

INSOL WORLD

THE QUARTERLY JOURNAL OF INSOL INTERNATIONAL Q4 2025

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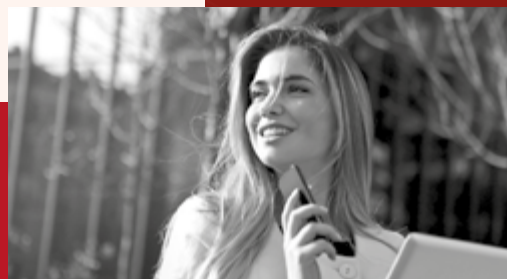
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EDITOR'S COLUMN

Craig Montgomery • INSOL Fellow • Freshfields • UK
Sheila Ng • INSOL Fellow • Rajah & Tann • Singapore



Welcome to the Q4 2025 edition of INSOL World.

As we come to the end of 2025, the global restructuring and insolvency community continues to demonstrate its resilience and adaptability amid an ever-changing legal and economic landscape. New cross-border challenges and opportunities are shaping our practice, and this edition covers an extraordinary array of topics from around the globe.

In this issue, we are proud to again shine a light on several fast-moving developments at the intersection of law, technology, and policy. Our feature by Farid Assaf SC explores the rise of large language models (LLMs) and the very real opportunities, as well as the risks, that generative AI presents in professional restructuring work. Against a backdrop of rapid digital transformation, this article moves beyond the hype and argues for disciplined, governance-driven use of AI by practitioners.

Asia remains a focal point for legislative innovation. Midori Yamaguchi takes us inside Japan's newly enacted Early Business Recovery Act, a pre-insolvency regime designed to bridge the gap between out-of-court workouts and formal proceedings, weaving together confidentiality, procedural rigour, and creditor protections. The article details the key features, background, and its expected role in the regional restructuring toolkit.

Also in Asia, Jonathan Leitch examines a Hong Kong decision refusing an anti-suit injunction to prevent a creditor's winding-up petition in the Cayman Islands, despite the presence of an arbitration clause. The case is a reminder that sophisticated parties must carefully draft dispute resolution and insolvency provisions to match real cross-border risk, as the courts take nuanced approaches to arbitration versus insolvency claims.

We continue to track the evolving cross-border legal landscape. Artem Antonov's contribution catalogues the rising phenomenon of Russian bankruptcy proceedings being used to target foreign parent companies, explaining the so-called "Westwalk doctrine" and its practical risks for multi-nationals exiting Russian markets. With detailed insights into the tools, risks, and possible defences against enforcement of Russian bankruptcy judgments abroad, this article is essential reading for any practitioner with clients exposed to Russia.

Turning to the courts, James Eggleton and Greg Coburn deliver analysis of the Privy Council's recent decision on fixing liquidators' fees, a judgment likely to resonate for officeholders and creditors far beyond Trinidad and Tobago. The Board's focus on proportionality, creditor equality and narrative evidence provides much-needed clarity for practitioners on balancing detail and practicality in fee approval, with clear relevance for similar common law systems.

Our "Spotlight" this quarter looks to Botswana as Catherine Piper provides a pragmatic account of insolvency work in that jurisdiction, where the close-knit community of professionals enables creative solutions to preserve value even in an environment with limited legal infrastructure and infrequent insolvencies.

Her case study is a timely reminder that small markets can be laboratories of innovation in creditor engagement.

We are also delighted this quarter to feature the insights and experiences of younger practitioner Janice Ooi from Malaysia, whose profile traces a career shaped by cross-border complexity, mentorship, and the challenges and opportunities facing the next generation of practitioners. Her reflections (as well as her recipe for Malaysian nasi lemak!) offer inspiration for younger members and seasoned professionals alike.

Last, we urge readers not to miss Dorjana Xhamaqi's article on the psychological impact of bankruptcy, with an interdisciplinary look at the human dimension of insolvency, and the opportunities for personal and social recovery that can arise from even the most challenging situations.

As ever, on behalf of the Editorial Board, my sincere thanks to all contributors and the INSOL International team for their tireless support in bringing this edition together. We welcome your feedback and suggestions for future features and topics - please write to jelena.wenlock@insol.org.

Wishing you all a productive season ahead.

Warm regards,

Craig Montgomery

Co-editor, INSOL World

PRESIDENT'S WELCOME

Alastair Beveridge • AlixPartners • UK



Welcome to the latest, and last, edition of INSOL World in 2025. I am pleased that we continue to deliver and to adapt and have set out below some of the happenings in another period marked by growth, engagement, and genuine momentum across our global community.

Events

Since September the team have continued to be busy with events – first we had our Australia and New Zealand regional seminar in Sydney. This was the first time INSOL had been back to Sydney since the Quadrennial in 2017 and what a welcome we had. Over 165 attendees from 9 jurisdictions, a great programme and a direct request for a return to Australia in the not too distant future. Duly noted.

INSOL also delivered the Middle East & North Africa Forum, in Doha, Qatar in partnership with the World Bank and with the support of the Qatar Ministry of Industry and Commerce. There were representatives from over jurisdictions in the region and a selection of excellent sessions with topics covering progress in capacity building and peer comparison as well as one on practitioners' experiences. We also hosted the Restructuring and Insolvency Academic Forum, presented by the Asia Hub in partnership with the National University of Singapore, a gathering that showcased the strength of academic collaboration in shaping policy and practice throughout the sector.

Our last event in the period, and the year, was the 15th Africa Round Table. This year's programme was strengthened further by the preceding Judicial Round Table, which enabled direct engagement with members of the judiciary and added an invaluable perspective on strengthening insolvency frameworks and enhancing regional cooperation. This event, which is also in partnership with the World Bank, is invite only and brings together a truly impressive mix of practitioners, policymakers and academics from across the continent. The discussions were rich, practical and forward-looking and interest in and appetite for this event is enormous, so we look forward to agreeing the programme and venue for next year with the World Bank soon.

INSOL London 2026 – Registrations live

Registrations for the INSOL London Annual Conference are now open and spaces filling fast. If you plan on joining us at the Grosvenor House Hotel next April, I would strongly encourage you to get your skates on to avoid missing out. The conference team are developing an excellent technical programme and this looks likely to be the event to be at in 2026.

Alongside the main conference, we are excited to offer a robust ancillary programme which includes the ever popular Offshore Meeting among many others. These smaller-format sessions will give INSOL's focus groups the opportunity to engage in deep-dive dialogue on targeted issues and emerging themes. We see this as an important complement to the broader plenary programme and expect excellent engagement, don't forget to secure your place at any of these meetings which are relevant to you when you register to attend the conference.

Looking ahead: 2026 seminars

Our events pipeline for 2026 is shaping up extremely well. A full programme of seminars is in place, with four seminars currently open for registration, and more to follow soon. Events open to register are:

- INSOL International Riyadh Seminar - 28 January 2026
- INSOL International Punta del Este Seminar - 13 March 2026
- INSOL International Bangkok Seminar – 27 May 2026
- INSOL International New York Seminar – 24 June 2026

Education and membership development

Applications are now open for the Future Leaders 2026 programme. We are pleased to be offering the programme for a fourth consecutive year in 17 locations across Asia, Africa and Latin America.

We've continued to expand our technical resources as well. A further five countries have now been added to the INSOL Glossary of Terms, bringing us to 66 jurisdictions covered. This remains one of our most widely used reference tools, and we are committed to maintaining its growth and relevance.

On the education front, the Introductory Certificate in Insolvency Law and Practice in the Cayman Islands is now open to applications. This is one of several jurisdiction-specific courses in our expanding educational portfolio.

Our new Asset Tracing and Recovery Course began in October, with 69 participants enrolled. This course responds directly to strong member demand and we are delighted to see such immediate engagement.

This really is a great illustration of your feedback being used by INSOL to develop and launch a programme which you want. Please keep such suggestions coming as education is core to what INSOL is all about.

Coda

In between my travels for INSOL I was lucky enough to work with a charity and spend a few days delivering an ambulance to Lviv in Ukraine – it certainly put some daily annoyances into perspective and was certainly very gratefully received by the local mayor. I picked up *Dictators* by Frank Dikotter prior to this trip but finished it in Poland on the way back. It is a study of some of the well known 20th century dictators and has some unfortunate parallels with the world in which we all live and hope to be able to thrive in.

Wishing you all a peaceful end to 2025.

À bientôt.

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INSOL IN MOTION

THE FIRST 100 DAYS: SETTING DIRECTION AND MOMENTUM



Scott Y. Stuart, Esq. • CEO INSOL International

As we look to 2026 at INSOL International—and in that, the strategic goals we will together advance, I want to bring 2025 to a close on a reflective note. These first 100 days as CEO have provided invaluable learnings, observations, interactions, and, ultimately, a sharpened clarity of vision and purpose as we move ahead.

These first 100 days were not simply table-setting; they were an opportunity to reinforce what I already knew of this standout organization while uncovering and understanding what I did not. In doing so, the extraordinary depth of INSOL's resources revealed itself so that we can now create that seamless ecosystem of optionality and opportunity.

Purpose. Power. People. Process. All at play, and in these 100 days, something even more compelling emerged: a set of grander opportunities that many know, but that all will soon see with heightened clarity.

Across this period, both the obvious and the less obvious unveiled breadth, depth, magnitude, and reach, defining an industry in partnership with some of the world's most respected practitioners, jurists, educators, and thought leaders.

In my early introductions and interactions with INSOL International's G36 partners, I witnessed and participated in the power of premier professionals who elevate and embody INSOL's mission at every turn.

Likewise, I engaged with the deep network of member associations that form the backbone of INSOL's global community, and imagined new ways that in 2026 will elevate the member experience of those associations with the arsenal of resource we will more purposefully share.

And as I looked even further, I came to appreciate the highly impactful yet lesser-known resources that distinguish INSOL at a level above, but in a way that complements all cross-border insolvency practitioners, powerful part of the eco-system, quiet yet potent, powerful and defining.

So, after 100 days of listening, learning, observing, and participating in the vast ecosystem that is INSOL, where do we go from here?

In 2026, we will not simply imagine INSOL; we will crystallize its points of distinction and power. We will align its people and purpose.

In 2026, we will not simply imagine INSOL; we will crystallize its points of distinction and power

And we will build the strategic thread that defines the INSOL International ecosystem with clarity, cohesion, and global resonance.

In Q1, we will unveil a re-branding of INSOL International that no longer presents our resources as separate elements under one umbrella, but as one bold and brash ecosystem, integrating knowledge, technical programs, education platforms, support for emerging economies, and colloquia that advance intellectual leadership, model law development, and public policy in partnership with the World Bank and UNCITRAL.

This is the INSOL International I had the privilege to join and now to lead, an organization with clarity of purpose, strategic alignment, and a multi-lane international highway serving professionals everywhere to engage in a community defined by power and purpose. A superpower of cross-border insolvency and restructuring opportunity.

The INSOL International of tomorrow begins with the richness of its resources, spanning NextGen, Diversity and Inclusiveness initiatives, social-justice-aligned programming, and a growing emphasis on ESG.

This is the essence of our ecosystem. And these first 100 days have given me both clarity and conviction about where we go next: strengthening support for our member associations, expanding our reach into new and emerging economies, and ensuring INSOL International remains as accessible to the emerging professional as it is relevant to the most seasoned practitioner in the world.

There will always be more to learn and more to uncover. But with 100 days of knowledge gained and a demonstrated commitment to participating fully in this world of opportunity, I am ready to roll up my sleeves and stand with, and for, our partners, stakeholders, volunteers, jurists, educators, and global leaders. Together, we will thread tomorrow's opportunities, build a seamless road ahead, and shine a powerful light on the purpose, power, people, and process that will define INSOL International in 2026 and beyond.

A handwritten signature in black ink, appearing to read 'Scott Y. Stuart'.

Scott

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A NEW LEGISLATIVE FRAMEWORK FOR PREVENTIVE DEBT RESTRUCTURING IN JAPAN: THE EARLY BUSINESS RECOVERY ACT

Midori Yamaguchi (INSOL Fellow) • Mori Hamada & Matsumoto • Japan

In June 2025, Japan enacted landmark legislation establishing a pre-insolvency framework for enterprises at risk of falling into financial distress, but not yet insolvent. Commonly referred to as the **Early Business Recovery Act** (official English title pending; Act No. 67 of 2025), this legislation establishes a hybrid structure involving both a neutral third-party organisation and the court, ensuring both expertise and procedural legitimacy. It enables supermajority-approved financial debt restructuring while maintaining confidentiality and minimising disruption. Designed to bridge the gap between out-of-court workouts and formal insolvency, the framework offers a credible, transparent, and timely approach inspired by comparable systems abroad, particularly the preventive restructuring frameworks developed under EU Directive 2019/1023.

Set to come into force by the end of 2026, the Act is expected to transform Japan's corporate debt restructuring landscape. This article outlines the economic background and procedural features of the new regime. The author was seconded to the Ministry of Economy, Trade and Industry (METI) until early October 2025 and was involved in the drafting of this framework. The views expressed are the author's own and do not necessarily represent those of any affiliated organisations.

Economic and legislative context

1. Economic circumstances

Japan has experienced a rise in corporate debt, with an increase of around 120 trillion yen since before the COVID-19 pandemic. With ongoing challenges, such as rising costs for raw materials and labour shortages, the number of bankruptcies in 2024 has surpassed 10,000

for the first time in 11 years. In this context, there is growing concern that the debt burden will become a hindrance to business activities to improve profitability, causing companies to miss opportunities for business growth and potentially leading to more bankruptcies.

2. Challenges in the existing debt restructuring toolkit

Japan's existing corporate debt restructuring regime consists of (i) formal insolvency procedures (e.g., civil rehabilitation and corporate reorganization), which are court-led, generally cover all creditor claims, and allow for debt restructuring through majority vote but often cause reputational and commercial harm due to their public nature, and (ii) out-of-court workouts, which primarily apply to financial claims held by banks and other financial institutions, are generally non-public and more flexible but require unanimous creditor consent, limiting their effectiveness. Over the past two decades, Japan has developed several structured out-of-court workout frameworks, such as Turnaround ADR. These mechanisms require adherence to specific rules, guidelines, or statutory provisions depending on the procedure, with independent specialists overseeing the debt restructuring process.

3. Legislative context

Recognising the gap between formal insolvency procedures and out-of-court workouts and drawing inspiration from the UK's Scheme of Arrangement and Restructuring Plan as well as Germany's StaRUG, the Ministry of Economy, Trade and Industry (METI) developed a new pre-insolvency framework. This framework enables enterprises at risk of financial distress, but not yet insolvent, to restructure only their financial debts through majority vote.

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Reflecting Japan's long-standing practice of structured out-of-court workouts, such as Turnaround ADR, the process is conducted as a non-public procedure under the oversight of a neutral third-party organisation, while also introducing court involvement to approve the outcome of majority voting, which is a feature common to preventive restructuring regimes in other jurisdictions.

The enactment of this framework marks the culmination of discussions among academics and practitioners over the past decade, catalysed by both Japan's corporate financial environment and the global movement toward preventive restructuring, which gained momentum following the COVID-19 pandemic and the introduction of the EU Directive 2019/1023.

Key elements of new framework

1. Targeted users and scope

The Act applies to enterprises at risk of falling into financial distress, a stage preceding the "economically distressed" status required under in-court insolvency procedures such as civil rehabilitation. This scope reflects the Act's objective of promoting early and timely business recovery before insolvency occurs. It is industry-agnostic and size-neutral but is expected to be primarily utilized by large and mid-sized enterprises with a relatively large number of financial creditors.

The claims eligible for modification under the Act are limited to financial debts held at the time of commencement by certain types of creditors, including financial institutions, insurance companies, licensed money lenders, government-affiliated entities, local governments, and licensed debt collection companies (servicers) that have acquired claims held by these entities.

