



INSOL INTERNATIONAL

INSOL International

Member Association Report

2014 Third Quarters Report

To: The Member Associations of INSOL International

INSOL International is pleased to provide a review of INSOL's activities for the third quarter of 2014.

Membership

We are delighted to say that the majority of our Member Associations have seen a rise in the membership numbers. We would particularly like to welcome the new members of ARITA to INSOL as ARITA have over 400 new members who have joined the association in recent months.

We also have a number of applications from potential new Member Associations looking to join INSOL and should have more news on this by the end of the year.

Member Benefits

INSOL aims to provide members great value for their membership subscription. We appreciate your being a member association of INSOL and INSOL continually strives to provide new and improved member benefits at limited cost for your members.

Members have received the following communications, products and e-mail alerts informing them of new publications available on the website.

Monthly Membership News E-mails

News of INSOL International events and Member Association activities was sent out at the start of each month.

Electronic Newsletter (ENL)

Our highlight article in the July issue discussed and compared the judicial assistance available to foreign officeholders in three common offshore jurisdictions, namely Cayman Islands, BVI and Bermuda. It offers current and practical insights in dealing with engagements and issues of offshore elements.

Our featured article in August's issue highlighted a series of decisions by bankruptcy courts in the United States relating to credit bidding that are likely to affect cross-border investment decisions and insolvency cases.

The highlight article in September's ENL covered the long-running dispute over the payment of Argentina's sovereign debt has been particularly active in recent months and weeks.

On 30th June 2014, Latin America's third largest economy failed to make a scheduled \$539 million payment to bondholders after U.S. District Court Judge Thomas Griesa ruled that the payment could not be made unless holdout bondholders from restructurings in 2005 and 2010 were also paid. Under the governing documents, Argentina which has about \$200 billion in foreign-currency debt, including

\$30 billion of restructured ("exchange") bonds had a 30-day grace period after the June 30 default to make the payment. The article highlighted the events leading up to the default, and the ramifications and aftermath.

Technical Paper Series

The 30th paper in the series was posted to the website in entitled "Shipping Chapter 11s: Safe Harbor or Rough Seas? (Continued)

Many distressed international shipping companies continue to face operational and financial challenges and the number of major shipping insolvencies have not slowed. With time charter earnings on the decline, and under performing charterparty agreements in place, for many major shipping companies it is fairly easy for a company's economic performance to spiral quickly downward leading the company to trigger one or more defaults under its operative ship finance documents. The capital markets remain somewhat closed to the possibility of rescue financing for troubled shipping companies. Thus, a distressed shipping company's first, and perhaps best, restructuring option remains an out-of-court solution with its existing lenders. If however a consensual solution with its lenders is unavailable to a distressed shipping company, then the company must turn to a court process to solve its operational and financial difficulties.

This paper focuses on the continued challenges faced by the current shipping industry and the available restructuring solutions, with the use by international shipping companies of US chapter 11 proceedings as a key example.

INSOL International sincerely thanks Mark E. Dendinger and Evan D. Flaschen for writing this excellent paper.

Small Practices Technical Papers

A 14th paper in the Small Practices Technical Papers series was posted on the website in August entitled "A Collection of Practical Issues Important to Small Practitioners: Lithuania". The paper was written by Ieva Strunkiene, Lawyer to a Member of Parliament of the Republic of Lithuania.

INSOL International sincerely thanks the author for writing this very interesting paper.

INSOL World

The third quarters' edition of INSOL World for 2014 was mailed to all members the focus was on Europe.

INSOL World is available on the website at www.insol.org.

International Activities

Nepal Insolvency Practitioners' Association (NIPA) Seminar

"Insolvency: Local Issues, Global Views" Resolution of Failing Banks and Insurance Companies

8th-9th July, Katmandu, Nepal

The Nepal Insolvency Practitioners' Association (NIPA) conducted a 2-day seminar entitled "Insolvency: Local Issues, Global Views" focusing on Resolution of Failing Banks and Insurance Companies in Kathmandu, Nepal on 8th and 9th July 2014 with INSOL International's and the Nepalese Central Bank's support. The primary purpose of the seminar was to discuss issues and obtain input from financial market regulators, bankers, lawyers, judges and international insolvency practitioners and to provide the same to the Nepalese government and regulators who are currently in the process of amending the relaxant legislation.

INSOL International President James H.M. Sprayregen, Vice-President Mark Robinson, Former Judge US Bankruptcy Court James Peck and Former Judge Nepalese Supreme Court Bharat Upreti made presentations during the seminar, which was chaired by Sashin Joshi, President, NIPA. The program was attended by the Governor of the Nepalese Central Bank, Chairman of Insurance Board and representatives from the Ministries of Finance, Law and Justice. A total of 120 delegates attended the program which was very well received.

The International Association of Insolvency Regulators 2014 Annual Conference

8-11th September 2014, The World Bank Conference Venue, Washington D.C.

The President of INSOL International attended the IAIR Conference and presented on a panel with regard to the Chapter 11 Reform Commission. He was joined on the panel by Sam Gerdano, Executive Director of the ABI. Thirty countries were represented at the meeting which was extremely informative for all attending.

Arab Center for the Development of the Rule of Law and Integrity

Regional Conference on Modernising the Bankruptcy System (The Arab Republic of Egypt and the Hashemite Kingdom of Jordan)

14-15 September Amman, Hashemite Kingdom of Jordan

Neil Cooper, Zolfo Cooper Ltd, Past President of INSOL International, attended the conference on INSOL's behalf and presented on the opening panel entitled "Exchanging the expertise and experience in modernizing the bankruptcy system" where best practice was discussed to set the scene for the following two day conference looking at modernizing the bankruptcy system.

