D. Cain and Steven Davidoff Solomon); "How Informative is the Text of Securities Complaints?" (forthcoming, *Journal of Law, Economics & Organization*); "Social Good and Litigation Risk" (forthcoming, *Harvard Business Law Review*) (with Frank Partnoy); and "Is There a First-Drafter Advantage in M&A?" (with Elisabeth de Fontenay), which was published in the *California Law Review* in 2019 and was selected as one of the Top 10 Corporate and Securities Articles of 2019 by *Corporate Practice Commentator*.

Prior to joining the faculty of Berkeley Law in 2017, Professor Badawi was a Professor of Law at Washington University in St. Louis. He has been a Visiting Professor at Northwestern Pritzker School of Law and he served as a Bigelow Fellow at the University of Chicago Law School. Before joining the academe, he was a litigator in the San Francisco office of Munger, Tolles & Olson LLP and was a law clerk to the Hon. Michael McConnell of the Tenth Circuit Court of Appeals.



SUMANT BATRA

Founder, Insolvency Law Academy

Sumant Batra is an insolvency lawyer of global eminence with three decades of experience in insolvency and bankruptcy practice. He holds the distinction of being the youngest and the first President of INSOL International from Asia.

Sumant has served on multiple expert committees and working groups constituted by the Government of India and the Insolvency and Bankruptcy Board of India on legislative and regulatory reforms. He has been a senior consultant with the Asian Development Bank, the International Monetary Fund, the Organisation for Economic Co-operation and Development, the World Bank Group, and other developmental institutions.

His book, *Corporate Insolvency—Law & Practice*, is considered the foremost scholarly work on fundamental principles and approaches to the insolvency system.

Sumant is the Founder of Insolvency Law Academy. He is also the Chairman of SIPI, an independent thinktank for the insolvency industry. Sumant is the only Indian to have been conferred the honor of being elected as International Fellow by the American College of Bankruptcy.

CHARLES BOOTH

Michael J. Marks Distinguished Professor in Business Law and Director, Institute of Asian-Pacific Business Law (IAPBL), William S. Richardson School of Law, University of Hawai'i at Manoa



Charles Booth is the Michael J. Marks Distinguished Professor in Business Law and Director, Institute of Asian-Pacific Business Law (IAPBL), William S. Richardson School of Law, University of Hawai'i at Manoa. He is also a Senior Adviser for Parabellum Capital and a Management Consultant for Alliant Insurance Services.

Professor Booth practiced at Cleary Gottlieb Steen & Hamilton in New York, USA. He taught at the Richardson School of Law and at the Faculty of Law at the University of Hong Kong before returning to the Richardson School of Law in 2006.

Professor Booth's primary research interests are comparative and cross-border insolvency and commercial law, with a focus on Hong Kong and China, and the development of insolvency and commercial law infrastructures in Asia. He has recently been focusing on the

Speakers

Charles Booth *(continued)*

development of insolvency regimes for Micro, Small and Medium Enterprises (MSMEs) and Small and Medium-Sized Enterprises (SMEs) in Asia. He has authored/co-authored more than 70 publications (which have been published in 12 jurisdictions,) including: Lawrence Westbrook, Charles Booth, Christoph Paulus, and Harry Rajak (2010; republished in Chinese, 2018), *A Global View of Business Insolvency Systems*; Charles Booth, ELG Tyler, Ludwig Ng, and Terry Kan (4th ed, 2018), *The Hong Kong Corporate Insolvency Manual*; and Charles Booth, Philip Smart, and Stephen Briscoe (2nd ed, 2010; 3rd ed, forthcoming 2022), *The Hong Kong Personal Insolvency Manual*.

Professor Booth has served as a consultant on insolvency and commercial law reform and training projects for the Asian Development Bank, the European Bank for Reconstruction and Development (EBRD), the International Monetary Fund (IMF), the Organization for Economic Co-operation and Development (OECD), and the World Bank. He has contributed to projects in Bhutan, China, Eastern Europe, Greece, Hong Kong, Indonesia, Laos, Mongolia, Russia, Vanuatu, and Vietnam; and in regional and global corporate and personal insolvency and commercial law projects. He recently contributed to the new Lao PDR Law on Rehabilitation and Bankruptcy of Enterprises (which came into operation in June 2020) and co-designed and co-delivered training courses for Lao Insolvency Judges and Insolvency Administrators. His other recent activities include participating in a World Bank out-of-court workout project for Indonesia and an SME project for Mongolia.



ANTHONY CASEY

*Deputy Dean and Donald Ephraim Professor of Law and Economics,
The University of Chicago Law School*

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DAVID CHEW
Partner, DHC Capital



David Chew is a Partner at DHC Capital and has over 25 years of experience in restructuring, turnaround, and special situations. He worked as an advisor with Ernst & Young and Arthur Andersen, and as an investment banker with Morgan Stanley. He also served in senior management positions, such as a Chief Restructuring Officer (CRO), Chief Financial Officer (CFO) and interim CFO, and Board member to distressed companies.

David has worked with and advised private and publicly listed corporates, bank creditors, bond holders, alternative capital providers, and distressed investors across the full range of the restructuring transaction cycle. His work included crisis stabilization, business and strategic reviews, strategic option analysis including planning and implementing in and out of Court solutions, operational restructuring and turnaround, debt restructuring and schemes of arrangement, liquidity management initiatives, distressed mergers and acquisitions (M&A), rescue financing, refinancing, and recapitalizations.

As an investment banker, David was involved in the sourcing, structuring, and execution of high yield, stressed and distressed investment opportunities across Asia Pacific for Morgan Stanley prop books.