While the secured portions of claims are excluded from modification by majority vote, they may be subject to procedural stays to prevent asset enforcement.

2. Procedure initiation – neutral third-party confirmation

To initiate the process, a neutral third-party organisation designated by METI must confirm the following conditions:

- The enterprise is at risk of falling into financial distress;
- The proposed claims are eligible;
- It is not clearly unlikely that the required resolution will be approved at the creditors' meeting;
- The proposal is likely to be in the general interest of the affected creditors, satisfying the liquidation value test; and
- The debtor is not already subject to in-court insolvency proceedings.

Once confirmed, the organisation notifies affected creditors.

3. Temporary stays by third-party organisation and court

After confirmation, the third-party organisation must request all affected creditors to voluntarily suspend enforcement or preservation of claims. Also, the court may grant a legally binding temporary stay, suspending enforcement actions or realisation of security interests, if necessary.

4. Submission of proposal and early business recovery plan

Within six months of confirmation, the debtor must submit:

- A **written proposal** setting out the terms of the claim modifications, excluding secured portions; and
- An **early business recovery plan**, which includes:
 - o The business background;
 - o Current financial and operational status;
 - o Future business projections;

- o Details of security interests; and
- o Any other items designated by METI ordinance.

The proposal must treat affected creditors equally, except where different treatment is justified.

5. Review by third-party organisation

The organisation reviews the proposal and plan from the perspectives of legal compliance, feasibility, and consistency with the general interests of affected creditors (i.e., compliance with the liquidation value test). If the submission fails to meet the requirements, the confirmation is revoked and the procedure is terminated.

6. Creditors' meeting and voting

Once the third-party organisation completes its review, the debtor must convene a creditors' meeting. All affected creditors receive the proposal and the early business recovery plan. Voting rights are allocated pro rata to the amount of unsecured eligible claims. The secured portions of claims do not carry voting rights.

Two voting outcomes are possible:

- **Unanimous approval:** The proposal becomes binding immediately without the need for court approval.
- **Supermajority approval:** This requires:
 - o 75% approval by value, and
 - o If a single creditor holds 75% or more, a **headcount test**, requiring a majority of the number of creditors, also applies.

7. Court approval

In cases of supermajority approval, the debtor must promptly file a petition with the court seeking approval of the resolution, submitting the early business recovery plan and the review outcome. The court may deny approval only if:

1. The procedure or resolution violates applicable law, and the violations cannot be remedied, except where any procedural violations are minor;
2. The debtor is clearly unable to perform the obligations arising from the modified rights of affected creditors;
3. The resolution is adopted by unlawful means; or
4. The resolution is contrary to the general interests of the affected creditors.

Both the debtor and affected creditors may file an immediate appeal against the court's decision.

Significance and outlook

Japan's newly enacted early business recovery framework represents a significant step in modernising its approach to supporting businesses at risk of financial distress, aligning with international practices while responding to domestic needs. By introducing a hybrid procedure that combines oversight by a neutral third-party organisation with court involvement and allowing majority-approved modifications limited to financial debts, the framework carefully balances the preservation of enterprise value with procedural fairness. With defined creditor protections and enhanced transparency, the new system offers a credible and practical tool for early business recovery, positioning Japan as a jurisdiction increasingly capable of facilitating timely and effective business turnarounds in a rapidly changing economic landscape.

With METI currently coordinating discussions on subordinate regulations and practical aspects of implementation, the framework is set to come into effect by the end of 2026. Its progress will attract close attention from both domestic and international experts in the restructuring and insolvency field, highlighting Japan's commitment to fostering a robust and responsive business environment.



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THE CAYMAN CONUNDRUM: SHAREHOLDER MISREPRESENTATION CLAIMS IN A LIQUIDATION

Simon Dickson (INSOL Fellow) and Laura Stone
Mourant Ozannes Cayman LLP • Cayman Islands

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MISREPRESENTATION

On 7 November 2025, the Cayman Islands Court of Appeal handed down its decision as to whether, after the presentation of a petition, claims for misrepresentation inducing a subscription for shares in a company can be admitted to proof (“**Shareholder Misrep Claims**”).

The accepted view was that such claims were barred by the decision of the House of Lords in *Houldsworth v City of Glasgow Bank* (1880) 5 App Cas 317 (**Houldsworth**). However, for the first time in 2023, rather like London buses, the issue came along twice, when two unrelated companies asked different judges to allow the claims.

To the evident irritation of the Grand Court and the Court of Appeal, no application was made to join the cases at first instance and in the first matter, HQP Corporation (**HQP**), Mr Justice Doyle came to one conclusion and in the second, Direct Lending Income Feeder Fund Ltd (**DLI**) Mr Justice Segal came to another.

This article examines the divergent opinions and then the decision of the Court of Appeal.

What is the rule in *Houldsworth*

The rule in *Houldsworth* is said to be famously elusive.

It concerns the unfortunate Arthur Hooton Houldsworth who bought £4,000 of the stock of the City of Glasgow Bank, an unlimited liability company, in 1877. This purchase was induced by the Directors’ representations that the Bank was solvent. It wasn’t and the Bank was wound up in 1878 with Mr Houldsworth facing unlimited liability. Mr Houldsworth brought a misrepresentation claim and sought damages of £230,000 (today some £7.5 million) being a combination his losses in acquiring the shares and the estimated amount of future calls. It was accepted that because the Bank was in liquidation, rescission of the contract to purchase the shares was impossible and that he must remain as a contributory.

The claim failed and the rule was born that once a company was in liquidation, a shareholder could not rescind the contract of subscription and accordingly, could not claim for damages while he remained a shareholder. A shareholder contracts to contribute a certain amount to be applied in payment of the debts and liabilities of the company and it would be inconsistent with his position as a shareholder to claim back any of that money.

First instance HQP

HQP’s Articles of Association contained a post-liquidation “*contractual waterfall*” of priorities giving the various series of preferred shareholders a fixed 120% return in the event of a liquidation. The holders of each new series ranked ahead of all previous series. All holders of preferred shares expected to be paid out in the order “last in, first out”. An important feature of HQP was that under the articles, redemption of shares was not complete until payment and therefore there were no redemption creditors (ie. those whose shares had been redeemed and cancelled but remained unpaid).

HQP got into financial difficulties. The CEO admitted that he had made fraudulent misrepresentations about the company’s financial position to current and prospective investors. Accordingly, based on these misrepresentations, investors had subscribed and had consented to share series being issued in priority to their investment. The Liquidators sought to admit these claims to proof. The question was (i) could they and (ii) how would Shareholder Misrep Claims rank in the order of priority.

As to (i) Doyle J concluded that they could. In his view the rule in *Houldsworth* did not form part of Cayman Islands law. He found this on a number of bases, not least of which it had been judicially disavowed in some other common law jurisdictions, abrogated by statute in others and was inconsistent with s.139 of the Cayman Islands Companies Act (the **Act**) which allows “*all claims against the company [to be] admissible to proof*”.

After two years of uncertainty,
the position is now clear.
Shareholder Misrep Claims
are permitted once all
external creditor claims have
been satisfied.

As to (ii) he held that a Shareholder Misrep Claim is a pre-contractual tort and a successful claimant should be treated as an external creditor. Any damages were, therefore, not a “*sum due to any member of the company in that person’s character of a member by way of dividends, profits or otherwise*” under s.49(g) of the Act and hence were not subordinated to external creditor claims and were not subject to the post-liquidation contractual waterfall. All Shareholder Misrep Claim claims therefore ranked *pari passu* with external unsecured creditors.

Good news for those at the back of the contractual waterfall, bad news for those at the front.

First instance, DLI

DLI was a slightly different fish. There was no contractual waterfall, but there were redemption creditors (ie shareholders who had redeemed before the company went into liquidation but remained unpaid). Under Cayman Law redemption creditors are subordinated to external creditor claims, but rank above ordinary shareholders.

As with HQP, the allegation was that the CEO had made numerous misrepresentations to investors, inducing their subscriptions.

The questions in DLI therefore were (i) could such claims be brought (ii) if so, were they to be treated as external creditor claims and (iii) if not, were Shareholder Misrep Claims subordinated to redemption creditor claims.

Segal J who by this stage had the benefit of Doyle J’s judgment, concluded that as to (i) Doyle J was in error and the rule in *Houldsworth* did apply. However, the rule applied only to claims made in competition with external creditors. This is because the rule, properly understood, was only in place to protect the capital of the company. Where all external creditors had been paid out, the justification for the rule fell away. As to (ii), it followed that the claims were not to be treated as external creditor claims but rather as member claims. As to (iii) he concluded that Shareholder Misrep Claims and redemption creditor claims ranked equally, below external creditors and above ordinary shareholders. There was no priority for a redemption creditor.

In other words, once external creditors were paid out in full, shareholders could fight it out between themselves.

The Court of Appeal

The Court of Appeal agreed in almost all respects with the decision of Segal J in DLI.

First, the rule in *Houldsworth* did apply. The rule was not just a single decision of the House of Lords, but the product of several decisions of the English Court of Appeal and House of Lords¹. It was, therefore, highly persuasive and as a matter of Cayman Islands law should be followed. The fact that the rule had been subject to academic criticism and legislative abrogation in England and elsewhere was not a sufficient reason for the rule not to be

¹ See for example *In re Addlestone Linoleum Company* (1887) 37 Ch D 191; *In re Hull and County Bank* (“*Burgess’s Case*”) (1880) XV Ch Div 307 and *Soden v British & Commonwealth Holdings Plc* [1998] AC 298

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followed. Decision of the Courts in Australia and Bermuda not to follow the rule did not undermine the reasoning. Further, the reasoning was not inconsistent with s.139 of the Act and indeed a similar provision had been in existence in all the Acts that the English Courts had considered as the rule evolved.

Second, as to the scope of the rule, the Court agreed that the position was quite simple. It was a rule protecting the core policy of capital maintenance and the right of creditors to have first recourse to a company's capital. Any payment to a shareholder for damages for inducing entry into the subscription agreement would represent an unlawful distribution of capital and was impermissible. Therefore, such damages claims could not compete with claims of external creditors. However, once external creditors were paid in full, there was no reason why a shareholder could not bring a claim. The protection of external creditors having been achieved, such a policy would recognise that those shareholders are (also) creditors with a monetary claim against the company and entitled to rank ahead of ordinary shareholders (who have no such claims).

Third as to how Shareholder Misrep Claims should rank amongst members, the issue became somewhat convoluted.

The initial point decided was that damages for a Shareholder Misrep Claim would represent a "*sum due to any member of the company in that person's character of a member by way of dividends, profits or otherwise*" under s.49(g) of Act. Accordingly, a Shareholder Misrep Claim did not sit between external creditors and member claims. Whilst at this may seem unfair (after all the wrong was committed prior to the claimant becoming a shareholder) the Court of Appeal agreed that the "substance" of such a claim arose from a claimant's dealings with the company and hence was caught by s.49(g). In coming to this conclusion, the court followed a number of decidedly woolly decisions of the English Court as to the scope of the equivalent section.

Next the Court of Appeal tackled the two different cases:

In DLI the question was whether redemption creditors rank ahead of Shareholder Misrep Claimants and ordinary members, or whether they rank equally with Shareholder Misrep Claimants and above ordinary members. There were two arguments for the elevation of redemption creditors:

- (i) First, because their shares had been cancelled prior to the liquidation and the only obligation outstanding was the payment of their redemption proceeds, they outranked Shareholder Misrep Claimants who, after all, remained shareholders.
- (ii) Second, under Cayman law a shareholder who is entitled to redeem has a statutory priority under s.37(7)(b) of the Act in that such redeemers were afforded payment "*in priority to any amounts due to members in satisfaction of their rights*" putting them above Shareholder Misrep Claims.

These arguments were dismissed with some brevity. As to (i) both amounts (ie redemption payments and damages for misrepresentation) were said to be "sums" due under s.49(g) of the Act and there was no reason to distinguish between them. As to (ii) the Court found no authority for the contended interpretation of s.37(7)(b) and, in an acidic conclusion, found that, at its lowest, it was not persuaded that this subsection provided the priority contended for.

In HQP there were no redemption creditors, and so all were members. The question was how did Shareholder Misrep Claims rank against the contractual waterfall; were they subject to it or not? The Shareholder Misrep Claimants argued that that it made no sense for them to be subject to the contractual waterfall. It was the very misrepresentation that led them to be subject to it in the first place. Further, for many of them, their shares had been diluted every time a misrepresentation had been made which had caused them to consent to new shares being issued with a higher priority in the waterfall.

Perhaps surprisingly, the Court rejected this argument. Instead, the Court found that because any damages claim will necessarily require an account to be taken of a claimant's position in the contractual waterfall and the shares actually acquired, it would be inconsistent to allow parity with all shareholders. The only way consistency could be achieved was by according the misrepresentation claimants the same priority in respect of their misrepresentation claims as they have in respect of the shares which they retain.

The Court of Appeal acknowledged whatever decision they came to would not achieve fairness and in their view, this was the best approach. However, some may think that the logic of this argument may require some scrutiny. Certainly, given only the shareholders in Series D will be paid, one can imagine that the shareholders in the earlier series may question to what extent consistency allows justice to be done.

Conclusion

So where does this leave us? After two years of uncertainty, the position is now clear. Shareholder Misrep Claims are permitted once all external creditor claims have been satisfied. Absent any additional contractual terms, such claims will rank below external creditors, *pari passu* with redemption creditors and above ordinary members.

HQP in fact provides no real learning on the issue of priority amongst members. It was not a statutory issue or an issue of common law, but rather one of rights and obligations. However, relevant to HQP and priority, one issue that remains unclear is what the status of a Shareholder Misrep Claimant is? Do they remain shareholders, or do they become creditors? The Court of Appeal seem to believe that after external creditors have been paid a Misrepresentation Claimants may "*if necessary, rescind their subscription*" resulting in them becoming creditors (although the decision is far from consistent on this point). If that is the case, then one may wonder why in the case of HQP they are to be treated simply as members and not creditors akin to redemption creditors and hence in priority to the members subject to the waterfall. Further, if their subscription has been rescinded, it is difficult to understand how the waterfall prescribed by the HQP articles could be said to still apply. No doubt this and all the other issues will find their way to the Privy Council in due course.

As to the future, the decision represents a challenge for Liquidators and a change of approach for investors. In some fund collapses, external creditor claims are minimal and so there will be a real appetite where the facts support wrongdoing, to bring pressure on the Liquidators to admit misrepresentation claims. This will inevitably lead to increased litigation, cost and time, but perhaps a fairer approach. With respect to investors, it will be important for them to consider that the dominance of the redemption creditor is at an end and that where actionable misrepresentations have occurred, a redemption creditor's returns will likely be no better than those claiming misrepresentation. Further, where shareholders are contractually subordinated, they will need to carefully consider the risks and outcomes where the subordination has been induced by fraud and, in particular, whether the articles provide an escape valve for wronged investors.



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FIXING LIQUIDATORS' FEES: **PRIVY COUNCIL** **BALANCES DETAIL AND PRACTICALITY**

James Eggleton (INSOL Fellow) and Greg Coburn • Harney
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Background

This case arose from one of the largest insolvencies in the Caribbean in recent decades. CL Financial Ltd, incorporated in Trinidad and Tobago, was the parent company of a sprawling corporate group with interests in insurance, real estate, and spirits, supported by more than 40 subsidiaries across several jurisdictions. Following the global financial crisis in 2008, the group faced mounting financial instability, particularly within its insurance and banking arms. To prevent the group's collapse, the Government of Trinidad and Tobago injected more than TT\$23 billion in financial support. By July 2017, however, the Company still owed the Government over TT\$15.5 billion, prompting the presentation of a winding-up petition.