The backdrop to the conference was a comprehensive report entitled Modernising the Bankruptcy System (Egypt and Jordan). The conference was attended by about 50 delegates from a cross section of lenders, judges, government officials, professionals and academics.

While the laws of Egypt and Jordan are not identical, both nations are struggling with a number of problems with their existing laws which are almost totally inconsistent with a modern insolvency law:

for example, the problems reported to the meeting included that there cannot, by law, ever be more than a single bankruptcy in respect of a single debtor; their laws cannot have extra-territorial effect; a lawyer cannot act in respect of more than one debtor at a time (so dealing with a group is difficult); and public order dictates that almost anything can be dealt with by arbitration, even bankruptcy. While recognising the importance of introducing reorganisation procedures, there is a proposal that reorganisation should be restricted to very large economically-sensitive cases. There is also sensitivity as to the ability of the public prosecutor to commence bankruptcy cases.

It is difficult to amend the civil trade law in Jordan so each sector had negotiated exceptions for their own sector enacted. There is a draft law which is before parliament which may be discussed within the next two years. But it has quite a dramatic effect on secured creditors, who may be voted out of their security. There is little certainty as to the outcome of current cases which are inefficient in recovering and distributing assets.

The international panel of Andres Martinez from the World Bank/IFC; Jenny Clift of UNCITRAL; and Neil Cooper representing INSOL International presented a comprehensive view on international best practice in a highly interactive three hour presentation and Q and A session.

Although there are many who think the existing laws can be updated, others advocate completely new laws split between incorporated and natural persons. Because of the importance of insolvency law reform in the region, it was important for INSOL International to attend and to contribute to this conference. Some subsequent sessions outlined the progress being made with issues such as corporate governance, credit reporting, auditing standards, and the role of the media in reporting progress. It was universally agreed something should be done to reform insolvency law and this report may be the start of the dialogue needed to consider the policy options for reform.

Educational Programmes

Ian Strang Founders Award

INSOL International is delighted to announce the creation of the Ian Strang Founders Award, the details are outlined below. We would be pleased for you to promote this award to your members, the deadline for submissions is the 1 November 2014.

Ian Strang Founders Award

Ian Strang was the first president of INSOL International and was instrumental in creating INSOL International, laying the foundations of the association that we have today.

To recognise his achievements we have created an award in memory of Ian. The Ian Strang Founders Award provides an educational opportunity for a postgraduate specialising in insolvency & turnaround to attend the Annual INSOL International Academics Colloquium and the annual INSOL International Conference (when held jointly).

Ian recognised the benefit of practitioners from around the world meeting to exchange knowledge on cross-border issues. The INSOL Academics Group is at the forefront of research and study in insolvency and turnaround and bringing this knowledge to the practitioners in the field is vitally important, hence they hold an annual meeting which enables them to share with the profession their latest works.

The Ian Strang Founders Award will be awarded to the best paper put forward by a postgraduate covering this specific field of study. The criteria for applying for the award are as follows:

Be a postgraduate or early-career academic researcher in the field of law or accountancy specialising in insolvency & turnaround, or a recently qualified lawyer or accountant interested in the academic as well as the practical aspects of the subject.

Provide a paper of not more than 10,000 words with regard to areas concerning cross-border issues.

This paper should be an original piece of work, which has not previously been published in the form in which it is submitted.

The paper should be submitted by the 1st November of the preceding year. A panel of international academics and professionals will judge the papers and make the award by the 1st December. Applicants are asked to submit their CV along with the paper.

The successful applicant will

Be invited to attend the next INSOL International Academics Colloquium, all expenses paid. In addition, if this is followed by an INSOL Annual Conference the winner will also be invited to attend the conference on the same basis.

Have the opportunity to present the paper at the INSOL International Academics Colloquium;

Be recognised at the conference and receive a framed certificate of the Ian Strang Founders Award.

Be encouraged to submit the paper to the International Insolvency Review with a view to its publication. The paper will also be published on the INSOL website.

The first cycle of the competition will commence in 2014, with the winner being invited to attend the INSOL conference in San Francisco in March 2015.

Please send your application to:

Ian Strang Founders Award
INSOL International
6-7 Queen Street
London
EC4N 1SP
U.K.

E-mail: claireb@insol.ision.co.uk

GlobalINSOLvency Website

This is a joint venture by the ABI and INSOL International for the members of INSOL and the wider professional community with an interest in insolvency and turnaround. The site provides a global source of information. There is also the opportunity to sign up and receive daily global alerts by email. We recommend members make it one of their favourite sites: www.globalinsolvency.com. The site has been re launched in a new style and we would ask you to take a look and let us have your feedback.

As you are aware we have recently written to all Member Associations to ask you to promote the link to the site from your websites. Additionally we would be delighted if you would like to supply any

materials to be posted on the website. This can be case updates, technical materials, legal decisions and legislation.

Group of Thirty-Six

G36 Reception, London 30 September 2014

Fifty members of the G36 attended the reception in London kindly hosted by Hogan Lovells. Stephen Foster of Hogan Lovells welcomed everyone to the meeting and the Co-Chairs Mark Byers, Grant Thornton and Howard Seife, Chadbourne & Parke officiated the presentations.

Teresa Graham CBE FCA HonFRICS spoke on the review of Pre-Pack Administration. This sparked some robust discussion with some of the attendees during the question session. Howard Seife Co-Chair of G36 asked for a vote on whether the members present thought the changes suggested were for the better and the majority supported the report.

The President of INSOL International then gave an update on INSOL activities. The presentations were followed by a drinks reception where further discussion took place on pre-packs with different views from around the world expressed.

New G36 Members

We are delighted to announce that Rajah & Tann LLP have joined the G36 and we look forward to working with them