JARED A. ELLIAS
Professor of Law, Harvard Law School

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Speakers

KOTARO FUJI

Counsel, Nishimura & Asahi



Kotaro Fuji is a counsel at Nishimura & Asahi. He has handled numerous corporate restructurings under formal insolvency proceedings or out-of-court workouts in Japan. He represented debtors, sponsors, and other key parties in these cases. His recent practice is more focused on the cross-border aspect of insolvency proceedings.

Kotaro played a key role in the civil rehabilitation proceedings of Daiichi Chuo Kisen Kaisha and its subsidiary with over US\$1 billion in debts, which constituted the fifth largest shipping group in Japan and operated over one hundred dry bulk carriers globally. This included obtaining recognition of the civil rehabilitation proceedings in Japan in courts from Australia, Canada, South Africa, South Korea, United Kingdom, and United States of America, while collaborating with other law firms overseas.

Kotaro is a graduate of the Kyoto University Law School (2008, J.D.) and the New York University School of Law (2018, LL.M.). He is admitted to practice in Japan (2009) and in New York (2019). He is a member of the NextGen Leadership Program of the International Insolvency Institute (Class XI).



BROOK GOTBERG

Francis R. Kirkham Professor of Law, Brigham Young University

Brook Gotberg joined the faculty of Brigham Young University (BYU) in 2020. She has since been named the 2022 recipient of the Francis R. Kirkham Professorship, which honors exceptional achievements in scholarship, teaching, or citizenship. Her scholarship focuses primarily on debtor and creditor relations, both in and out of bankruptcy. Her teaching interests include bankruptcy, contracts, secured transactions, securities regulation, and other commercial law subjects. She has been praised for her creativity and willingness to challenge conventional thinking in both her research and her teaching. Recently, she has presented on bankruptcy venue reform; avoidance actions; and the relationship between small businesses, the SBRA, and COVID-19.

Brook Gotberg *(continued)*

Prior to joining the BYU faculty, she was an associate professor at the University of Missouri School of Law. Professor Gotberg's experience with commercial law stems from her time with Sullivan & Cromwell in Los Angeles, where she represented both debtors and creditors in a variety of cases from large antitrust suits to minor contract disputes. She also clerked for Judge Milan D. Smith, Jr. on the Ninth Circuit Court of Appeals, and for Judge Thomas B. Donovan in the bankruptcy court for the Central District of California.

Professor Gotberg was named one of American Bankruptcy Institute's Top 40 under 40 bankruptcy professionals in 2019. Her engagement with many of today's most poignant questions continues to reflect a uniquely powerful perspective that moves the field of bankruptcy law forward in invaluable ways.

AURELIO GURREA-MARTÍNEZ

*Assistant Professor of Law and Head, Singapore Global Restructuring Initiative,
Singapore Management University*



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**JASON HARRIS**

Professor of Corporate Law, University of Sydney Law School

Jason Harris is a Professor of Corporate Law at the University of Sydney Law School, where he teaches and researches in the areas of Corporate Law and Insolvency. His research is focused on the public and private regulation of financially distressed companies, including debt restructuring, voluntary administration, corporate governance and directors' duties during financial distress, and the regulation of corporate groups. He has published widely in these areas with 13 books and over 90 papers in scholarly and professional journals, which are frequently cited in Australian courts, including in the High Court of Australia.

Speakers

Jason Harris *(continued)*

Jason is an active participant in law reform initiatives through his policy work with the Australian Institute of Company Directors, the Governance Institute of Australia, and both the Corporations Committee and the Insolvency & Restructuring Committee of the Law Council of Australia.

Jason previously held academic positions at the Australian National University (ANU), University of New South Wales (UNSW), and the University of Technology Sydney (UTS). He likewise held visiting teaching positions in Canada, England, and the United States of America. Jason is a Fellow of the Australian Academy of Law and of the Governance Institute of Australia.

EDITH HOTCHKISS

Professor of Finance, Carroll School of Management, Boston College



Edith Hotchkiss is a Professor of Finance at the Carroll School of Management at Boston College. Her research focuses on various aspects of the United States corporate debt markets, and particularly on the efficiency of the Chapter 11 process.

In addition to publications in peer-reviewed academic journals, Dr. Hotchkiss has authored several book chapters on the bankruptcy process, and co-authored: Edith Hotchkiss, Edward Altman, and Wei Wang. 2019. “Corporate Financial Distress, Restructuring and Bankruptcy.” New Jersey: John Wiley & Sons Inc.

Dr. Hotchkiss has served as an expert for creditor committees of several large Chapter 11 cases, on the national board of the Turnaround Management Association, and as an independent advisor to the Financial Industry Regulatory Authority (FINRA) on issues related to corporate bond market trading and transparency.

Dr. Hotchkiss received her Ph.D. in Finance from the Stern School of Business at New York University and her B.A. from Dartmouth College. Prior to entering the academe, she worked in consulting and for the Financial Institutions Group of Standard & Poor’s Corporation.



EDMUND MA

Senior Associate, Baker McKenzie

Edmund Ma is a senior associate in Baker McKenzie's Hong Kong office and a member of the Firm's Dispute Resolution Practice Group.

Edmund has over 10 years of solid experience handling high-profile restructuring and insolvency cases, including the liquidation of Lehman Brothers, and drafting submissions of a key industry body to the Hong Kong Government on its legislative proposals regarding corporate rescue and insolvency law.

His practice focuses on representing corporate clients, financial institutions, and insolvency practitioners in a wide range of restructuring and insolvency matters, ranging from corporate restructuring, compulsory and voluntary liquidations, to commercial disputes and shareholders' rights and remedies.

Prior to joining Baker McKenzie, Edmund was a senior government counsel at the Department of Justice in Hong Kong responsible for policy matters relating to corporate insolvency law. In his posting to the Secretariat of the Law Reform Commission, he served as the secretary to its Sub-committee on Cybercrime. Before entering the public sector, he was an insolvency litigator at an international law firm.

Edmund serves on the Insolvency Law Committee of the Law Society of Hong Kong.