Provisional liquidators with significant international insolvency experience were appointed in July 2017, and later confirmed as official liquidators in September 2017. In 2018, the High Court fixed their remuneration on a time-cost basis at prescribed hourly rates under an order which allowed them to draw monthly

fees "on the basis of the reasonable time expended" subject to the court's approval.

In July 2020, the Company applied for approval of the liquidators' remuneration for the 2019 calendar year, amounting to over US\$3.1 million plus associated expenses. The Attorney General, acting on behalf of the Government as the Company's largest creditor, opposed the application. The Government argued that the liquidation was being conducted in a manner that had the effect of incurring unnecessary fees, that costs incurred by the liquidators were excessive compared with those incurred by pre-liquidation management, and that insufficient information had been provided to justify the amounts claimed.

The High Court approved the liquidators' application. However, the Court of Appeal reversed that decision on the principal grounds that the Judge had failed to provide adequate reasoning and that the remuneration should have been subject to a more detailed examination. The matter then came before the Privy Council.

The judgment

The Board found that the Court of Appeal had failed to take account of the detailed written judgment in fact handed down by the High Court, meaning the principal ground for the Court of Appeal's decision was wrong and it could not be upheld on that basis. The Board also identified several questions of law and practice that are of wider interest to litigators and insolvency practitioners.

Government as creditor

The Board rejected the Court of Appeal's view that the Government's role as the largest creditor, and as custodian of public funds, entitled it to special treatment. The correct position is, instead, that all creditors must be treated equally unless statute provides otherwise. A government creditor is to be treated as any other large private creditor might be.

Level of detail required to support an application for remuneration

The Board reaffirmed established common law principles following an analysis of English, Irish, Australian, New Zealand, Singaporean and Hong Kong authorities. Liquidators occupy a fiduciary role; the onus is on them to justify their remuneration; and doubts must be resolved against them. Courts may assume integrity on the part of insolvency practitioners, but this does not relieve them from the duty to show that hours spent were both necessary and reasonable.

These principles are entirely consistent with those applicable in other Caribbean jurisdictions, such as the Cayman Islands.¹ It is settled law in the Cayman Islands that upon an application for approval of liquidators' remuneration, the *"established practice is for the officeholder to provide a narrative of the work done together with the evidence of the underlying costs by reference to time sheets, invoices etc."*² and where an application for fee approval is made, the fees must be *"commensurate with the nature and extent of the tasks which they have properly undertaken, and that the work for which they have charged has resulted in significant and proportionate benefits to the estate"*.³

In this case, the Court of Appeal had demanded a near line-by-line analysis. The Board rejected that approach, holding instead that:

- While a line-by-line analysis of the officeholder's claim is not necessary, the court must have enough information to understand what was done, why it was necessary, and whether the work was carried out at the right level of seniority.
- Proportionality is the governing principle. A mega-insolvency will justify a more elaborate narrative than a small domestic liquidation. But even in large cases, the over-zealous recording of minutiae will waste estate resources.
- A narrative description of workstreams, broken down by task categories and staff grades, with justification for why the tasks were undertaken, is generally sufficient. Contemporaneous records should be available if the court wishes to probe further.

The Board emphasised that hours recorded are not enough. The "reasonable time expended" standard set out in the relevant order of the court required demonstration that the time was necessary and proportionate, and that the work was performed at an appropriate level.

Expenses

The Board disagreed with the Government's argument that all expenses, including third-party professional fees, must be subject to court approval. Only remuneration and expenses payable to related entities of the liquidators require prior approval. Independent third-party expenses (such as external counsel fees) do not, although they remain open to challenge if excessive or unreasonable.

For officeholders, the message is straightforward: provide structured, narrative evidence that demonstrates necessity and efficiency, avoid unnecessary detail that drives up costs, and expect the court to support governance measures such as the appointment of directors or administrative staff where these measures can reasonably be expected to add value.

Costs against the liquidators

The Court of Appeal had made a non-party costs order against the liquidators personally. The Board overturned that decision, finding that liquidators are proper parties to remuneration applications and that their costs should ordinarily be treated as liquidation expenses, unless they have acted unreasonably. In this case, the challenge before the lower courts concerned the adequacy of the information supplied in support of the liquidators' fee approval application. The Board agreed that the information supplied by the liquidators was inadequate and considered it difficult to see why the creditors should in effect pay for the liquidators' opposition to the Government's challenge in those circumstances. Notwithstanding the liquidators' success before the Privy Council, the Board directed that only half of the liquidators' costs of the first instance application and the appeals be paid as liquidation expenses.

Corporate directors and administrative staff

The Board endorsed the liquidators' approach in terms of appointing corporate directors to the boards of the Company's subsidiaries. In the context of a complex cross-border group, with no unified governance and many subsidiaries left unmanaged, appointing independent corporate directors was prudent and in the best interests of the estate.

Similarly, the Board accepted that administrative staff could properly be engaged and charged at agreed hourly rates. The relevant order expressly contemplated such appointments, and the court confirmed that this was consistent with reasonable liquidation practice.

Key takeaways

Although the case arose in Trinidad and Tobago, the Privy Council's reasoning draws heavily on common law authorities applied in other jurisdictions. It provides helpful guidance for practitioners by reinforcing a proportionality approach, which reflect a balance between creditor protection and the need to compensate insolvency professionals fairly.

¹ See for example, *Re Direct Lending Income Feeder Fund (in Official Liquidation)* FSD 108 of 2019 (NSJ), unreported, Segal J, 3 February 2022, which sets out the Cayman Court's approach to sanction applications.
² *Re OneTradex Ltd (in Official Liquidation)* FSD 166 of 2020 (MRHJ), unreported, 17 June 2022 at [46]
³ *Re World Properties Ltd (in Official Liquidation)* FSD 49 OF 2018 (IKJ), unreported, 3 October 2022 at [18], citing *Direct Lending* with approval.

- **Equal treatment of creditors:** Government creditors cannot rely on their status to demand special scrutiny of fees. Creditors may object, but they do so on the same footing as any other interested party. Winding up is a class remedy.
- **Evidence required for remuneration:** Liquidators should provide proportionate and structured information concerning the cost of their work, including a narrative description of the main categories of work, allocation of hours by staff grade and justification for why tasks were undertaken and at what level.
- **“Reasonable time”:** Liquidators must show that work was necessary, proportionate, and conducted at the right level of seniority. Simply spending the time does not justify remuneration. This echoes Cayman decisions in which courts have emphasised proportionality and commercial judgment in the deployment of estate resources.⁴
- **Distinction between expenses:** Liquidators should distinguish between (i) their own remuneration and expenses involving related entities, which require approval, and (ii) independent third-party expenses, which do not require prior approval but can still be challenged. This avoids unnecessary judicial burden while at the same time protecting estates from unreasonable charges.
- **Appointment of corporate directors:** The Board endorsed the use of corporate directors for subsidiaries in this liquidation. Internationally, liquidators often install directors in group subsidiaries to safeguard governance, preserve value, and ensure continuity across the corporate structure. The confirmation of the propriety of such steps will be useful in future cases, if creditors challenge the associated cost.
- **Appointment of administrative staff:** The Board accepted that engaging administrative staff and charging them at agreed rates was consistent with liquidation practice. This is subject to appointments being authorised by the original appointment order or falling within the court’s general power to approve liquidation expenses.
- **Costs orders:** Liquidators should expect the costs of remuneration applications to be treated as liquidation expenses. Non-party costs orders will be exceptional and limited to cases where liquidators act unreasonably.

Comment

The Privy Council’s decision in *CL Financial* provides a reminder that the court’s role is to protect estates from the unreasonable depletion of their resources, while ensuring liquidators are fairly compensated for their work. The guidance on proportionality, creditor equality, and the treatment of expenses resonates strongly in other jurisdictions, where similar questions inevitably arise. For officeholders, the message is straightforward: provide structured, narrative evidence that demonstrates necessity and efficiency, avoid unnecessary detail that drives up costs, and expect the court to support governance measures such as the appointment of directors or administrative staff where these measures can reasonably be expected to add value. For creditors, objections will be heard on an equal footing, without preference or special legal status, even when public funds are at stake.

⁴ See for example, *Direct Lending Income Feeder Fund (In Official Liquidation)*, unreported, Segal J, 3 February 2022, at [40], [44]. See also *Re SPhinX*, unreported, Smellie CJ, 13 Nov 2012 at [18], whereby the Court adopts the test of a “reasonably prudent man” who is “expected to deploy commercial judgment not to act regardless of expense.” The reasonably prudent man test was followed in *Re Caledonian Securities Ltd (In Official Liquidation)* [2016] (1) CILR 309 at [77] to [81], setting the standard for fee approval and emphasising the need for commercial judgment, which Cayman courts then apply when testing proportionality and necessity.



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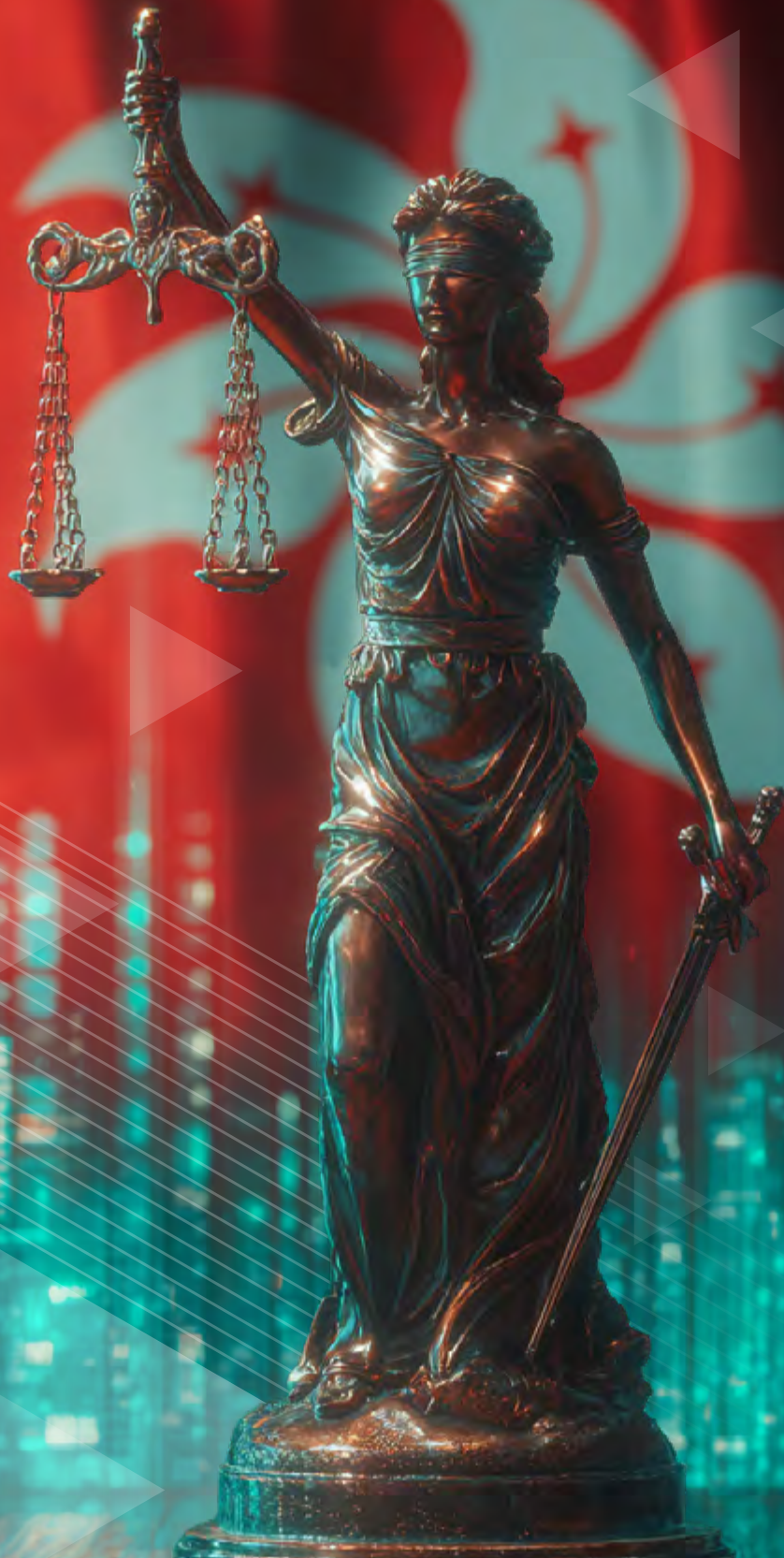
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HONG KONG COURT REFUSED ANTI-SUIT INJUNCTION **LEAVING CREDITOR FREE TO PETITION OFFSHORE¹**

Jonathan Leitch • Hogan Lovells • Hong Kong



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On 1 August 2025, the Hong Kong Court of First Instance delivered a significant decision in *Hyalroute Communication Group Limited (“Hyalroute”) v Industrial and Commercial Bank of China (Asia) Limited (“ICBC”)* ([2025] HKCFI 2417) on a novel point of law concerning whether it should restrain a foreign winding-up petition in favour of arbitration.

Divergent legal approaches – Hong Kong vs common law

In recent years, significant judicial attention has been given to analysing the interplay between arbitration and winding-up proceedings.

- **Hong Kong law:** Following *Re Guy Lam* (2023) 26 HKCFAR 119, the Hong Kong Court of Final Appeal established that the Hong Kong courts will generally stay winding-up proceedings in favour of arbitration unless there is abuse of process. The focus is on upholding the parties’ contractual bargain to arbitrate disputes.
- **English law:** As clarified in *Sian Participation Corp v Halimeda International* [2024] UKPC 16, a debtor is required to show a *bona fide* dispute on substantial grounds before the court will stay or dismiss a winding-up petition, even where an arbitration clause exists. The court will conduct a threshold inquiry into the genuineness of the dispute, rather than automatically deferring to arbitration.

Background

Hyalroute is a company incorporated in the Cayman Islands. The defendant, ICBC, is a bank. In 2018, two of Hyalroute’s subsidiaries entered into a term loan agreement with ICBC with Hyalroute acting as guarantor. The borrowers and Hyalroute failed to repay the loan.

The term loan agreement, governed under Hong Kong law, contained an arbitration provision requiring any dispute or claim to be dealt with by way of arbitration administered by the Hong Kong International Arbitration Centre (“HKIAC”).

ICBC served a statutory demand on Hyalroute following which Hyalroute issued a summons in Hong Kong seeking an anti-suit injunction to restrain ICBC from pursuing winding-up proceedings in the Cayman Islands, arguing that this would breach the arbitration provision in the term loan agreement.

Arbitration clause

Recorder William Wong SC dismissed Hyalroute’s application, holding that the arbitration provision had not been breached. The Recorder considered only the “final” resolution of a dispute would be caught by the term loan agreement and that, as a matter of proper construction, the negative obligation under the terms of the term loan agreement – not to have disputes finally resolved in a non-contractual forum – was not infringed.

The term loan agreement referred to the term “finally resolved” and the Court held that it imposed a positive obligation on the parties to have disputes within the scope of the term loan agreement finally resolved by arbitration, as well as a negative obligation not to have disputes finally resolved in a non-contractual forum.

The Court found that as the proceedings did not have the effect of finally resolving the dispute, the negative obligation was not infringed and there would be no breach of the arbitration provision. Thus, the real issue was whether the Cayman winding-up proceedings would have the effect of finally resolving the dispute over Hyalroute’s indebtedness under the term loan agreement.

The Court found in favour of ICBC that, in resolving the question whether Cayman proceedings would have the effect of “finally

Hong Kong Courts are unlikely to restrain offshore winding-up proceedings unless there is a clear breach of an arbitration agreement.

resolving” the dispute between the parties or give rise to *res judicata*, it should consider Cayman Islands law.

Despite the lack of any expert evidence on Cayman Islands law, based on the authorities from that jurisdiction, the Court concluded it was clear that Cayman law does not view a winding-up petition as resolving a dispute substantively. Under Cayman law, it is only seen as resolving the threshold question of whether there is a genuine dispute on substantial grounds. The Court therefore agreed with ICBC, holding that on proper construction, the Cayman winding-up petition would not have the effect of “finally resolving the dispute” within the meaning of the arbitration provision and therefore would not be in breach of the term loan agreement.

On a final note, the Court went on to consider the merits issue and concluded that the underlying merits of Hyalroute’s defence were hopeless, frivolous and it was an abuse for it to rely on such defence to prevent ICBC from invoking the Cayman Court’s winding-up jurisdiction.

Court of Appeal

Shortly after the decision was handed down, Hyalroute sought a further interim anti-suit injunction to restrain the presentation of the winding-up petition pending determination of its appeal. This was refused on the basis that the Court of Appeal considered Hyalroute had no real prospect of success. Accordingly, the Court of Appeal, in the decision of 21 October 2025, has now confirmed for the first time that the “abuse of process” exception as set out by the Court of Final Appeal in *Re Guy Lam* can be applied in such cases. As at the time of writing, the substantive appeal remains to be heard.

Key takeaways

The decision underscores several risks and uncertainties for creditors and debtors:

- Arbitration clauses requiring arbitration in Hong Kong may not shield offshore-incorporated debtors from winding-up petitions being filed in their place of incorporation, even if the underlying debt is disputed.
- Creditors may find it more effective to pursue winding-up remedies in the debtor’s place of incorporation (e.g., Cayman Islands or other common law-based jurisdictions), where the courts will scrutinize the debtor’s defences but are less likely to be restrained by Hong Kong anti-suit injunctions, even if an arbitration clause is present.
- Hong Kong Courts are unlikely to restrain offshore winding-up proceedings unless there is a clear breach of an arbitration agreement.
- Parties need to carefully consider the interplay between arbitration and insolvency remedies when drafting arbitration clauses to ensure the provisions accurately reflect their intentions concerning how disputes should be resolved.



A YEAR OF GROWTH FOR THE INSOL FUTURE LEADERS

The INSOL Future Leaders community has continued to go from strength to strength in 2025. This year saw the launch of **Future Leaders Voices**, a monthly vlog series spotlighting the hot topics and interesting cases from around the globe.

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- "Using Synthetic Proceedings in Cross-Border Insolvency: Opportunities and Challenges" by Rob Child and Shreya Prakash
- "The Efficacy of Formal Corporate Turnaround Processes in Kenya, Uganda, Nigeria and South Africa" by Emily Onyango, Paul Winyi Kasami, Agatha McMadu and Lance Schapiro

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If you are an existing or past participant of the Future Leaders Programme and would like to find out how you can become involved with INSOL initiatives, please contact Mary-Beth Robinson at mary-beth.robinson@insol.org.

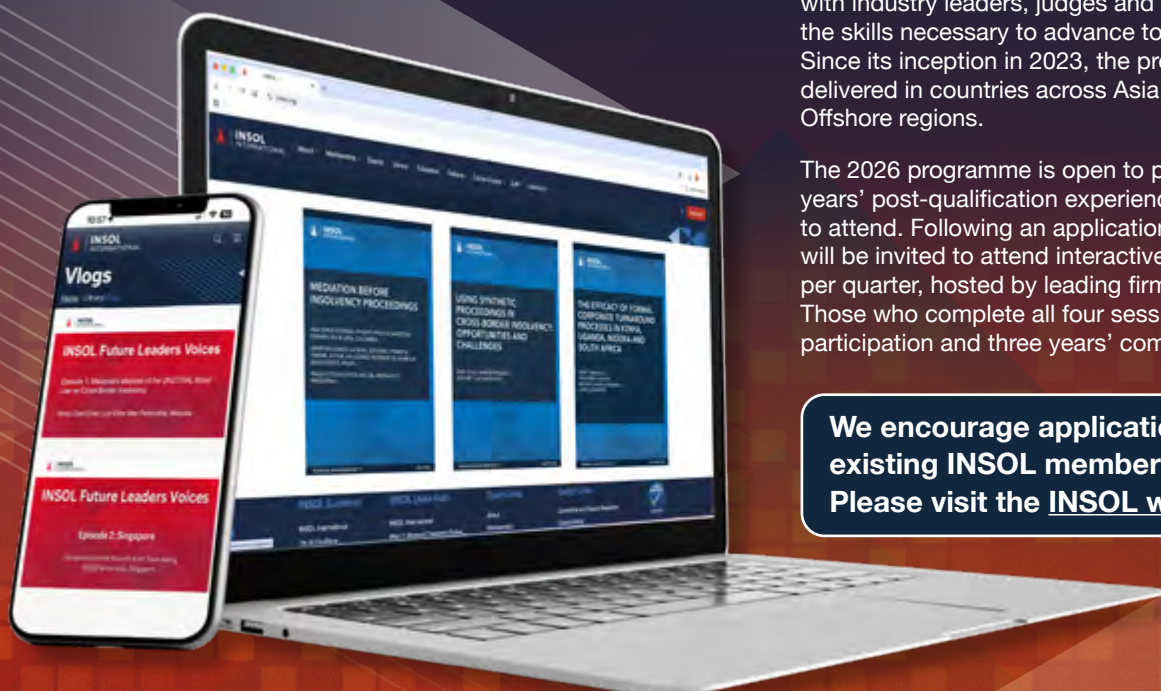
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BEYOND THE HYPE: USING LARGE LANGUAGE MODELS AS DISCIPLINED TOOLS IN INSOLVENCY AND RESTRUCTURING PRACTICE

Farid Assaf SC (INSOL Fellow) • Banco Chambers • Australia

In the 2025 Q2 edition of INSOL World, Rachel Burdett and Stefanie Krienke deftly surveyed how AI and emerging technologies are transforming insolvency investigations across Australia and New Zealand. Their article examined the growing use of AI-powered transaction analysis, blockchain-based asset tracing, and machine learning-driven risk profiling, illustrating the technology's expanding role in cross-border recovery.

Building on that foundation, this article examines a discrete subset of AI which has surged in popularity - Large Language Models (LLMs). While specialized analytical platforms such as Symphony AI are designed for narrow, well-defined tasks like pattern detection in financial datasets, LLMs generate natural language and simulate reasoning processes offering potential gains in efficiency while simultaneously creating new risks for judgment and accountability. Their use, and misuse, have generated much debate amongst professionals as to whether such tools actually deliver the efficiency gains promised by their respective promoters. This article moves beyond the debate to explain how LLMs operate, identify their limitations, and outline how they may be applied responsibly and effectively in professional practice. Before turning to their use cases in insolvency and restructuring, it is necessary to explain how they

work and, more importantly, to understand the limits that shape their proper use.

It should be noted, however, that this article proceeds on the assumption that any use of LLMs in professional practice occurs within a sound governance framework and in particular within the context of appropriate confidentiality, privilege, cybersecurity, and data handling controls that regulate what may be shared with AI tools and how use is supervised.¹

What are LLMs and why do they hallucinate?

Large Language Models, or LLMs, such as OpenAI's ChatGPT, Anthropic's Claude, and Google's Gemini are examples of neural networks. A neural network is a web of interconnected computational "nodes" that, through repeated exposure to training data, adjusts its internal parameters to detect statistical patterns and generate predictions. Think of a neural network as a digital brain, made up of countless interconnected "neurons" that strengthen or weaken their connections as they learn, gradually

¹ For a discussion of the types of issues that need to be considered see for example Pott, *E Incorporating Generative Artificial Intelligence into the Practice of Law: Utilizing Generative AI within the Framework of the California Rules of Professional Conduct*, 61 CAL. W. L. REV. 71 (Fall 2024).

teaching themselves to recognise patterns and make predictions much like the human brain does through experience.² Modern LLMs are built on the transformer³ architecture, a specific type of neural network that simultaneously processes sequences of text by modelling relationships between all words, or more precisely tokens, within a passage. Earlier language models processed text one word at a time, causing them to lose context over longer passages. Transformers replaced this sequential approach with an “attention” mechanism that evaluates all words in parallel, preserving relationships across an entire sequence. Attention allows the model, for each token it is generating, to assign varying weights to every other token in the input context. In effect, the model asks: which words in this prompt, or in what I have already written, most strongly determine what should come next? This is why transformers are unusually good at maintaining coherence over many paragraphs, tracking defined terms, and mirroring professional writing styles.

Each time an LLM generates text, it calculates the probability of every possible next token (word) within the surrounding context. It does not choose words by understanding their meaning, but by estimating which sequence of tokens is statistically most likely to follow. These probabilities arise from patterns learned across billions of examples during training, enabling the model to produce language that appears coherent and purposeful. LLMs are therefore essentially probabilistic systems that do not “know” facts in a deterministic sense, but instead generate outputs based on statistical likelihoods. Each token is selected because, given the context, it is the most probable continuation of the sequence. This defining feature, generation through probabilistic prediction, is both what makes an LLM useful and what makes it unreliable. LLMs can produce language that sounds polished and persuasive, yet has no factual foundation. Their strength lies in combining information and context to form fluent prose, but that same fluency can mask error. When used as thought partners that supplement rather than supplant professional reasoning, LLMs can deliver real efficiency gains. When relied upon as authoritative sources, they can generate confident but spectacularly wrong conclusions that may go undetected until it’s too late. Understanding how these systems work is the first step toward using them responsibly, and the examples that follow illustrate how this can be done in practice.⁴

Reducing hallucinations – RAGs and prompt engineering

While hallucinations can never be eliminated, strategies can be implemented to mitigate the risk. Two approaches warrant particular attention. The first is to constrain the data sources the LLM may draw upon. The second is to provide the LLM with precise, explicit instructions that define the task, specify constraints, and indicate the required output format.

The first strategy is retrieval-augmented generation, commonly known as RAG. In this approach, the model draws on a curated, verified knowledge base each time it generates an output, ensuring that responses are grounded in authentic material rather than probabilistic inference from training data. While sophisticated RAG systems exist, practitioners can implement a simplified version using features already available in most commercial LLM platforms. In practice, this involves uploading verified documents such as legislation, relevant case law, or corporate records to the LLM interface and directing the model to rely only on those materials when generating responses. For example, in seeking to identify a company’s COMI, upload the Model Law text, relevant judicial decisions, and company records showing management, business activity, and creditor location. Frame your prompt as:

“Based solely on the uploaded materials, identify the factual

LLMs are not a substitute for critical professional analysis and judgment. They are probabilistic language systems that can compress, organise, and test complex material with striking effectiveness, provided the practitioner controls the inputs and remains alert to the model’s tendency to hallucinate.

indicators that would support the Virgin Islands as the debtor’s centre of main interests (COMI).”

The effect is to shift the model’s task from open-ended generation to constrained synthesis. Rather than predicting which legal principles probably apply based on incomplete or outdated training data, the model extracts and integrates information from documents you have verified. The risk of fabrication drops sharply, although it is never eliminated, because the model is working within defined boundaries.

Certain limitations must still be recognised. This is not true RAG in the technical sense. The model is not retrieving data from a vector database⁵, but is instead processing text within its active context window. It may misinterpret or mischaracterise the uploaded content, and instruction following is imperfect, so the model may still occasionally draw on training data despite being told not to. Verification therefore remains essential. Nevertheless, the probability of wholesale fabrication is significantly reduced.

The second strategy is prompt engineering⁶, which is the discipline of giving the model clear, detailed instructions about its role, the task at hand, the sources it may use, and the form of its answer. Because LLMs follow the structure and cues embedded in a prompt, careful framing produces focused, verifiable work, while loosely framed prompts invite drift, ambiguity, and error. Effective prompts usually⁷ contain four elements:

- First, role specification: *“You are analysing a potential recognition application under the UNCITRAL Model Law on Cross-Border Insolvency.”*
- Second, task definition: *“Identify the factual and legal factors indicating the debtor’s COMI in the Virgin Islands.”*
- Third, constraints: *“Rely only on the uploaded case law, statutory materials, and company records; flag any ambiguities or missing evidence.”*
- Fourth, output format: *“Present findings in a table showing factor, supporting evidence, and relevant authority or precedent.”*

2 There are numerous resources explaining LLMs. See for example, Lee, TB et al, *Large language models, explained with a minimum of math and jargon*, 27 July 2023 (<https://www.understandingai.org/p/large-language-models-explained-with>)

3 For the technically minded, see the seminal paper on transformer technology by Vaswani, Ashish, et al. “Attention Is All You Need.” *Advances in Neural Information Processing Systems* 30 (NeurIPS 2017), Curran Associates, 2017.

4 There are of course many other possible use cases. See for example Joe Regalia, *From Briefs to Bytes: How Generative AI Is Transforming Legal Writing and Practice*, 59 *Tulsa L. Rev.* 193 (2024) and John Villasenor, *Generative Artificial Intelligence and the Practice of Law: Impact, Opportunities, and Risks*, 25 *MINN. J.L. SCI. & TECH.* 25 (2024).

5 In a RAG system, a vector database lets the model quickly find and pull in the most relevant source passages by meaning, so its answer is built from those documents rather than from its own general training.

6 Much has been written on prompt engineering. See for example, Federiakin D, Molerov D, Zlatkin-Troitschanskaia O and Maur A (2024) Prompt engineering as a new 21st century skill. *Front. Educ.* 9:1366434. doi: 10.3389/educ.2024.1366434

7 By way of example only, this approach is not exhaustive nor is it prescriptive.

This structure guides the model toward relevant, traceable outputs and streamlines verification of sources. In combination, a simplified RAG workflow and careful prompt engineering shift the model from open ended generation to constrained analysis. The practitioner supplies the verified source materials that anchor the model's response, and the prompt directs the model to process those materials in a specified way. More sophisticated prompts can be generated using the LLM itself, as explained in the next section.

Analytical applications

Beyond language generation, LLMs can be used as advanced analytical and diagnostic tools when applied to corporate, financial, and other text-rich material. Their power lies in synthesising large bodies of unstructured text and detecting subtle linguistic and behavioural patterns that might otherwise escape notice. In insolvency and restructuring work, this analytical capacity can extend from pattern detection in financial disclosures to deeper qualitative analysis of documents recording governance and decision-making.

One especially useful application in insolvency and restructuring is the analysis of board minutes. With a carefully framed prompt, an LLM can scan years of meeting records and reveal various indicia of dysfunction such as repeated deferral of key financial decisions and shifting or inconsistent rationales for strategy changes. Patterns of this kind can shed light on behavioural dynamics that often precede or accompany organisational distress. The quality of the result, however, depends heavily on the quality of the prompt, and LLMs can help practitioners craft precise, structured instructions that define the analytical task at the required level of sophistication. For example, rather than prompt the LLM to "review the attached board minutes and set out some possible sources of board dysfunction" the practitioner might first ask the model to draft a more sophisticated analytical prompt tailored to the minutes and the investigation goal. Once given that instruction, the model will draft a second, more detailed prompt that operationalises the task into clear criteria, evidence limits, and a structured output. For example, the model might produce a revised prompt along these lines:

"You are analysing the uploaded board minutes to assess governance health and to identify possible sources of board dysfunction. Rely only on the minutes and do not draw on external knowledge. Examine both content and process, including participation patterns, handling of disagreement, framing of financial risk, and follow through on resolutions. In particular, identify evidence of groupthink, suppression or avoidance of dissent, dominance by specific directors, diffusion of responsibility, repeated deferral of material decisions, inconsistent rationales for strategy shifts, and optimistic reframing in the face of deteriorating performance. For each indicator you identify, cite the relevant meeting date and provide a brief quotation or close paraphrase from the minutes. Present your findings in a table with columns for indicator, supporting passage, meeting date, and a short explanation of why the passage reflects dysfunction."