JOSHUA C. MACEY

Assistant Professor of Law, The University of Chicago Law School



Josh Macey specializes in environmental law, energy law, bankruptcy, and the regulation of financial institutions. His work has been featured in the Wall Street Journal and Bloomberg's Money Stuff, and has appeared or is forthcoming in *Joule*, the *Stanford Law Review*, the *Penn Law Review*, the *Yale Law Journal*, the *Michigan Law Review*, the *Harvard Law Review*, the *Vanderbilt Law Review*, the *Texas Law Review*, and the *Yale Journal on Regulation*. He has twice won the Morrison Prize for most influential environmental law article of the previous year (Joshua C. Macey (2020), *Zombie Energy Laws*, 73 (4) *Vanderbilt Law Review* 1077; and

Speakers

Joshua C. Macey *(continued)*

Matthew R. Christiansen & Joshua C. Macey (2021), *Long Live the Federal Power Act's Bright Line*, 134 Harvard Law Review 1361).

Professor Macey graduated from Yale College, the London School of Economics, and Yale Law School. He has worked at Morgan Stanley and clerked for Judge J. Harvie Wilkinson III on the Court of Appeals for the Fourth Circuit.



JOHN MARTIN

*Partner, Norton Rose Fulbright Australia and
President, International Insolvency Institute*

John Martin is one of Australia's leading insolvency and restructuring law experts based in Sydney, with a particular specialty in cross-border insolvency.

John's cross-border experience has included assisting clients with issues in England, US, Fiji, Bermuda, Cambodia, Cayman Islands, Brunei, Myanmar and Norfolk Island.

In June 2016, John was appointed to the Board of the prestigious International Insolvency Institute, and he currently also serves as President. John's appointment is recognition of his commitment to the Institute and his standing in the profession, both within Australia and overseas.

In July 2017, John presented a paper (jointly authored with Professor Ros Mason) to the United Nations' 50th Anniversary UNCITRAL Congress in Vienna, titled "*Conflict and Consistency in Cross-Border Insolvency Judgments*".

Together with restructuring partner Scott Atkins, John is drafting new insolvency laws for the Republic of Myanmar, and has twice presented to members of the Parliament's Upper House.

In the field of cross-border insolvency, John has been directly involved in three of the seminal international cases:

- ◆ In 2008, he advised the successful appellants in the House of Lords in *Re HIH*, in which Lord Hoffmann identified the "*golden thread of universalism*" as having been the foundation for cross-border insolvency law.
- ◆ In 2012, he advised the successful Australian liquidator of New Cap Re in the Grant proceedings determined jointly with *Rubin v Eurofinance*, in which a majority of the UK Supreme Court retreated from Lord Hoffmann's embrace of universalism.

John Martin *(continued)*

- ◆ He was also part of the Australian legal team acting for Perpetual Trustees in the so called “*flip clause*” litigation in the US and the UK arising out of the Lehman bankruptcy.

Source: <https://www.nortonrosefulbright.com/en/people/132081> (last accessed 2 December 2022)

ANDRES F. MARTINEZ

*Senior Financial Sector Specialist,
Finance, Competitiveness and Innovation Global Practice, World Bank*



Andres F. Martinez is a Senior Financial Sector Specialist of the World Bank Group’s Finance, Competitiveness and Innovation Global Practice. Prior to this, Andres worked as senior associate at a top Argentine law firm in Buenos Aires, where he advised clients regarding secured transactions, debt enforcement, restructurings, and liquidations.

Source: <https://www.worldbank.org/en/about/people/a/andres-f-martinez> (last accessed 23 November 2022).



ELIZABETH McCOLM

Partner, Paul, Weiss, Rifkind, Wharton & Garrison LLP

A partner in the Restructuring Department, Elizabeth McColm specializes in the areas of corporate restructurings and bankruptcy. She has been involved in major restructurings and bankruptcies, representing debtors, creditors, and acquirers of assets. Elizabeth’s recent creditor matters include advising key stakeholders in the restructurings of Armstrong Energy, California Resources Corporation, Country Fresh, Dean Foods, Denbury Resources, FULLBEAUTY Brands, GenOn, Pacific Drilling, Seadrill, SquareTwo Financial, and Ultra Petroleum. Her noteworthy company-side representations include David’s Bridal, McGraw Hill, Noranda, Pioneer Energy Services Corp., and The Bon-Ton Stores. Elizabeth also has extensive experience advising clients in cross-border matters, including in the restructurings of Lumileds, Oro Negro, Petra Diamonds, Virgin Australia Airlines, and many others.

Speakers

Elizabeth McColm *(continued)*

Elizabeth is widely recognized as a leading restructuring practitioner, including by *Chambers USA*, *International Financial Law Review's (IFLR) IFLR1000*, and *Who's Who Legal*. According to Chambers research, clients recognize that “she is very detail-oriented, hard-working and intelligent.” She is listed as a “Leading Lawyer” by *The Legal 500*, in which clients note that Elizabeth “has strong expertise in her field” and “has an art for handling difficult personalities to reach consensus.” She is likewise named in *Lawdragon's* “500 Leading US Bankruptcy & Restructuring Lawyers.” Elizabeth’s representations have been recognized by numerous industry publications. In 2022 and 2021 respectively, she was awarded IFLR’s Asia-Pacific “Restructuring Deal of the Year” for her role in the restructuring of Boart Longyear, the sale of Virgin Australia to Bain Capital, and related U.S. chapter 15 cases. The *M&A Advisor* selected the restructuring of Pacific Drilling as the 2019 “Energy Deal of the Year” and The Bon-Ton Stores as the 2018 “Consumer Discretionary Deal of the Year (Over \$100 MM). The *Financial Times* has “highly commended” Elizabeth in its annual report on “U.S. Innovative Lawyers” for her work representing certain CEVA Group lenders in the company’s restructuring.