Equally, LLMs can extend this approach to analysing financial information and help identify indicators of insolvency. By combining behavioural cues with financial data, they can detect both quantitative and qualitative early warnings of insolvency risk. They can also draw attention to inconsistencies between board sentiment and financial reality, or between recorded decisions and subsequent conduct.

LLMs as strategic synthesis tools

This strength of strategic synthesis can also be harnessed to assist practitioners in articulating competing scenarios, testing assumptions, and mapping the implications of alternative courses of action. In cross-border insolvency and restructuring, this ability is particularly valuable when evaluating procedural pathways across multiple jurisdictions with divergent legal frameworks, timing considerations, and stakeholder dynamics. Consider a corporate group with operations in Australia, substantial assets in the United Kingdom, and significant creditor exposure in the United States.

The Australian parent company faces insolvency, and the practitioner must determine the optimal restructuring strategy. Should the matter proceed through voluntary administration in Australia, with recognition applications under Chapter 15 in the United States and the Cross-Border Insolvency Regulations 2006 in the UK? Or would a UK scheme of arrangement offer superior creditor coordination given the concentration of secured creditors in London? What are the timing implications of each pathway, and how do automatic stay provisions differ across jurisdictions? Assuming the relevant source materials are provided, the practitioner can first ask the LLM to draft a suitably detailed analytical prompt, and then use that prompt to have the model construct a structured decision matrix. The following is one such prompt generated by ChatGPT:

"Analyse the uploaded corporate structure, creditor lists, and jurisdictional materials. Produce a comparative matrix evaluating three restructuring pathways: (1) Australian voluntary administration with Chapter 15 and UK recognition; (2) UK scheme of arrangement with ancillary proceedings in Australia and the US; and (3) parallel Chapter 11 filing with coordination protocols. For each pathway, identify the timeline from commencement to binding outcome; automatic stay scope and exceptions in each jurisdiction; creditor voting thresholds and classification requirements; regulatory approval requirements; estimated professional costs; and procedural vulnerabilities including jurisdiction challenges or creditor objections. Cross-reference against the JIN Guidelines and ALI-III Global Principles where coordination mechanisms are relevant."

The value lies not in the LLM making a recommendation, which always remains a matter of professional judgment, but in its ability to assemble the relevant legal and commercial variables into a coherent structure, to reveal where one jurisdictional step depends on another, to identify procedural frictions that may not be obvious at the outset, and to present the competing pathways in a form that allows the practitioner to compare timelines, risks, creditor leverage points, and coordination burdens in a disciplined and transparent way.

Conclusion

LLMs are not a substitute for critical professional analysis and judgment. They are probabilistic language systems that can compress, organise, and test complex material with striking effectiveness, provided the practitioner controls the inputs and remains alert to the model's tendency to hallucinate. Seen in that light, the question is not whether LLMs are "safe" or "unsafe," but whether they are being used within a workflow that makes their strengths useful and their failures detectable. The practical imperative, therefore, is to establish robust governance frameworks⁸ and rigorous methodological controls. Governance delineates boundaries around data handling, privilege, confidentiality, and professional accountability. Methodology constrains reasoning by requiring outputs to be traceable to verified source materials and mandating human verification before any draft transitions to decision. Where these conditions are satisfied, LLMs can deliver substantial efficiency gains while preserving professional standards. Where they are absent, the same tools can generate errors with such fluency and apparent authority that their unreliability is hidden unless uncovered by deliberate verification, or worse, only recognised after damaging consequences have already crystallised.

⁸ It is beyond the scope of this article to discuss the vexed topic of AI governance. For a helpful review of the literature see Batool, A., Zowghi, D. & Bano, M. AI governance: a systematic literature review. *AI Ethics* 5, 3265–3279 (2025). <https://doi.org/10.1007/s43681-024-00653-w>

THE AFRICA ADVISORY COUNCIL (AAC)

DRIVING INSOL'S FOOTPRINT ACROSS THE AFRICAN CONTINENT

Dr Eric Levenstein • Co - Chair of INSOL's Africa
Advisory Council • South Africa



AAC committee members at the **INSOL International & World Bank Group Africa Round Table (ART) 2025** (Cape Town) - Jose Caldeira (Mozambique), Felix Addo (Ghana), Dr Eric Levenstein (South Africa), Huns Biltoo (Mauritius), Jo Mitchell Marais, (INSOL Fellow, South Africa) and Antonia Menezes, (INSOL Fellow, World Bank).

2025 has been a significant year for INSOL International's Africa Advisory Council (AAC). Formed at the INSOL London Conference in 2022, the AAC aims to deepen engagement among African insolvency practitioners and expand INSOL's reach across the continent. Led by co-chairs Dr Eric Levenstein (South Africa), Sonal Tejpar (Kenya) and Winne Kiryabwire (Uganda), the AAC has prioritised the development of new national member associations and practical collaboration across African jurisdictions.

Membership growth

The AAC now includes representatives from 13 jurisdictions: Botswana, Ethiopia, Ghana, Kenya, Mauritius, Mozambique, Namibia, Nigeria, South Africa, Rwanda, Uganda, Zambia and Zimbabwe.

In 2025, the AAC supported the formation of new associations in Botswana, Mauritius, Rwanda and Zimbabwe and welcomed new committee members from Cameroon, Namibia and Zambia. Additional initiatives are underway in Ivory Coast, Lesotho, Liberia, Senegal and Sierra Leone. INSOL currently has 1,075 members in Africa, and increasing practitioner membership through national associations remains a central objective.

There are four existing INSOL Member Associations on the continent:

- ATIK (Kenya) • BRIPAN (Nigeria) • CIRIP (Ghana) • SARIPA (South Africa).

Education initiatives

Education remains a key focus. In 2025, the AAC expanded the INSOL Foundation Course to include jurisdiction-specific modules for Ghana, Nigeria and Zambia, in addition to existing materials for Kenya, South Africa, Uganda and the UAE. This significantly broadens access to relevant training for African practitioners; 20 of the 115 candidates enrolled for the 2025/2026 course are from African jurisdictions.

Strategic priorities

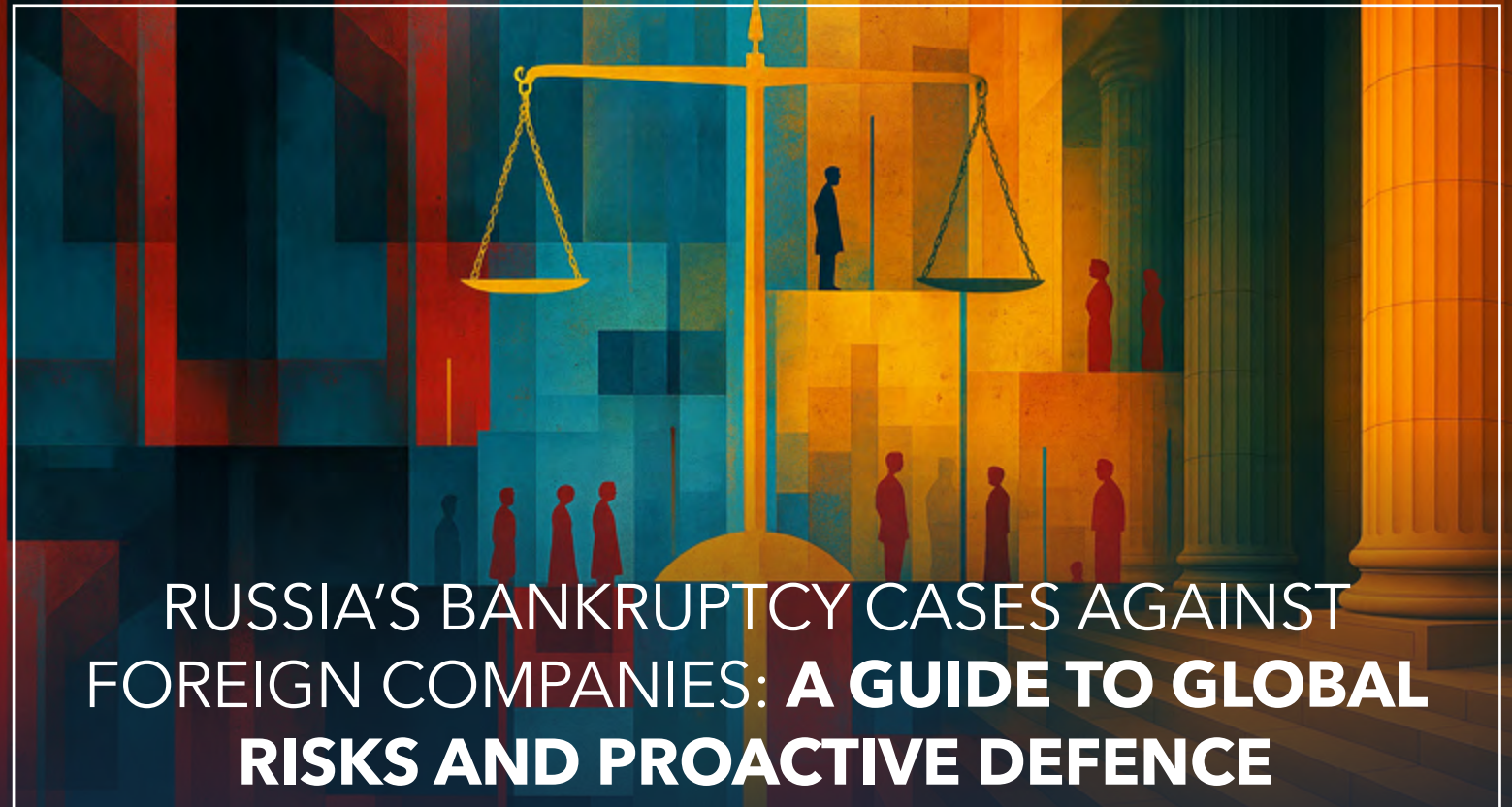
The AAC continues to advance initiatives aimed at:

- strengthening links among universities, academics and practitioners;
- supporting regulators to enhance insolvency and restructuring frameworks; and
- sharing best practice across the region.

At the 2025 INSOL International & World Bank Africa Round Table in Cape Town, members identified further priorities for 2026, including expanding Foundation Course participation, deepening engagement with the World Bank on law reform and judicial training, supporting the creation of new member associations, involving INSOL Future Leaders in AAC activities, collaborating with OHADA and launching focused regional webinars across the continent.

Outlook

The AAC expects substantial growth in insolvency activity and professional collaboration across the SADC, West, East and North African regions in the coming years. The Council remains committed to driving INSOL's objectives across Africa and welcomes practitioner engagement to strengthen both regional and global networks.



RUSSIA'S BANKRUPTCY CASES AGAINST FOREIGN COMPANIES: A GUIDE TO GLOBAL RISKS AND PROACTIVE DEFENCE

Pavel Novikov (INSOL Fellow) and Artem Antonov
Melling Voitishkin & Partners • Russia

The corporate exodus from Russia since 2022 has been historic in its scale and speed. For many multinational corporations, finalizing the sale or wind-down of their Russian operations felt like the end of a complex chapter. However, a dangerous assumption is taking hold: that the risks associated with these businesses have been successfully ring-fenced.

This assumption is being tested in an unexpected arena: Russia's bankruptcy courts. A new and potent form of "long-tail" risk is emerging, where the insolvency of a former subsidiary is strategically used to create significant legal and financial exposure for the international parent group. These proceedings have evolved into a two-pronged challenge. The first involves the bankruptcy of former Russian subsidiaries under novel theories of liability. The second, more aggressive front, sees Russian courts initiating bankruptcy proceedings directly against foreign parent companies.

Crucially, this strategy allows Russian creditors to bypass traditional jurisdictional safeguards like arbitration clauses. Because bankruptcy is considered a matter of exclusive jurisdiction, rulings made within these proceedings are uniquely positioned for global enforcement, transforming a domestic Russian dispute into a tangible international threat.

The first pathway: The bankruptcy of Russian subsidiaries

At first glance, the bankruptcy of a former Russian subsidiary appears to be a standard local proceeding. However, recent cases demonstrate a strategic shift where these entities are used as vehicles to target the former international parent group. The primary tactic involves artificially engineering insolvency by transferring the debts of foreign group companies onto the Russian subsidiary.

With its balance sheet overwhelmed by these newly assigned liabilities, the Russian entity is pushed into bankruptcy. This creates a

legitimate-looking insolvency estate with substantial claims, providing a platform for the court-appointed administrator to launch aggressive recovery actions. While these cases proceed under standard Russian bankruptcy law, their strategic foundation is novel, effectively leveraging the local entity against its former international parent.

The second pathway: The "Westwalk doctrine" and direct pursuit of foreign companies

A far more direct threat emerged from the Russian Supreme Court's landmark ruling in *Westwalk Projects LTD* in February 2024.¹ This decision effectively codified a doctrine for initiating bankruptcy proceedings directly against foreign companies in Russia. The Court established that jurisdiction can be asserted based on a "close connection" to Russia, a flexible test that considers factors such as the location of assets, the center of main interests (COMI) of controlling persons, and the concentration of creditors.

The *Westwalk* ruling established two primary pathways for such proceedings:

- **Main proceeding:** If a foreign company's COMI is deemed to be in Russia (e.g., its management and key operations are there, and its foreign registration is merely "formal"), Russian courts can open a "main" bankruptcy. The consequences are global: the proceeding is intended to extend to all the company's assets worldwide.
- **Secondary (local) proceeding:** If the COMI is abroad but the company has assets in Russia, the court can initiate a "secondary" bankruptcy of the Russian "asset mass". This is precisely the path being pursued in the high-profile case against **Volkswagen AG**, where a solvent German parent company faces the bankruptcy of its Russian assets to satisfy local creditors.²

¹ Supreme Court of the Russian Federation, Ruling of February 8, 2024, No. 305-ES23-15177 in case No. A40-248405/2022 (*Westwalk Projects LTD*).

By adopting internationally recognized concepts like COMI and secondary proceedings, Russian courts are framing their actions in a language familiar to foreign jurisdictions. This strategic alignment is designed to increase the potential for the international recognition of their rulings.³

The bankruptcy loophole: Why Russian insolvency judgments travel globally

The strategic shift towards bankruptcy is a direct response to the declining international enforceability of other Russian judgments. Rulings issued by Russia's state commercial courts (*Arbitrazh* courts) under the "Lugovoy Law" (Articles 248.1 and 248.2 of the Commercial Procedure Code), which asserts exclusive jurisdiction over sanctions-related disputes, are increasingly rejected by Western courts on public policy grounds. EU sanctions regulations now explicitly provide a right to refuse recognition of such judgments.⁴

Bankruptcy rulings, however, present a different case. They are framed not as political retaliation but as a universally recognized commercial mechanism to protect creditors' rights. This makes it far more difficult for a foreign court to deny enforcement. As evidenced by a string of successful cases in the US (*PJSC National Bank Trust v. Pirogova*),⁵ the Netherlands (*Promsvyazbank v. Ananyev*),⁶ and France (*AST Trans Market*)⁷ have recognized such rulings. Furthermore, sanctions do not necessarily preclude recognition, whether they are imposed on the claimant (the bankrupt) or on major creditors within the bankruptcy estate, as demonstrated by rulings in the US (*In re Sabadash*)⁸ and Israel (*BM-Bank v. Ismailov*)⁹.

The legal toolkit: Clawbacks and subsidiary liability

Once a bankruptcy is initiated, the court-appointed administrator has a powerful legal toolkit. These tools are no longer confined to the Russian entity but are aimed directly at its former foreign affiliates and management.

- **Clawbacks (transaction avoidance)¹⁰:**
The administrator scrutinizes all transactions within a "look-back period" of up to three years before the bankruptcy filing. The targets are broad and include:
 - a) **Former employees:** Payments such as salaries and severance packages can be challenged as preferential transactions.
 - b) **Third-party counterparties:** Any transaction deemed detrimental to the interests of creditors, or that constitutes an unlawful preference, can be unwound.
 - c) **Intra-group companies:** The settlement of intercompany loans or transfer of assets during the exit process are prime targets for clawback actions.
- **Subsidiary liability¹¹:**
This is the most potent instrument in the legal toolkit. Liability can be imposed on any individual or entity deemed a "controlling person", a broad definition that extends far beyond the formal director of the Russian entity. It is used to target:
 - a) **Russian management:** Former local directors and executives are often the first line of attack.

- b) **Foreign parent companies:** The parent company can be held liable for the entire debt of its former subsidiary.
- c) **Affiliated group entities:** Other foreign companies within the corporate structure can be targeted if they are deemed to have been the ultimate "profit centers".

The application of these liability tools across both fronts creates deep legal uncertainty. In the case of a Russian subsidiary bankruptcy, the question becomes who bears ultimate responsibility: the local director or the foreign management whose actions led to the insolvency? The *Westwalk* doctrine presents an even greater legal paradox: how can the management of a solvent foreign company be held liable for the bankruptcy of a segregated pool of its assets? These ambiguities are not accidental; they are strategically exploited to create maximum pressure on all international parties involved.

A proactive defence: It is not a hopeless situation

While the risks are severe, these cases are not incapable of defence. A passive approach, however, is a recipe for disaster. The following strategies are crucial for any international company facing these threats:

- **Engage immediately, do not ignore:** The most critical mistake is to disregard Russian bankruptcy proceedings. Active participation from day one is essential to build a defensive record, challenge the administrator's findings, and prevent a negative narrative from solidifying. This record is invaluable in subsequent enforcement battles abroad.
- **Challenge jurisdiction in ancillary disputes:** While the jurisdiction of the main bankruptcy case may be established, it is not absolute for all related disputes. There are strong arguments to be made that ancillary claims – particularly far-reaching subsidiary liability or clawback actions against foreign parties – should be heard in a more appropriate forum. This jurisdictional challenge should be raised assertively.
- **Deploy international legal tools:** Proactive defense is key. Companies should consider using international legal instruments to preemptively shield themselves from future enforcement. This could include seeking declaratory judgments in their home jurisdiction to confirm the legitimacy of their exit transactions or, in certain circumstances, obtaining anti-suit injunctions to block the pursuit of related claims abroad.

Conclusion

The corporate exit from Russia was not the end of the story; it was the beginning of a new, complex chapter in risk management. Russian creditors, backed by a sophisticated legal doctrine articulated in the *Westwalk* case, have found a powerful pathway to pursue international companies on a global stage. However, the legal landscape is far from one-sided. By understanding the two pathways of this legal challenge and deploying a robust, proactive defense strategy from the outset, companies can effectively protect their assets, their former employees, and their reputation. These cases are not hopeless – they are a call to action for vigilant and strategic legal engagement.

3 See Mokhova, E.V., "Bankruptcy of Foreign Companies in the Russian Federation: Theoretical Foundations, Development of Judicial Practice, Problems and Prospects (Part 1)," *Herald of Economic Justice of the Russian Federation*, No. 5 (2024).

4 Article 11c of Regulation (EU) 833/2014

5 *PJSC National Bank Trust v. Pirogova*, 216 A.D.3d 476 (N.Y. App. Div. 2023).

6 *Promsvyazbank PJSC v. Promsvyaz Capital B.V.*, Rechtbank Amsterdam, C/13/695273/HA ZA 20-1304, Judgment of April 5, 2023. This refers to the series of cases involving the Ananyev brothers.

7 Judgment of the Judicial Court of Nice, June 21, 2023, No. 21/03505 (enforcing a subsidiary liability ruling in the bankruptcy of *AST Trans Market*).

8 *In re Sabadash*, No. 2:23-bk-15574-NB (Bankr. C.D. Cal. May 14, 2024).

9 Case on civil claim 40733-11-21 dated August 07, 2024 (*BM-Bank v. Ismailov A.*, within the bankruptcy case of *OOO Tropicano Business Club*).

10 See Articles 61.2 and 61.3 of the Federal Law "On Insolvency (Bankruptcy)" No. 127-FZ.

11 See Articles 61.11 and 61.12 of the Federal Law "On Insolvency (Bankruptcy)" No. 127-FZ.

INSOL INTERNATIONAL SMALL PRACTICE GROUP

Dr. Stephan Degen, Chair, INSOL SPG • Heuking Kühn Lüer Wojtek • Germany

The INSOL Small Practice Group (SPG) continues to serve as a valuable forum for professionals in small and medium-sized practices to connect, exchange ideas and develop technical content tailored to their needs.

In October, the Group hosted its quarterly Open Call on the theme “**Challenges and Solutions for Small Practices in Liquidation and Restructuring Work**”. We extend our thanks to Catherine Piper (Piper Analytics, Botswana) for sharing her insights in conversation with SPG Chair Dr. Stephan Degen (Heuking Kühn Lüer Wojtek, Germany). Catherine’s observations resonated strongly with participants, who contributed their own perspectives on common challenges - ranging from resourcing and capacity constraints to regulatory burdens, cash-flow pressures, data management issues, competition, and more.

Planning is already underway for our next Open Call. If there is a specific topic or issue you would like the SPG to explore, please send your suggestions to Jelena.Wenlock@insol.org.

We are also pleased to report further expansion of the **Small Practice Technical Paper Series**, with the following additions this quarter:

Collection of Practical Issues Important to Smaller Practitioners:

- **Thailand**, authored by Chayapa Preechayanpanich (Intern, INSOL International, Asia), with review by staff from the Legal Execution Department, Ministry of Justice, Thailand; and
- **Singapore**, authored by Ernest Chua (Intern, INSOL International, Asia), with review by Samuel Loh, Counsel, Bird & Bird ATMD LLP, Singapore.

Consumer Debt Issues:

- **Thailand**, authored by Chayapa Preechayanpanich (Intern, INSOL International, Asia) with review by Thanawan Kirdsinsap (Senior Associate in the Bankruptcy and Restructuring practice at Weerawong, Chinnavat & Partners).

We would like to thank the INSOL Asia Hub interns for their contributions and Clare Wee, Regional Head Asia, for her assistance sourcing these additional papers.

Looking ahead, the SPG is delighted to be featured on the main conference programme at **INSOL London** next April, where we will host a dedicated breakout session on “**Debt Management Strategies for Financially Distressed Small Businesses**”. We look forward to engaging with members during this session and throughout the various networking opportunities at the conference.

As the festive season arrives, the SPG Committee would like to extend our warmest wishes to all members of the INSOL community. We wish you joyful and peaceful holidays and hope it brings you time to reflect, recharge, and celebrate with those who matter most.

INSOLVENCY PRACTICE IN A SMALL MARKET

Catherine Piper • Piper Analytics • Botswana

Botswana presents a distinctive setting for insolvency work. Although geographically large, it is economically small with a population of only 2.5 million people, creating a professional community where accountants, lawyers, regulators and senior executives regularly intersect. Cultural norms that place value on relational engagement further reinforce this closeness. Insolvency practitioners have unusual access to decision-makers and stakeholders compared with larger jurisdictions. These practical realities, together with the way the insolvency legislation has developed locally, creates a distinct operating environment which offers specific opportunities.

One such opportunity is the ability, in appropriate circumstances, to explore alternatives to a straightforward winding up. The close-knit professional environment can enable early engagement with key stakeholders, making it possible to implement other strategies that are outside a formal business rescue regime, including trading the business in liquidation in order to preserve value and offer much better outcomes for creditors than an immediate break-up of assets.

Botswana’s legal system is a hybrid of Roman Dutch law, English common law and customary law. The insolvency regime, similar to many Commonwealth countries, is creditor-led. There are three primary instruments that govern insolvency:

- i) The Companies Act - the main statute for corporate insolvency (compulsory and voluntary), judicial management and compromises with creditors;
- ii) The Companies Act Regulations (‘Winding Up Rules’) – (limited) procedural rules; and
- iii) The Insolvency Act – the principal statute for insolvent individuals, which is cross-referenced for certain corporate matters, however, cannot be applied *mutatis mutandis* despite common assumptions to the contrary.

While the legislation broadly aligns with international principles, the practice of insolvency and supporting institutions are less developed. Botswana does not have a commercial court and regulators often have limited exposure to insolvency matters as insolvencies are relatively rare. Legal practitioners do not specialise in this area of law and the majority of insolvency practitioners do not practice full time.

Most liquidations in Botswana are compulsory and generally brought on an urgent basis. (Although voluntary liquidations are provided for in the Companies Act these provisions are rarely used). Petitions to wind up a company are generally initiated by creditors, most often financial institutions. The court typically

grants a provisional winding up order and sets a return date for the company to be placed in final liquidation.

It is standard practice for the petitioner to nominate a provisional liquidator. If the court considers the nominee fit and proper the individual will be appointed as the provisional liquidator in the winding up order. The provisional liquidator assumes control of the company immediately and remains provisional liquidator until the first meeting of creditors, which occurs after the final winding up order is granted, and a final liquidator is appointed. The nominee will ordinarily be known to the lawyer advising the petitioner (which illustrates the size of the professional community).

This nomination process has a number of advantages. Firstly, before indicating willingness to act, the practitioner, can confirm independence, which is important in a small market where conflicts can easily arise. Secondly, it enables the practitioner to assess the resources and expertise required. As most practitioners are from small practices the ability to undertake an assignment and scale up immediately following an urgent order is a critical consideration. Thirdly, and most importantly, linking back to the opportunities noted above, it allows an early assessment of the issues and initial determination of what may be the most effective strategy to maximise the benefit to all creditors.

The following case illustrates the value of this approach. A major bank intended to bring an urgent application to court to wind up a nationwide franchisee of an international fast-food brand. Before doing so, in consultation with its legal advisor, approached a couple of potential provisional liquidators to act. After discussions with both, one practitioner recommended that the best approach would be for the company to trade in liquidation so that the business could be sold as a going concern. The other proposed following the standard liquidation process - closing the business and selling the assets. The franchisor had threatened to terminate the franchise agreement which would have significantly diminished the value of the estate to little more than second hand kitchen equipment. Following consultation with the first proposed liquidator, the franchisor agreed to enter into a temporary franchise agreement with the provisional liquidator to allow trading whilst under liquidation.

The urgent application was granted. Within a few days, operations were stabilised, branches reopened and trading resumed. The provisional liquidator was able to contact the banks to facilitate continued banking operations, suppliers to secure ongoing stock and placate the landlords threatening to lock the branches. The ability to reach the relevant decision-makers directly and the fact the provisional liquidator was known, and importantly, trusted by

This case illustrates how the practice of insolvency in Botswana has adapted to the scale of its market. (...) These dynamics can, when applied appropriately, enable outcomes that preserve value and facilitate improved insolvency outcomes.

the stakeholders was essential. By engaging with the petitioner and the key stakeholder prior to liquidation and therefore ensuring the provisional liquidator had the ability able to trade at all was key. The ability to recommence operations almost immediately, with the general public being unaware of the interruption, was made possible, in part, by the inter-connectedness of those affected by the liquidation. This significantly preserved value for the creditors, maintained customer service while protecting the brand as well as safeguarded all jobs. The liquidator successfully sold the business as a going concern once the company was in final liquidation.

This case illustrates how the practice of insolvency in Botswana has adapted to the scale of its market. The approach adopted demonstrates how early engagement and close professional networks can enable pragmatic solutions that overcome some of the challenges of operating in a small economy with underdeveloped institutions. These dynamics can, when applied appropriately, enable outcomes that preserve value and facilitate improved insolvency outcomes.



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INSOL ASIA HUB

Q4 2025: ASIA HUB IN MOTION

Fourth Quarter 2025 was a tight calendar: two INSOL Member Association conferences in Kuala Lumpur and Singapore a week apart, the Sydney Seminar, the Restructuring and Insolvency Academic Forum (RIAF) 2025, the Distressed Airlines webinar and the finale of the Next Generation vlog series. Across this run the focus stayed on how policy and practice meet in cooperation and recognition frameworks, creditor outcomes, rescue financing and enforcement readiness, with an academic development track and space for next generation voices.

Member Association conferences — Kuala Lumpur and Singapore

The Malaysia Insolvency Conference 2025: “Beyond Borders: Evolving Pathways to Restructuring and Insolvency” (2–3 October 2025)

The annual flagship event was organised by INSOL Member Associations MIA, iPAM and MICPA. With the cross-border bill through both houses and awaiting Royal Assent, the focus in Kuala Lumpur was on what happens next in practice: recognition pathways and interim relief, reciprocity and public policy limits, court to court channels, and how these sit alongside corporate rescue tools, employee and priority claims, and fraud recovery.

The Regional Restructuring and Insolvency Organisations Forum (RRIOF), a regional association grouping, met alongside the conference and used three linked sessions to take a regional view. Panellists compared experience with the UNCITRAL Model Law on Cross-Border Insolvency, examined how current economic conditions are shaping restructurings in their jurisdictions, and walked through notable non-Model Law cases in and out of court. The conversation now moves to Bali in July, where AKPI, the Indonesian Member Association, will host the annual RRIOF meeting.

Singapore Insolvency Conference 2025 (7–8 October 2025)

IPAS delivered a packed two-day conference. Justice Philip Jeyaretnam, President of the Singapore International Commercial Court, gave the Opening Address. The agenda drew together sessions on Singapore as a debt restructuring hub, distressed debt and special situations, managing stakeholders in a restructuring, and the treatment of trusts and trustees in financial distress. It also included a judicial fireside chat on cross-border insolvency in Asia and a reform session using the recommendations of the Committee to Enhance Singapore’s Corporate Restructuring and Insolvency Regime as a reference point for future developments. Banking and capital focused panels examined the role of financial institutions in corporate turnarounds, small and medium enterprises in distress, and the future of personal insolvency in Singapore, before the conference closed with an interactive “What Would You Do” case discussion. The conference brought into focus the developments shaping the restructuring and insolvency landscape in Singapore.

INSOL International Australia and New Zealand Seminar (13 October 2025)

Delivered by the INSOL International team in collaboration with ARITA and RITANZ, the seminar returned to Sydney after a long break; the city last hosted an INSOL seminar in 2017. INSOL International President Alastair Beveridge opened the seminar, reflecting the importance of Australia and New Zealand in INSOL’s broader programme. Attendance was strong, with delegates from eight jurisdictions and 20 INSOL Fellows in the room. The programme was Australia and New Zealand focused but with clear relevance for Asia. Sessions worked through cross-border recognition and cooperation, creditor engagement in group restructurings, funding and private capital in distress, investigations and recovery, and market and regulatory outlooks. Asia Hub was on the ground to provide support and to feed these discussions into comparative work across the region.

RIAF 2025 — Restructuring and Insolvency Academic Forum (6–7 November 2025)

RIAF 2025 anchored the quarter. It was INSOL’s first academic forum in Asia, co organised by the Asia Hub and the INSOL International Academic Focus Group in collaboration with NUS Law’s Centre for Asian Legal Studies and the EW Barker Centre for Law and Business, with support from the Insolvency Law Academy of India. It set a substantive benchmark with 33 presentations across two days, showcasing Asia focused research on corporate restructuring and insolvency by early career researchers and emerging scholars.

The curation of the sessions paid off. Panels covered doctrinal analysis, empirical work and institutional design across domestic and cross border restructuring and insolvency, including enforcement, governance and reform trajectories. Feedback highlighted the programme’s practical orientation and regional breadth, and engagement was energetic, with sustained Q&A across panels.