Elizabeth co-authors with fellow Paul, Weiss partner, Alan Kornberg, an annual chapter in the *International Comparative Legal Guide (ICLG) To Corporate Recovery and Insolvency*. Elizabeth also co-authors, alongside partner Brian Bolin, the annual “Investment Fund Activity in Chapter 11” chapter in *America’s Restructuring Review*. Elizabeth speaks frequently at industry events, including the Annual Wharton Restructuring and Distressed Investing Conference, as well as various seminars hosted by American Bankruptcy Institute, such as the International Insolvency & Restructuring Symposium and the Complex Financial Restructuring Program.

ANTONIA MENEZES

*Senior Financial Sector Specialist, Insolvency & Debt Resolution Team,
World Bank*



Antonia Menezes is a Senior Financial Sector Specialist of the World Bank’s Insolvency & Debt Resolution Team.

She holds an LLM from McGill University, an LPC from the Oxford Institute of Legal Practice, and an LLB from the London School of Economics & Political Science. Ms. Menezes is a Member of the International Insolvency Institute, a 2014 INSOL International Fellow, and sits on the INSOL Fellow’s Cross-Border Insolvency Committee.

Source: <https://www.worldbank.org/en/about/people/a/antonia-menezes> (last accessed 23 November 2022).



RAVI MITAL

Chairperson, Insolvency and Bankruptcy Board of India

Mr. Ravi Mital is the Chairperson of the Insolvency and Bankruptcy Board of India (IBBI), which was created under the Insolvency and Bankruptcy Code in 2016 (the “Code”). IBBI has the mandate to review the progress made under the Code and suggest measures to (i) improve and streamline various processes, and (ii) enhance the role of service providers and other stakeholders of the insolvency ecosystem.

Mr. Mital has over 35 years of experience working in policymaking and implementation as an officer of the Indian Administrative Service (IAS).

Mr. Mital has worked in various ministries of the Central and State Governments of India, specifically in the area of finance, banking, and taxation, among others. He also served on the boards of several organizations including the General Insurance Corporation of India (GIC Re), Punjab National Bank, and the State Bank of India.



DAN T. MOSS

Partner, Jones Day

Dan T. Moss is a Partner at Jones Day, a multinational law firm.

Dan has significant experience in the United States of America and cross-border business finance and restructuring, with a particular focus on complex corporate reorganizations and distressed acquisitions. He has represented buyers, debtors, creditors, and creditor committees in significant corporate and government reorganizations. In particular, Dan was co-lead counsel for the Official Committee of Unsecured Creditors in Toys “R” Us Property Company 1 and Peabody Energy. He has played a significant role in the City of Detroit’s historic chapter 9 case.

Dan has counseled clients on avoidance litigation, fiduciary duty, and corporate governance issues. He is an active leader of INSOL International and writes frequently about cross-border matters.

Speakers



DEBANSHU MUKHERJEE

Co-Founder, Vidhi Centre for Legal Policy, India

Debanshu Mukherjee is one of the co-founders of the Vidhi Centre for Legal Policy, a New Delhi-based independent thinktank that advises the Indian government on law reform projects. He led the Vidhi team that advised the government on designing and drafting India's newly enacted Bankruptcy Code and its subsequent implementation.

Debanshu also worked with a government-appointed committee to develop legislation to resolve failing banks and financial institutions. He also deposed before two Parliamentary committees examining financial sector legislation.

He is an alumnus of Harvard Law School, Hidayatullah National Law University, and the University of Oxford. He attended Harvard as a Fulbright Scholar, where he was awarded the Irving Oberman Memorial Prize in Bankruptcy for a paper on the political economy of bankruptcy reforms in India. He has been quoted in global business papers, such as the Financial Times and The Economist, in connection with legal and policy developments in India. Before co-founding Vidhi, Debanshu practiced as a mergers and acquisition (M&A) and regulatory lawyer with AZB & Partners, a top-tier law firm in India.



RAELENE PEREIRA

Partner, Rajah & Tann Singapore LLP

Raelene Pereira is a Partner with the Restructuring & Insolvency Practice at Rajah & Tann Singapore LLP.

Raelene's areas of practice include commercial and corporate litigation, with an emphasis on banking and financing disputes, and personal and corporate insolvency. She regularly represents a number of financial institutions, banks, and accounting firms in Singapore. Raelene has advised on the restructuring of debts of distressed companies, including the review of restructuring agreements and security documentation. Some of her landmark cases include Hin Leong Trading (Pte.) Ltd., Samtrade group, Hyflux, TT International Limited, and H&C S Holdings Pte. Ltd. She has also advised on the areas of private equity and trusts, succession planning, and other private client issues.

Raelene Pereira *(continued)*

Raelene has recently been identified as one of the world's current rising stars in restructuring and insolvency, aged under 40, by Global Restructuring Review (GRR) 2022. She is also recommended by Best Lawyers 2023 in the area of Restructuring & Insolvency.



DEEPAK RAO

General Manager, Insolvency and Bankruptcy Board of India

Deepak Rao is a General Manager at the Insolvency and Bankruptcy Board of India (IBBI), where he performs duties in relation to valuation and research.

Mr. Rao is also a member of, and belongs to, the 2008 Batch of the Indian Economic Service (IES), which was constituted to undertake economic analysis, design and formulate development policies, and evaluate public programs of the Government of India.

Before joining IBBI in February 2022, Mr. Rao was posted as Joint Development Commissioner in the Ministry of Micro, Small and Medium Enterprises (MSME). During his tenure of nearly four years in the Ministry of MSME, he had a very diverse portfolio which included MSME policy, credit schemes for MSME, and marketing support schemes. He also handled human resources issues of MSME field organizations, as well as the budget of the Ministry of MSME.