The undergraduate session earned wide praise from the judging panel of INSOL's Past Presidents Neil Cooper and Suman Batra, and Professor Charles Booth for both analysis and delivery. Stephanie Heng (Singapore Management University), an Asia Hub intern, shared top honours with Harsh Bansal (Rajiv Gandhi National University of Law), who is confirmed to join the Hub's internship programme, underscoring the strength of our internship stream and its link to Asia focused scholarship.

A forward-looking keynote address, "Modified Universalism in a Fractured World: Fault Lines, Fissures and the Future", delivered by The Honourable Justice Kannan Ramesh (Judge of the Appellate Division, Supreme Court of Singapore), set a practical tone and framed modified universalism as a working standard. Justice Kannan pressed for implementation: forum selection anchored in a consistent, fact-based COMI analysis; a cross-border toolkit courts and practitioners can use; and court to court cooperation as standard practice. He also pointed to a role for NGOs, including INSOL, in turning soft law into working protocols and sustaining JIN and related regional networks.

Professor Li Shuguang's opening lecture on Day 2, "Recent developments in the Amendments and Practice of the Enterprise Bankruptcy Law", signalled pragmatic outward looking openness in the Chinese insolvency framework, linking domestic legislative updates to networked cross-border practice and judicial cooperation.

Building on this momentum, the programme moves to Bangkok in June 2026, co-hosted with Thammasat University and NUS Law together with other regional collaborators, holding to the same brief: Asia focused scholarship and early career participation, underpinned by university partnerships.

Distressed airlines: Navigating stormy skies and rough landings (Webinar, 18 November 2025)

The third session in the series remained execution focused with a practitioner panel comprising Bahram N. Vakili (AZB and Partners), David Griffiths (Weil, Gotshal and Manges), Patrick Hoban (AlixPartners), Andrew Hanson (EY) and Sean Lee (Weil, Gotshal and Manges) moderating. The panel walked through airline restructurings of Jet Airways, SAS, Aeroméxico and Air Vanuatu, drawing on mandates they had led and sharing useful case driven lessons on what moved outcomes: how forum choice and cross border recognition and assistance shaped control, how Cape Town tools interacted with leases, how funding was structured and enforced, and how decisions on fleets and airport take-off and landing rights preserved value. The session underscored that outcomes in distressed airline cases turn on the mix of forum choice, cross border tools, Cape Town protections, funding and fleet strategy.

Note of thanks

Thank you to our speakers, partners, member associations and international team colleagues for their collaboration and contribution to Asia Hub programmes in this cycle, and to our intern cohort for sharing the load with the team throughout the year. Season's greetings to the community and warm wishes for a restful break and a steady start to 2026.



INSOL
INTERNATIONAL

INSOL TALKS

A podcast focused on insolvency, restructuring and bankruptcy

A fortnightly series presenting an opportunity to hear leading professionals interviewed by the INSOL Early Research Academics committee (ERA). INSOL ERA brings together postgraduate students and early career academics with an interest in academic research in the field of insolvency law.



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RICHARD TURTON AWARD 2025



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The Richard Turton Award is an annual award funded by INSOL International, INSOL Europe, the Insolvency Practitioners Association and R3, the Association of Business Recovery Professionals, jointly created in recognition of Richard Turton's unique role in the formation of all four organisations.

The Award provides an educational opportunity for the winner to attend the INSOL Europe Annual Congress and have a technical paper published.

The panel adjudicating this year's applications was made up of: Barry Cahir (INSOL Europe), Neil Cooper (INSOL International), Nicky Fisher (R3) and Yin Lee (IPA).

We are pleased to present below an overview of the paper written by the 2025 award winner **Dorjana Xhamaqi** from Albania.

To read the full paper, as well as Dorjana's testimony, and papers by previous winners, please see <https://www.insol.org/turton-award>.

BANKCRUPTY AND ITS PSYCHOLOGICAL IMPACT ON INDIVIDUALS: **CHALLENGES AND OPPORTUNITIES FOR GROWTH**

Dorjana Xhamaqi

Bankruptcy proceedings for businesses and individuals constitute one of the greatest challenges in their economic and professional journey. This paper aims to shed light on the emotional challenges accompanying bankruptcy, such as anxiety, shame, and feelings of failure, and raises the question of how self-confidence can be regained after such a loss. The main objectives are to identify the psychological impacts of bankruptcy, to examine the connection between the legal process and the emotional experience, and to propose legal, psychosocial, and economic reforms that can improve this process.

This is the journey of bankruptcy. It's not always the end. It's a new chapter. It's a new opportunity.

The bankruptcy Law applicable in Albania No.110/2016 aims to liquidate debts or reorganise the debtor's activity, while protecting the interests of creditors. However, bankruptcy is also a social and psychological phenomenon that deeply affects individual, causing feelings of shame, dread and isolation. Often this situation comes from the pressure of society that sees it as a personal fault, while in fact there are possible factors outside their control, such as the economic crisis or legal changes. Sociologist Gezim Tushi calls the most severe consequence of this process "spiritual bankruptcy", which requires special support and effective bankruptcy systems that offer opportunities for recovery and restructuring. If the reorganisation fails, the process continues with the liquidation of assets in a fair manner for creditors, aiming for a balanced and efficient solution.

Bankruptcy causes individuals a profound emotional and psychological shock, manifesting strong feelings such as shame, anxiety, stress, and social isolation. The loss of economic stability is often accompanied by sleep problems, difficulty concentrating and depressive symptoms that worsen the emotional state. In the first weeks, the debtor experiences the "first shock" with feelings of confusion and pronounced uncertainty. A major source of stress is the countless phone calls from creditors and concerns about

livelihood and family. Shame, reinforced by social stigmatisation, makes the debtor withdraw and refuse help, putting him in a cycle of isolation and loss of control. Under pressure, the debtor often feels unable to make decisions and relies on external factors, which can worsen the situation. Furthermore, tensions and stress also affect family relationships, further aggravating the individual's emotional situation.

After the bankruptcy procedure is completed, individuals face significant difficulties in returning to professional and social life. Often, employers have doubts about their abilities and ethics, considering them unfit for managerial or other roles, which reduces their confidence and self-esteem. This makes it difficult to find work and start new projects. From the point of view of an entrepreneur, losing money is seen as a danger and a lack of stability, which makes it harder to get back into business or the job market. People who are in debt often feel alone because banks and other financial companies won't help them or lend them money. This makes them feel even more helpless. On a social and family level, bankruptcy leads to arguments and problems because people feel guilty and are afraid of what will happen to their family members. Debtors in such a situation begin to doubt their decisions and self-criticize themselves, which causes emotional stress. Their situation makes the process of healing and starting over very difficult. Self-criticism is often harsher than feedback from other people. Psychologically, people feel less motivated and energetic, and they start to have thoughts that hurt themselves. However, this dark time often also marks a turning point. Going through bankruptcy can help a person change for the better by giving them the strength to start over and find new ways to grow and develop.

Beyond being defined as a difficult experience and a deep crisis, bankruptcy can serve as an opportunity. Many debtors say that, at this stage, they realise that they have been living under the pressure of external success, ignoring their internal needs.



Tom Russell (R3 President 2025/26), Louise Brittain (IPA Vice-President 2025/26), Dorjana Xhamaqi, Neil Cooper (INSOL International Past President), Alice van der Schee (INSOL Europe President 2024/25)

In the struggle to cope with bankruptcy, individuals strengthen their skills for managing stress and difficulties by developing more effective strategies for the future. When someone emerges from such an experience that has knocked them down but not broken them, according to the psychological literature, this process is known as “post-traumatic growth”. People who overcome bankruptcy report being better able to face other challenges in life because they have already weathered a “storm” and survived. The ability to make more careful decisions, cope with pressure, and remain calm in a crisis becomes part of their character. Psychological counselling and family and social support are important in this process, as they help rebuild self-confidence and develop a new identity based on core values such as honesty, commitment, and dignity. Some individuals find new meaning in humanitarian engagements, others help young people on their professional path, drawing on personal experience, while others return to their professions with reinforced ethics and professionalism. Many individuals, after coming out of this process and having rebuilt themselves, help others in similar situations, becoming a source of support for others through advice from individuals who are experiencing the same crisis. They organise forums and meetings to share their stories, turning pain into a healing mechanism for themselves as well as for others.

Many cases from international practice and experience show that bankruptcy, although a difficult and traumatic process, is not the end of everything. It can be a necessary stop and a reference point for positive changes, for learning and restarting a new, stronger and more experienced chapter. It is important to analyse real cases that reflect their experiences. As an illustration, I present the case of a company with a sports betting activity that faced complete liquidation due to legal challenges, causing considerable social and economic damage. Also, an illustrative example is that of a mining company that, despite bankruptcy, managed to sell its assets and continue operations, preserving jobs and ensuring fair results. The two cases presented show that the bankruptcy procedure is not simply a legal issue but a process that directly affects economic and social life. While in the first case the lack of support measures caused severe consequences for families and the community, in the second case flexible bankruptcy management brought better results for all involved actors.

The decision to file for bankruptcy is a difficult and emotional legal process for any individual. Lawyers and financial advisors should be available to the debtor to help him understand and exercise his legal rights, as well as find solutions that minimise losses. The lack of support at the end makes managing bankruptcy much more difficult. At the same time, psychological experts offer therapy and help to manage stress, depression and emotional distress related

to this situation. Strategies offer help to one person or a group and boost self-confidence and coping skills. In addition, competent authorities, non-governmental organisations and insolvency agencies can undertake financial support programmes and initiatives for the vocational education and employment of individuals who have experienced insolvency. In the end, bankruptcy is not only a personal problem, it's also a social problem that needs a complete solution. The key to a successful and long-lasting recovery is for legal, financial, and psychological help to work together.

In the era of digitalisation, the creation of online platforms that provide combined legal and psychological support services for individuals going through bankruptcy is recommended. Training on financial and stress management should be part of education and the community to prevent the crisis. Anti-stigma campaigns and family support are necessary for social and emotional recovery. Governments should provide policies and financial assistance for individuals' economic recovery. Training all actors (debtors, lawyers and psychologists) on legal, financial and psychological aspects will improve assistance to them. Legal and economic reforms should include faster procedures, free psychological counselling, rehabilitation loans and training for entrepreneurs after bankruptcy. The integration of legal, financial and psychological support, together with legal and economic reforms, is essential for creating a more humane, effective and socially responsible system.

This study has found that through this journey from the hard hit of financial collapse and the darkness of shame and isolation to reflection, growth, and rebirth, it becomes clear that bankruptcy has two faces. One painful, the other filled with opportunities for personal growth. A crucial part of the rebirth process is self-forgiveness, the most powerful and emancipating act an individual can undertake. It is what definitively severs the connection to the painful experience of the past, serving as a bridge to the lessons learnt from that experience. Bankruptcy should not be considered the end of a career but as a new beginning and an opportunity for development. Symbolically, it faces the challenge of Sisyphus's continuous effort and the hope of the Phoenix, rebirth after destruction. The strength of the individual lies in the courage to face difficult efforts and in the faith to rise again, making it an experience not only financial but also deeply human and transformative. Existential philosophy has taught us that individuals are not defined by the falls they experience, but by how they choose to rise.

Precisely for this reason, this paper ends with a single word, but incomparable in its content: **HOPE!**

YOUNGER MEMBERS SPOTLIGHT



Janice Ooi

Messrs Christopher & Lee Ong
Malaysia

Could you share your journey into the field of restructuring and insolvency? What drew you to this area of practice?

I began my career in 2014 with a strong interest in company law and corporate governance. In 2016, I started handling insolvency matters and was drawn to the way it brings together creditors, debtors, and liquidators within a legal framework.

In 2017, I worked with a respected practitioner whose practical and innovative approach inspired me and shaped my problem-solving mindset. Over time, I transitioned from insolvency to restructuring, which added strategic complexity and reinforced my passion for designing solutions that preserve value. By 2019, I committed to focusing on restructuring and insolvency as my core practice.

Today, I continue learning from a leading expert whose insights deepen my understanding of creative strategies to rescue businesses. Mentorship at different stages has been invaluable in shaping how I approach challenges and solutions.

Was there a defining moment or case that made you realise that this was the right field for you?

The defining moment came in 2020 when I worked on the AirAsia X scheme of arrangement. The airline faced severe financial distress during

the pandemic, with debts of RM64.15 billion and a proposed 99.7% haircut. It was the first airline restructuring of its kind in Malaysia and involved multiple stakeholders, including major lessors and financiers.

Representing a creditor, I saw the complexity and the many moving parts, from class composition and voting rights to coordinating diverse interests. I was struck by the roles played by financial advisors and lawyers who managed negotiations and designed strategies to bring parties together. The scale of effort and collaboration was remarkable. That experience showed me restructuring is not just about legal theory but about navigating commercial realities to achieve workable solutions. It confirmed this was the field I wanted to build my career in.

What is your biggest takeaway from attending the INSOL Global Insolvency Practice Course thus far?

My biggest takeaway is that knowing the law on restructuring and insolvency only gets you part of the way. The real challenge is applying it in practice, where every jurisdiction has nuances and cases involve commercial realities that legal theory alone cannot solve.

I learned that I cannot think like a lawyer alone. To be effective, I need to understand commercial drivers, financial implications, and stakeholder priorities. Restructuring is about creating solutions that work and deliver value for all parties.

The course reinforced that successful cross-border work requires more than technical expertise. It demands adaptability, cultural awareness, and collaboration with professionals from different backgrounds. Solutions often come from understanding priorities and finding common ground.

This perspective has changed how I approach my work. I now see restructuring as a discipline that combines law, finance, and negotiation, building bridges between competing interests and crafting strategies that work in practice, not just on paper.

What has been the biggest challenge you have faced as a younger professional in this field, and how did you overcome it?

One of the biggest challenges I faced was building credibility. In restructuring and insolvency, credibility means earning the trust and confidence of clients, colleagues, and other stakeholders so they believe you can handle complex, high-stakes matters effectively. For younger practitioners, this is not easy because experience is highly valued in this field. There is often an assumption that youth equates to lack of knowledge or capability.

At times, being female added another layer of difficulty because some clients may have preconceived notions about competence compared to male counterparts. These perceptions can make it harder to establish authority in negotiations or advisory roles.

To overcome these challenges, I focused on perseverance and continuous improvement. I have been fortunate to have excellent mentors who guided me and gave me opportunities to grow. It also helps that I have close friends in the field whom I can turn to for guidance and perspective. Beyond mentorship and peer support, I made a conscious effort to build my profile through networking, speaking engagements, and writing articles. These activities allowed me to share insights, connect with peers, and demonstrate my commitment to the field.

Where do you see the biggest opportunities for younger practitioners entering the field today?

I think that one of the most promising areas is crypto and digital asset insolvency. This space is still new and rapidly evolving, which means there are few established norms and plenty of room for innovation. Younger practitioners are particularly well-suited because they tend to be comfortable with technology and quick to adapt to change. These cases often involve tracing blockchain transactions, understanding decentralized finance, and managing assets that exist across multiple jurisdictions. Developing expertise early in this area allows younger professionals to position themselves as leaders in a field that is shaping the future of restructuring and insolvency.

As Malaysia integrates more deeply into cross-border restructuring frameworks with the adoption of the Model Law on Cross-Border Insolvency, how do you see cross-border co-operation evolving?

The adoption of the Model Law will be transformative for Malaysia's insolvency landscape. It introduces a clear and predictable framework for recognizing foreign insolvency proceedings and coordinating with other jurisdictions, which will significantly enhance efficiency and confidence in cross-border cases. In the past, I have received enquiries from clients seeking to recover assets located in Malaysia when the debtor had already been wound up in a foreign jurisdiction. Without the Model Law, these clients were often reluctant to proceed because of uncertainty, cost, and the absence of a formal mechanism for recognition. This hesitation frequently resulted in lost opportunities for recovery. With the Model Law in place, I expect this to change. Foreign creditors will have greater confidence to pursue claims in Malaysia, and Malaysian practitioners will see more inbound and outbound work involving multinational restructurings.

Beyond facilitating recognition, the Model Law will encourage deeper judicial cooperation and more structured communication between courts and insolvency practitioners across borders. This will align Malaysia with international best practices and position it as a credible jurisdiction for complex cross-border matters. For younger practitioners, this evolution presents an exceptional opportunity to develop expertise in international insolvency law.

What role do you think younger members can play in shaping the future direction of INSOL?

The insolvency landscape is evolving rapidly with developments like cross-border frameworks and digital assets, and younger voices are essential to these conversations. We need to speak up, share ideas, and participate actively in committees, working groups, and conferences to ensure INSOL remains relevant and forward-thinking.

Building strong global networks is equally important. Collaboration is at the heart of cross-border insolvency, and INSOL provides excellent platforms for connection. These only work if we use them. Volunteering for projects and initiatives not only contributes to INSOL's growth but also gives younger members practical experience and visibility.

Mentorship should also be a priority. Peer-to-peer support accelerates learning and builds confidence, especially on emerging topics like technology and digital assets. By fostering a culture of collaboration and mentorship, younger members can create a strong pipeline of talent and ensure INSOL continues to thrive.

What is the best piece of advice you have received in your career that you would pass on to younger practitioners?

The best advice I received was to focus on finding the right working environment. I only truly understood this about two years ago. No matter how much effort you put in, the wrong environment will not allow you to flourish. Hard work alone cannot overcome a culture that does not recognise or support you. A supportive workplace amplifies your contributions, gives you confidence, and creates opportunities for growth. When you are in the right environment, collaboration feels natural and progress becomes possible. Recognising when to move on is not about giving up; it is about making a deliberate choice to invest your energy where it will make the greatest impact. The right environment will reward your resilience and unlock potential that might otherwise remain unseen.

In a practice known for urgency and high stakes, how do you manage stress?

I manage stress by staying active and organised. I try to hit the gym four to five times a week because it helps me clear my mind and maintain balance. Every Sunday night, I list down the tasks for the week and write out the big-ticket items that need my focus. Putting things on paper takes away half the stress because I find that stress often comes from ruminating on an endless mental to-do list. When things get overwhelming, I switch to what I call "quiet mode," where I minimise distractions and give myself space to think. It is a simple reset that helps me regain clarity and tackle challenges more effectively.

What is something about you – outside of work – that people might be surprised to learn?

I'm an avid home cook and love sharing food with people. My specialties are chicken rice and nasi lemak, a Malaysian classic made with coconut rice, spicy sambal, crispy anchovies, peanuts, cucumber, and egg. If any INSOL member happens to be in town and wants to try my nasi lemak, let me know. I would be happy to host you!

NOMINATE A RISING STAR!

Know someone in their early career who's making an impact? Give them well-deserved recognition and help to inspire others by nominating them for this feature.

Please send your suggestions to
Jelena.Wenlock@insol.org.

FOUNDATION CERTIFICATE

INSOL International is delighted to announce the names of the recipients of the Foundation Certificate in International Insolvency Law for the class of 2024/25, as well as those from the 2023/24 group who elected to complete the course over a period of two years. The Foundation Certificate is an entry-level self-study course aimed at practitioners with less than five years' experience in the insolvency and restructuring field.

CLASS OF 2024/25

Florence Allan

Walkers (Cayman) LLP
Cayman Islands

Justice Simon Akpah Amobeda

Federal High Court of Nigeria
Nigeria

Yelena Archiyan

Katten Muchin Rosenman LLP
United States of America

Abdelhak Attalah

Attalah Legal Consultancy
United Arab Emirates

Catherine Bar

United Kingdom

Christopher John Beck

Walkers (Cayman) LLP
Cayman Islands

Renell Arlington Benjamin

British Virgin Islands

James Brewer

Teneo (Cayman) Limited
Cayman Islands

Jamie Brislane

Walkers (Cayman) LLP
Cayman Islands

Corey Byrne

Ogier (Cayman Islands)
Cayman Islands

Ruifang Cao

EY (Cayman) Ltd
Cayman Islands

Chai Phing Zhou

TS Oon & Partners
Malaysia

Chan Joo Kee

Singapore

Kay Cheng

Ogier (Hong Kong)
Hong Kong SAR, China

Cheung Yik Chi

Stephenson Harwood LLP
Canada

Daniel Coelho

Appleby (Cayman) Ltd
Cayman Islands

Khamaal Collymore

Turks and Caicos Islands Financial
Services Commission
Jamaica

Nicolé Andrea Collymore

Bird & Bird LLP
Australia

Mariana Fernandes Conrado

Trench Rossi E Watanabe Advogados
Brazil

Andries Gerhardus De Villiers

Schoeman & Hamman Inc
South Africa

Maria Diniz

Brazil

Luis Espitia Melo

E&E Legale SAS
Bogotá

Heidi Nozoe Esslinger

Fasken Martineau DuMoulin LLP
Canada

Rafael Faria

Lefosse Advogados
Brasil

Susan Fletcher

BDO CRI (Cayman) Ltd
Cayman Islands

Luísa Santos Fontes

Brazil

Bradley John Graham

Grant Thornton Specialist Services
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Han Xibo

China

Hao Feng

Beijing Zhongyun Law Firm
China

Dennis Johannes Helmons

Turnaround Advocaten BV
The Netherlands

Zander Insel

BRI Group
South Africa

Parnika Jain

Cyril Amarchand Mangaldas
India

Fadilla Jamila

Hasanuddin University
Indonesia

Anne Jesudason

Mayer Brown PK Wong & Nair Pte Ltd
Singapore

Munan Jiang

FTI Consulting
Hong Kong SAR, China

Jing Xiaojing

SZLH District Court
China

Shimin Lynn Kan

Linklaters
Hong Kong SAR, China

Dr Franziska Kramer

Ashurst LLP
Germany

Anna Larina

POMOSCH Management Company
LLC
Russia

Lau Po Wa Vivian

Hong Kong SAR, China

Erika Sophie Leggat

Teneo (Cayman) Limited
Cayman Islands

Li Yin Wa

Hong Kong SAR, China

Johnson Lim

PricewaterhouseCoopers PLT
Malaysia

Trevor Adika Luvai

PricewaterhouseCoopers (Kenya) LLP
Kenya

Ma Wai Vivian

Harneys
China

Alexander Maguire

Deloitte
Cayman Islands

Dominique Malan

Commonwealth Trust (Pty) Ltd
South Africa

Varusha Manickum

Berrangé Incorporated Attorneys and
Conveyancers
South Africa

Maria Victoria Pereira Lima Marins

Galdino Pimenta Takemi Ayoub
Salgueiro Rezende de Almeida
Advogados
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Roni Marpaung

Roni Marpaung Studio Legal
Indonesia

Evan Gregory Merrilees

EY (Bermuda) Ltd
Bermuda

Christine Andrea Bramble

Rawlinson and Hunter
Cayman Islands

Mwondha Dean Michael

Citadel Advocates
Uganda

Michelle Louise Mills

Turnkey Computer Technology
United Kingdom

Gavern Mitchell

Gavern Mitchell Attorney-at-Law
Trinidad and Tobago



INSOL INTERNATIONAL FOUNDATION CERTIFICATE

IN INTERNATIONAL INSOLVENCY LAW

Damaris Muia

Cliffe Dekker Hofmeyr (Kiet Law LLP)
Kenya

Ntemena Mwanamwambwa

Grant Thornton Specialist Services
(Cayman) Limited
Bermuda

Melissa Naik

Appleby (Mauritius) Ltd
Mauritius

Dharmesh Naik

Mauritius

Nikhita Nair

Drew & Napier LLC
Singapore

Athini Yanga Njengele

South Africa

Carla Verdiane Nkusi

Alexander Forbes Financial Services
Botswana

Jeanne M L Norville

Bermuda

Nyangwe Dennis Nsato

EY (Bermuda) Ltd
Bermuda

Maaziezilia Ayeley Okine

PMO Ghana Limited
Ghana

Medha Ong Ann Ting

Lee Hishammuddin Allen & Gledhill
Malaysia

Osicho Beatrice Achieng

Office of the Attorney General &
Department of Justice
Kenya

Maria Polyzou

Natsinas Advocates
Greece

Jaco Potgieter

PricewaterhouseCoopers (Cayman)
Limited
Cayman Islands

David Ramsaran

Mourant
Cayman Islands

Yueming (Maggie) Ren

United States of America

Nina Raquel Roheman

Dentons (BVI) Corp
British Virgin Islands

José Alejandro Salvador González

Independent
Ecuador

Seah Ding Hang

Setia Law LLC
Singapore

James Shimmin

EY (Cayman) Ltd
Cayman Islands

Siu Hoi Pong Anderson

Ince & Co
Hong Kong SAR, China

Abigail Olukemi Somoye

Keys Solicitors and Advocates
Nigeria

Stanzi Spoudeas-Rosenthal

United Kingdom

Megan Steyn

Richters
South Africa

Geoffrey David Sykes

Walkers (Cayman) LLP
Cayman Islands

Teo Sui Siong

Rodgers Reidy
Malaysia

Anthony Tetley

Kroll
Bermuda

Than Choon Siang

Singapore

Karolina Anna Tomczynska

Begbies Traynor (Guernsey) Limited
Guernsey

Lauren Mae Vernon

Walkers (Cayman) LLP
Cayman Islands

Daniel Wijaksono

EY (Bahamas) Ltd
Bahamas

Laura Anne Will

Simmons & Simmons LLP
England

Sarah Wilson

Scotland

Jagoda Wojciechowska

Restructuring & Bankruptcy Business
Center Ltd
Poland

Wong Han Wey

Messrs Lee Hishammuddin Allen &
Gledhill
Malaysia

Vynny Wong Poh Yee

Kee Sern, Siu & Huey
Malaysia

Jasmine Wong

Grant Thornton Specialist Services
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Makar Yeghiazaryan

Yeghiazaryan & Partners Law Firm
Armenia

Yichen Yue

Fangda Partners
China

Maria Larisa Zapciu

Teneo (Ireland) Limited
Ireland

Boyang Zheng

Dentons Law Firm
China

Fuyuan Zhuang

Fangda Partners
China

CLASS OF 2023/24

The below candidates were registered with the 2023/24 group but elected to complete the course over two years.

Siddharth Acharya

Siddharth Acharya and Associates
India

Charissa Chu

Clifford Chance LLP
Hong Kong SAR, China

Katarzyna Joanna Jaruzelska

Gadens
Australia

Elizabeth Jarvis

British Virgin Islands

Nayim Khemais

NBK Capital Partners
United Arab Emirates

Frederick James Kloppe

Geddes Capital
South Africa

Gareth Owen Murphy

Walkers (Singapore) LLP
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EVENTS DIARY

January 2026			
28	INSOL International Riyadh Seminar	Riyadh, Saudi Arabia	www.insol.org
14-16	ABI International Caribbean Insolvency Symposium	Grand Cayman, Cayman Islands	
February 2026			
5-6	NAFER International Conference	Grand Cayman, Cayman Islands	www.nafer.org
6	CAIRP Annual Review of Insolvency Law Conference	Toronto, ON	www.cairp.ca
13-14	CLLA Southern Region Conference		www.clla.org
March 2026			
13	INSOL International Punta del Este Seminar	Punta del Este, Uruguay	www.insol.org
18	R3 Southern Forum	London, UK	www.r3.org.uk
April 2026			
20-22	INSOL London Annual Conference	London, UK	www.insol.org
23-25	ABI Annual Spring Meeting	Washington, DC	www.abi.org
May 2026			
6-8	R3 Annual Conference	Budapest, Hungary	www.r3.org.uk
13-15	CLLA National Convention	Chicago, IL	www.clla.org
20-21	RITANZ Annual Conference	Auckland, NZ	www.ritanz.org.nz
27	INSOL International Bangkok Seminar	Bangkok, Thailand	www.insol.org
June 2026			
9-10	MIA International Accountants Conference	Kuala Lumpur, Malaysia	https://miaconference.mia.org.my/
24	INSOL International New York City Seminar	New York, NY	www.insol.org
24-25	INSOL Europe EECC Conference	Limassol, Cyprus	www.insol-europe.org
August 2026			
25	INSOL International Singapore Seminar	Singapore	www.insol.org
September 2026			
25	INSOL International Singapore Seminar	Singapore	www.insol.org
17	INSOL International Channel Islands Seminar	Channel Islands	www.insol.org
October 2026			
13-14	INSOL Europe Academic Conference	Vilamoura, Portugal	www.insol-europe.org
15-18	INSOL Europe Annual Congress	Vilamoura, Portugal	www.insol-europe.org
December 2026			
3-5	ABI Winter Leadership Conference	Palm Desert, CA	www.abi.org



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AAESI Asociación Argentina de Estudios Sobre la Insolvencia

ABI American Bankruptcy Institute

AKPI Asosiasi Kurator Dan Pengurus Indonesia / Indonesian Receivers and Administrators Association

APACSA Asociación Profesional de Administradores Concursales Sainz de Andino

APDIR Associação Portuguesa de Direito da Insolvência e Recuperação

ARIES Association of Restructuring and Insolvency Experts (Channel Islands)

ARITA Australian Restructuring, Insolvency and Turnaround Association

ATIK Association of Turnaround and Insolvency Kenya Ltd

AUAIRE Asociación Uruguaya de Asesores en Insolvencia y Reestructuraciones Empresariales

BLRRC-CUPL Bankruptcy Law and Restructuring Research Centre, China University of Politics and Law

BRIPAN Business Recovery and Insolvency Practitioners Association of Nigeria

CAIRP Canadian Association of Insolvency and Restructuring Professionals

CIRIP Ghana Chartered Institute of Restructuring and Insolvency Practitioners Ghana

CLLA Commercial Law League of America (Bankruptcy and Insolvency Section)

DRA Dutch Restructuring Association

EISAR Bankruptcy Commission (Saudi Arabia)

FILA Finnish Insolvency Law Association

GDABA Guangdong Association of Bankruptcy Administrators

HKICPA Hong Kong Institute of Certified Public Accountants (Restructuring and Insolvency Faculty)

IAIR International Association of Insurance Receivers

IBR Instituto Brasileiro de Estudos de Recuperação de Empresas

IIDC Instituto Iberoamericano de Derecho Concursal

IIDC Colombia Instituto Iberoamericano de Derecho Concursal – Capítulo Colombiano

IIPI-ICAI Indian Institute of Insolvency Professionals of the Institute of Chartered Accountants of India

INSOL Europe

INSOL India

INSOLAD Vereniging Insolventierecht Advocaten

IPAM Insolvency Practitioners Association of Malaysia

IPAS Insolvency Practitioners Association of Singapore

IWIRC International Women's Insolvency and Restructuring Confederation

JFIP Japanese Federation of Insolvency Professionals

LCA Law Council of Australia (Business Law Section)

MIA Malaysian Institute of Accountants

MICPA Malaysian Institute of Certified Public Accountants

NAFER National Association of Federal Equity Receivers

NIVD Neue Insolvenzrechtsvereinigung Deutschlands e.V.

R3 Association of Business Recovery Professionals

RISA Bahamas Restructuring and Insolvency Specialists Association (Bahamas)

RISA Bermuda Restructuring and Insolvency Specialists Association of Bermuda

RISA BVI Recovery and Insolvency Specialists Association (BVI) Ltd

RISA Cayman Recovery and Insolvency Specialists Association (Cayman) Ltd

RITANZ Restructuring Insolvency & Turnaround Association of New Zealand

SARIPA South African Restructuring and Insolvency Practitioners Association

SBLA Serbian Bankruptcy Law Association

TMA Turnaround Management Association (INSOL Special Interest Group)

TMA Brasil Turnaround Management Association Brasil

XMABA Xiamen Association of Bankruptcy Administrators



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