Further, during his 14-year career as a Civil Servant in the Central Government of India, Mr. Rao worked in the Department of Consumer Affairs, the Ministry of Finance, and the Ministry of Commerce & Industry.

ADRIANA ROBERTSON

*Donald N. Pritzker Professor of Business Law,
The University of Chicago Law School*



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CATHERINE ROBINSON

Senior Lecturer, Faculty of Law, University of Technology Sydney Australia

Catherine Robinson is a Senior Lecturer at the Faculty of Law, University of Technology Sydney Australia, where she teaches Company Law to postgraduate law students and undergraduate business students.

Catherine is approaching the final year of her PhD at the University of Adelaide where she has been examining the extent to which the Insolvency Law Reform Act 2016 has been effective in achieving its legal and policy objectives in regulating insolvency practitioners in its first five years of operation. She has authored various peer-reviewed articles on this topic.



DR. NEETI SHIKHA

Lecturer, University of Bradford School of Law, United Kingdom

Dr. Neeti Shikha is a lecturer at the University of Bradford School of Law in the United Kingdom. She holds over a decade of teaching and research experience in insolvency law, corporate law, and governance. She was previously an Associate Dean of the Indian School of Public Policy in New Delhi.

In 2019, Dr. Shikha was appointed as Founding Head of the Centre for Insolvency and Bankruptcy, Indian Institute of Corporate Affairs. The Centre was established by the Government of India to help build a robust insolvency framework, following the enactment of India's Insolvency and Bankruptcy Code in 2016. As Founding Head of the Centre, Neeti ran the Graduate Insolvency Programme, which aims to create a young cadre of insolvency professionals. She has carried out two funded research projects: (i) "Regulatory Framework for Resolution of Financial Service Providers," funded by the Ministry of Corporate Affairs of the Government of India; and (ii) "Assessment of Corporate Insolvency Resolution Process Timeline," funded by the Insolvency and Bankruptcy Board of India. She has given several policy inputs to the Ministry of Corporate Affairs, and continues to take part in industry delegations working on topical issues involving Indian insolvency laws.

Dr. Shikha serves as a member of the INSOL Academic Steering Committee. She also serves on the board of advisors of India's leading thinktank, the Centre for Civil Society, New Delhi. Likewise, she is on the board of editors of the International Insolvency Review.

Dr. Neeti Shikha *(continued)*

Dr. Shikha contributes regularly to leading newspapers in India, including Bloomberg Quint, Financial Express, and Mint. She has also given guest talks at various universities around the world, including the Nanyang Technology University (Singapore), the National University Singapore, and the University of Indonesia.

Dr. Shikha has participated in several conferences and has published widely. She has three books to her credit and has published several research papers in leading national and international journals.



DEEPTANSHU SINGH

Manager, Insolvency and Bankruptcy Board of India

Mr. Deeptanshu Singh works as a manager in the Insolvency and Bankruptcy Board of India, which is the apex regulator of insolvency in the country. He joined the organization at the age of 25 and has since then been involved in matters relating to valuation activities and legal affairs.

Mr. Singh obtained his law degree from Dr. Ram Manohar Lohia National Law University, Lucknow, Uttar Pradesh. He has been associated with several government projects, including the committee to frame the regulatory structure for valuation in India.

Mr. Singh has extensive experience in relation to India's new insolvency regime, following the promulgation of the Insolvency and Bankruptcy Code in 2016.

HON. JUSTICE CHRISTOPHER S. SONTCHI

International Judge, Singapore International Commercial Court



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Speakers



RICHARD SQUIRE

Alpin J. Cameron Chair in Law, Fordham University School of Law

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FELIX STEFFEK

Associate Professor, Faculty of Law of the University of Cambridge

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YU-WEN TAN

*Director, Corporate Insolvency Division,
Insolvency and Public Trustee's Office, Singapore*

TAN Yu-Wen is a Director of the Corporate Insolvency Division under the Insolvency and Public Trustee's Office of Singapore. Since 2017, Yu-Wen has been involved in various aspects of the Corporate Insolvency Division's work.

Before this, Yu-Wen was a Deputy Director in the Public Trustee's Office, overseeing its daily operations. She was formerly a Senior Assistant Director (Policy) at the Ministry of Law, Headquarters.

Yu-Wen holds a Bachelor's Degree in Accountancy (2nd Upper) from the Nanyang Technological University and a Master's Degree in Accounting and Finance (Distinction) from the London School of Economics.

WATARU TANAKA*Professor, Institute of Social Science, The University of Tokyo*

Wataru Tanaka is a Professor at the Institute of Social Science (ISS), The University of Tokyo. He received his L.L.B. and PhD. (Law) from The University of Tokyo.

Before joining the faculty of ISS in 2007, Professor Tanaka was an Associate Professor of Law at Seikei University. In 2010, he also taught Japanese corporate law and governance at the University of Chicago Law School as Visiting Associate Professor.

Professor Tanaka publishes extensively in the field of corporate law, insolvency law, and commercial law. His main works include: (i) *Corporate Law* (in Japanese). 2021. 3rd ed. The University of Tokyo Press; (ii) “Cramdown versus Extinguishing Security Interests: Secured Claims in Bankruptcy in the United States and Japan” in *Enterprise Law: Contacts, Markets, and Laws in the US and Japan* (Edited by Zenichi Shishido). 2014. Cheltenham: Edward Elgar Publishing. pp. 150-160; and (iii) “Extinguishing Security Interests: Secured Claims in Japanese Business Reorganization Law and Some Policy Implications for U.S. Law” in *Emory Bankruptcy Developments Journal*. 2006. Vol. 22, No. 2. p. 427 *et seq.*

**URMIKA TRIPATHI***Legal Analyst for Asia, REDD Intelligence*

Urmika Tripathi is a Legal Analyst for Asia at REDD Intelligence. Her work involves analyzing key legal and regulatory developments in the restructuring and distressed space in Asian emerging markets such as China, India, and Indonesia. Her role entails a special focus on analyzing cross-border insolvency related issues in restructuring of high-yield distressed debt issuers in these markets.

As a part of her engagement with REDD Intelligence, Urmika has prepared a series of issue-based analytical reports on complex legal issues affecting restructuring processes in Asian emerging markets. This includes preparing reports on critical regulatory and policy developments, comparing insolvency regimes of Asian emerging markets, and analyzing changes in law in the cross-border insolvency space and its impact on domestic and offshore

Speakers

Urmika Tripathi *(continued)*

market participants. Her work also involves analyzing regulatory and legal developments in the sustainable or environmental-, social-, and governance (ESG)-focused financing space.

Prior to joining REDD Intelligence, Urmika was a restructuring and insolvency lawyer at AZB & Partners in Mumbai. She has extensive experience in advising insolvency professionals, creditors, and debtors on transactional and regulatory matters. She completed her LLB from NALSAR University of Law, Hyderabad in 2016.

MAHESH UTTAMCHANDANI

*Manager for Digital Development in East Asia and the Pacific (EAP),
World Bank*



Mahesh Uttamchandani is the World Bank's Manager for Digital Development in East Asia and the Pacific (EAP). In this capacity, he oversees the World Bank's lending, advisory, and knowledge programs in the area of digital development in all EAP countries.

Mr. Uttamchandani, a Canadian national, joined the World Bank in April 2006 as Senior Counsel in the Legal Department. He has since held various positions in both the World Bank and the International Finance Corporation. He previously served as the global manager for financial inclusion and infrastructure, where he led the World Bank's work on insolvency, expanding access to finance through digital financial services, and the financial sector aspects of digital ID and digital payments.

Prior to joining the World Bank, Mr. Uttamchandani worked at the European Bank for Reconstitution and Development (EBRD) in London, United Kingdom. He was also a commercial litigator at a leading law firm.

Mr. Uttamchandani has taught and lectured at universities around the world and has published extensively, including as an author in the World Bank's flagship World Development Report, 2022. He is a board member of the insolvency journal, International Corporate Rescue, and an Executive Board member of INSOL International.



WAI YEE WAN

Associate Dean (Research and Internationalisation) and Professor, School of Law, City University of Hong Kong

Wai Yee WAN is Associate Dean (Research and Internationalisation) and Professor at the School of Law, City University of Hong Kong. Her main areas of research are in corporate law, mergers and acquisitions, securities regulation, financial consumer regulation, global restructuring, and insolvency.

Professor WAN's publications have appeared in books and in international peer-reviewed legal journals, including the American Journal of Comparative Law, Journal of Empirical Legal Studies, European Business Organisations Law Review, Journal of Corporate Law Studies, Journal of Business Law, Company and Securities Law Journal, and Lloyd's Maritime and Commercial Law Quarterly. She recently published a monograph, *Court-Supervised Restructurings of Large Distressed Companies in Asia: Law and Policy* (Hart Publishing 2022).

In 2021, Professor WAN successfully obtained the Hong Kong Collaborative Research Fund award of HKD3.11 million for the project "Hong Kong Insolvency and Restructuring Law and Policy in Times of COVID-19 and Beyond" (as Project Coordinator). She is currently the Co-Chair of the Insolvency Scholars Forum established under the umbrella of the Insolvency Law Academy (India).



STEPHANIE YEO

Partner, WongPartnership

Stephanie Yeo's main area of practice is restructuring and insolvency with a focus on formal and out-of-court cross-border restructurings.

She was recently ranked in the Global Restructuring Review's 40 under 40 list (2022), which highlights the next generation of accomplished cross-border restructuring and insolvency specialists around the world and is part of the International Insolvency Institute's NextGen Leadership Program (2021). This program recognizes the most prominent young lawyers, insolvency professionals, and academics in the world.

Speakers

Stephanie Yeo *(continued)*

Stephanie's expertise has been recognized in The Legal 500: Asia Pacific, International Financial Law Review (IFLR) Rising Stars Awards Asia-Pacific 2022, and Chambers Asia-Pacific. She has been described as a "lawyer who is skilled beyond her years" and one who is "able to balance complexities and sensitivities of the many parties involved in a restructuring matter." Likewise, Stephanie's ability to "to package issues and solutions in easy-to-understand ways" has been praised as "a remarkable skill and one that others aspire to have."

Significant matters which she has handled include acting as one of the lead partners in the US\$3.3 billion successful restructuring of Pacific International Lines, acting for the ad hoc committee of bondholders in the restructuring of Noble Group Limited, and acting as lead counsel for the bankruptcy trustee in *Re Opti Medix (in liquidation) and another matter* [2016] SGHC 108.



PAUL H. ZUMBRO

Partner, Cravath, Swaine & Moore LLP

Paul H. Zumbro is Head of the Financial Restructuring & Reorganization (FR&R) Practice of Cravath, Swaine & Moore LLP (Cravath). His practice focuses on restructuring transactions and related financings, both in and out of court, as well as bankruptcy mergers and acquisitions (M&A) transactions.

Mr. Zumbro recently represented Pacific Gas and Electric Company (PG&E)—in one of the largest and most complex bankruptcy cases in U.S. history—to fairly and efficiently resolve liabilities resulting from the 2017 and 2018 Northern California wildfires. He also represented The Weinstein Company (TWC) in its voluntary petition for chapter 11 bankruptcy. Cravath served as lead counsel in the global settlement of potential claims against TWC and potential claims against various parties related to Harvey Weinstein's misconduct. The settlement received overwhelming support from TWC's creditors and is incorporated in TWC's bankruptcy plan, which established a multi-million dollar fund from which survivors of Harvey Weinstein's sexual misconduct may receive compensation.

Mr. Zumbro received a B.A. *cum laude* and with Distinction in the Major from Yale College in 1992 and a J.D. from Columbia Law School in 1997, where he was a Harlan Fiske Stone Scholar.

Mr. Zumbro joined Cravath in 1997 and was elected a partner in 2004.



Pathumwan District in Bangkok, Thailand (photo by Lester V. Ledesma/ADB).



The Chicago Federal Reserve Bank Building (photo by Joshua Woroniecki on Unsplash).



CONFERENCE ORGANIZERS AND SECRETARIAT

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Asian Development Bank



NICHOLAS MOLLER

Principal Counsel, Asian Development Bank (ADB)

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MARIA CECILIA T. SICANGCO

Senior Legal Officer, ADB

Maria Cecilia T. Sicangco is currently a senior legal officer at the Asian Development Bank (ADB). She is involved in the design, processing, and implementation of the Law and Policy Reform Program portfolio, which covers key areas such as environment and climate change law, international arbitration, gender-based violence and access to justice, commercial law and private sector development, digital economy, and Islamic finance.

Cecille works with development partners across Asia and the Pacific to promote the rule of law and establish an enabling environment for sustainable development. She has in-country experience in Afghanistan, Bhutan, Cambodia, Fiji, India, Myanmar, Pakistan, the Philippines, and Samoa. Her work has been published in the *Yearbook of International Environmental Law* (Oxford University Press) and the *Human Rights Education in Asia-Pacific Journal*. She authored the *International Climate Change Legal Frameworks* volume of the *Climate Change, Coming Soon to a Court Near You* report series. She also co-authored the *National Climate Change Legal Frameworks* volume, which synthesized the climate legal and policy frameworks of 32 countries in the region and analyzed key legislative trends and climate-relevant constitutional rights. Under ADB's *Legal Literacy for Women Technical Assistance*, Cecille put together knowledge resources for judges and prosecutors handling gender-based violence cases in Pakistan and Afghanistan. She contributed to and was the secondary editor of the *Court Companion on Gender-Based Violence Cases*, which guides justice sector stakeholders in making justice more accessible to gender-based violence victims.

Cecille holds a Bachelor of Applied Economics and Accountancy double degree (*cum laude*) from De La Salle University and a Bachelor of Laws degree (*cum laude, salutatorian*) from

Maria Cecilia T. Sicangco *(continued)*

the University of the Philippines. She pursued a Master of Laws in International Legal Studies degree at New York University, where she was the Starr Foundation Global Scholar, Hauser Scholar, and Thomas M. Franck Scholar in International Law. She holds a Certificate in Sustainable Finance from the University of Cambridge Institute for Sustainability Leadership, and is working towards an Associate Qualification in Islamic Finance at the Islamic Banking and Finance Institute Malaysia.

Cecille is a Philippine- and US-qualified lawyer (admitted to the bar in the State of New York), and a certified public accountant. She is a member of the World Commission on Environmental Law.



RYAH ZENDRA MILLARE SANVICENTE

Legal Operations Administrator, ADB

Ms. Ryah Millare Sanvicente has been a staff member of the Asian Development Bank since 2005. She worked with the Office of the General Counsel (OGC) as a Legal Operations Assistant from 2005–2009, and moved to the South Asia Department from 2009–2015 as a Senior Operations Assistant. In 2015, she returned to OGC as the Executive Assistant to the General Counsel. In 2019, she joined the Law and Policy Reform Team of OGC as the Legal Operations Administrator.

She graduated from the University of Sto. Tomas with a Bachelor's Degree in Communications Arts in 2000.

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GLADYS CABANILLA-SANGALANG

Senior Legal Operations Assistant, ADB



Ms. Gladys Cabanilla-Sangalang has over 20 years of operations and administrative support experience. Before joining ADB, she worked as a paralegal in a full-service law firm that advises clients in the Banking and Finance, Corporate and Commercial, Dispute Resolution, Employment, Immigration, Intellectual Property, and Tax practice areas. Subsequently she became the Executive Administrator to the Global Chief Operating Officer of a multinational law firm and later a Global Talent Management Specialist, overseeing the performance management tool of the Firm and managing the election of local partnership to international partnership.

She also worked as an Office Administrator and Purchasing Associate in a subsidiary of the largest media conglomerate in the Philippines that brought the first indoor family educational entertainment center to the Bonifacio Global City, Taguig.

She is currently a senior legal operations assistant in the Office of the General Counsel in ADB, supporting the Law and Policy Reform Program, the operations of ADB's Pacific and South Asia regional departments and private sector legal group.

She graduated from the University of the Philippines with a Bachelor of Arts degree in Political Science (with minor in Economics and Psychology) and earned her Certificate as a Paralegal from the University of the Philippines Law Center. She also holds a diploma on Events Specialist that she earned from the School of Professional and Continuing Education of the De La Salle-College of Saint Benilde.



FLORENZ JESSICA A. BUEN

Senior Legal Operations Assistant, ADB

Florenz Jessica A. Buen has been with the Asian Development Bank since 2015. She was with the Budget, People, and Management Systems Department before working in the Office of the General Counsel. She currently supports the Law and Policy Reform Program, the operations of ADB's Central and West Asia and Southeast Asia regional departments, and the private sector legal group.

She holds a Political Science degree from the University of the Philippines and a Master's in Business Administration from the Ateneo de Manila University.

JENNIFER BAUI

*Technical Assistance Coordinator (Consultant),
Law and Policy Development for Private Sector and Public-Private
Partnerships Technical Assistance, ADB*



Jennifer Baui started working at the Asian Development Bank as a service provider in 1999, then transitioned to consultancies in 2003. She is currently the Technical Assistance Coordinator (Consultant) for the *Law and Policy Development for Private Sector and Public-Private Partnerships Technical Assistance* under the Office of the General Counsel's Law and Policy Reform Program.

She previously held consultancy assignments in ADB's Budget, Personnel, and Management Systems Department (BPMSD); Strategy, Policy, and Partnerships Department (SPD); Office of Regional Economic Integration (OREI); and Sustainable Development and Climate Change Department (SDCC).

Jenny has performed a wide-array of administrative duties. She brings experience, maturity, and a unique ability to combine strategic thinking with operational work.



KRISTINA P. CASTAÑEDA

*Knowledge Management Specialist (Resource Person),
Law and Policy Development for Private Sector and Public-Private
Partnerships Technical Assistance, ADB*

Kristina P. Castañeda is a resource person for the *Law and Policy Development for Private Sector and Public-Private Partnerships Technical Assistance*, under the Law and Policy Reform Program of the Asian Development Bank.

Kristina is the General Counsel of a leading integrated aquaculture company in the Philippines. She exercises general supervision over legal issues surrounding the company's various activities, which range from manufacturing, intensive aquaculture, seafood processing, and retail. Her practice includes general corporate law, litigation, labor law, intellectual property, and property acquisition.

Aside from her role as General Counsel, Kristina serves as Corporate Secretary and Legal Counsel of other corporations engaged in agriculture, retail, restaurant operations, and construction.

Kristina holds a Management Economics degree from Ateneo de Manila University and a Bachelor of Laws degree from the University of the Philippines.

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ROXANNE INGRID T. ALCALA

*Senior Events and Communications Officer (Resource Person);
Law and Policy Development for Private Sector and Public-Private
Partnerships Technical Assistance, ADB*



Roxanne Alcala is a resource person for the *Law and Policy Development for Private Sector and Public-Private Partnerships Technical Assistance* of the Asian Development Bank. For almost 6 years, she worked in well-known stores in the Philippines as supervisor and manager, overseeing operations to achieve corporate targets. She has also worked at the Asian Development Bank as a project assistant on a short-term, intermittent basis, including a current stint with the *Islamic Finance Technical Assistance* as a Senior Events and Communications Officer (resource person). Ms. Alcala holds a Bachelor's degree in Hospitality Management (Major in Hotel, Restaurant and Resort Management) from San Sebastian College-Recoletos in Manila, the Philippines.

INSOL International



CLARE WEE

Regional Head for Asia, INSOL International

Clare Wee is INSOL International's Regional Head for Asia, an Advisory Board member of the Singapore Global Restructuring Initiative (2020 to present), and consultant for the ASEAN Monetary Research Office (AMRO-Asia), an international organization headquartered in Singapore.

Prior to joining INSOL in 2019, Clare was the former Head of the Office of Anticorruption and Integrity (OAI) at the Asian Development Bank (ADB) (2007–2018). Under her leadership, OAI advocated and provided technical assistance for the advancement of stronger governance, anticorruption, anti-money laundering, tax transparency, and anti-tax avoidance laws and systems across Asia. Clare began her career at ADB in the Office of the General Counsel (1995–2007) rising through the ranks to Assistant General Counsel. During that time, she led ADB's development work on insolvency law. She represented ADB on the United Nations Commission on International Trade's (UNCITRAL) Working Group V (Insolvency) on the development of the Legislative Guide on Insolvency Law, and on World Bank's Advisory Panel for Insolvency Systems. She will now

Clare Wee *(continued)*

represent INSOL on Working Group V (Insolvency) addressing civil asset tracing in insolvency proceedings (61st session, Vienna 2022 onwards). She initiated and was responsible for producing ADB's studies of the insolvency laws in 11 Asian jurisdictions; and advocated for national and cross-border insolvency law reform across Asia.

Prior to ADB, Clare was a Bankruptcy and Litigation Associate with Whitman Breed Abbott & Morgan in New York. Memorable cases include being a part of the team that successfully restructured Rocky Mountain Helicopters Inc., obtained multimillion dollar awards for AMC Jeep burn victims in the LTV Steel restructuring, and pursuing director's liability suits in the collapse of SW Banking Corporation.

SHEENA HENG

Intern, INSOL International



Sheena Heng is an intern with INSOL International's Asia Hub. With a keen interest in restructuring and insolvency work, she is also currently a research assistant with the Singapore Global Restructuring Initiative, Singapore Management University.

Ms. Heng supports the Conference in her dual role as INSOL intern and SMU Research Assistant.

Singapore Global Restructuring Initiative, Singapore Management University



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Conference Organizers and Secretariat

SHEENA HENG

Intern, INSOL International



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Ms. Heng supports the Conference in her dual role as INSOL intern and SMU Research Assistant.

University of Cambridge's Center for Corporate and Commercial Law



FELIX STEFFEK

Associate Professor, Faculty of Law of the University of Cambridge

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University of Chicago Law School's Center on Law and Finance



ANTHONY CASEY

Deputy Dean and Donald Ephraim Professor of Law and Economics, The University of Chicago Law School

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LIBBY SEGUIN

*Academic Legal Center Manager, Center on Law and Finance and
the Constitutional Law Institute, University of Chicago Law School*



Libby Seguin is the Academic Legal Center Manager for the Center on Law and Finance at the University of Chicago Law School. She manages the Center's events, communications, and administrative duties.



Talimarjan Power Project in Uzbekistan (photo by Relisa Ganovskaya/ADB).



CONFERENCE RAPPORTEURS

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Conference Rapporteurs



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Senior Legal Officer, ADB

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The Dahej Liquefied Natural Gas Terminal Expansion in Gujarat, India (photo by Ian Taylor/ADB).

About the Asian Development Bank

ADB is committed to achieving a prosperous, inclusive, resilient, and sustainable Asia and the Pacific, while sustaining its efforts to eradicate extreme poverty. Established in 1966, it is owned by 68 members —49 from the region. Its main instruments for helping its developing member countries are policy dialogue, loans, equity investments, guarantees, grants, and technical assistance.



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