



**INSOL INTERNATIONAL**

## **INSOL International**

### **Member Association Report**

#### **2014 First Quarters Report**

#### **To: The Member Associations of INSOL International**

INSOL International is pleased to provide a review of INSOL's activities for the first three months of 2014.

#### **Member Benefits**

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

The January issue of the ENL highlighted several important appellate decisions interpreting various provisions of the United Nations Commission on International Trade Law's Model Law on Cross-Border Insolvency (Chapter 15 in the United States). These decisions examined a variety of issues, such as the right of a foreign liquidator to sell US-based patents under Chapter 15 without providing the protections afforded in a regular US bankruptcy case, or the qualifications in the US for a foreign debtor to qualify to be a debtor competent to file a Chapter 15 in the United States.

The newsletter also examined many important legislative developments in Mexico with respect to the laws governing financial groups, including amendments to the Mexican Bankruptcy Law. The newsletter reported on a new on-line and official version of New Zealand's legislation. Additionally, it looked at the new ring-fencing provisions of The Financial Services (Banking Reform) Act 2013 in the United Kingdom. Finally, the Newsletter examined the recently released report prepared by The Insolvency Institute of Canada's Task Force considering the treatment of derivatives in Canadian insolvency law.

The February edition of the ENL opened with an article by INSOL Fellow, Leonard McCarthy, Members may recall that last month the ENL considered a recent Scottish development in the law of liquidator's disclaimer. Leonard's article focused on recent Australian developments in the same area. There is quite a divergence in approach arising from these decisions.

Additionally the ENL looked at the potential regulatory developments afoot in Hong Kong with its Monetary Authority, Securities and Futures Commission and Insurance Authority having recently announced a consultation period for financial stability reforms.

The March edition of the ENL highlighted a judgment from the United States Court of Appeals for the Second Circuit. In *Starr International Co v Federal Reserve Bank of New York*, the Second Circuit found that the Federal Reserve Bank of New York could not be held liable for state law fiduciary duty claims when it was acting under its statutory mandate to rescue a corporate entity. It is an interesting case that arose out of the bailout of American International Group in 2008 (on the heels of Lehman Brothers' filing for Chapter 11) which saw the Federal Reserve extend \$85 billion to AIG under a new credit agreement on the condition that AIG gave the US government an 80% interest in AIG common stock. It is a reminder of the extraordinary events that unfolded over an intense few days in September 2008.

UK practitioners will have been interested to read an overview of the Court of Appeal judgment in *Jervis v Pillar Denton; Re Games Station*. It is a further decision in a recent chain of appellate decisions (reviewed this year in the Newsletter) concerning the rights of administrators in dealing with or using leasehold property.

### **Small Practices Technical Papers**

An eleventh paper in the Small Practices Technical Papers series was posted on the website in February 2014 and is entitled "Small Practices and Consumer Debt Issues in BVI." The paper was prepared by Mr. Mark Forte (Partner) and Mr. Murray Laing (Associate) of Conyers Dill & Pearman, BVI. INSOL International sincerely thanks Mr. Forte and Mr. Laing for writing his very useful paper.

### **INSOL World**

The first quarters' edition of INSOL World for 2014 was mailed to all members. The first quarter's focus was the Asia Pacific Rim and the issue was also distributed at INSOL Hong Kong.

INSOL World is available on the website at [www.insol.org](http://www.insol.org).

### **International Activities**

#### **Canadian Association of Insolvency and Restructuring Professionals 11<sup>th</sup> Annual Review of Insolvency Law Conference, British Columbia, Canada 20-21 February 2014**

The President opened the Conference by giving The Honourable Donald Brenner Memorial Lecture on "Observations on the Development of Chapter 15 Law in the US".

#### **Hawkamah Judicial and Financial Colloquium: Restructuring, Turnaround and Insolvency, Dubai, UAE- 18-19 March 2014**

INSOL, Hawkamah the Dubai Economic Council, The World Bank and IFC jointly held a Colloquium in Dubai attended by over 60 judges from the region. The President attended the Colloquium and spoke on "Trends in Insolvency Reform".

#### **Hong Kong Institute of Certified Public Accountants, Restructuring and Insolvency Faculty (RIF) Lunch Seminar, 21 March 2014**

The President of INSOL International James H.M. Sprayregen was invited to make a presentation to members of RIF whilst in Hong Kong to attend the INSOL International Annual Conference. The President was interviewed by Eddie Middleton, KPMG and member of the Board of INSOL International. Over 100 members of RIF attended the seminar and the presentations were well received.

## **Educational Programmes**

### **INSOL Hong Kong**

The Asia Pacific Rim Conference of INSOL International took place in Hong Kong 23-25 March 2014.

There was a full Ancillary Programme held over the weekend before the start of the Conference. There was a two-day Academics Colloquium on 22 and 23 March attended by over 50 delegates and, on the Sunday 23 March we held an Offshore Ancillary meeting attended by 168 delegates. and kindly sponsored by: Main sponsor South Square, breakfast sponsor Walkers, and lunch sponsor PwC.

All the Ancillary Programmes were a great success and much appreciated by the participants.

It was the largest annual conference ever held with 678 delegates and 53 accompanying persons. In all, 41 countries were represented. The keynote speaker was Michael Smith, Chief Executive Officer of Australia and New Zealand Banking Group Limited (ANZ) who was interviewed by Ali Moore an International TV Broadcast Journalist.

The technical programme that was well received across the board, particular highlights included: - Hedge funds and distressed debt investing: the past, present and future; Restructuring in Asia Pacific – can the role of Chief Restructuring Officer really work? If it's Tuesday, this must be Portugal: the European sovereign debt tour and My court room rules; views from the bench.

We provided an App for the main conference and over 200 delegates downloaded the App. Additionally we have posted on to the website a video of some key INSOL members explaining why members should attend INSOL events in the future and support INSOL through sponsorship this can be found on the home page. Also the photographs from INSOL Hong Kong are now available for viewing at [www.insol.org](http://www.insol.org) If you then go to the conference section and photographs.

We would like to express our thanks to the Main Organising Committee and the Technical Committee for all their hard work in making the conference so successful.

#### **Main Organising Committee:**

Ian Carson, PPB Advisory, Conference Co-Chair  
Neil McDonald, Hogan Lovells, Conference Co-Chair  
Said Jahani, Fellow, INSOL International, Grant Thornton, Treasurer  
David Cowling, Clayton Utz, Technical Co-Chair  
Derek Lai, Deloitte Touche Tohmatsu, Technical Co-Chair  
Scott Atkins, Fellow, INSOL International, Henry Davis York, Marketing & Sponsorship

#### **Technical Committee:**

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We would like to thank our sponsors without whom the Conference would not be such a success. Many of our sponsors regularly sponsor our events and we appreciate the support they give INSOL International, which enables the association to continue to develop its increasing programme of activities around the world.

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**Global Insolvency Practice Course - Class 2013**

Those present at the conference of the Class of 2013 were presented with their certificates at the Gala Dinner.

**Presentation of the Class of 2013 Fellow Certificates**

Mark Craggs, Norton Rose Fulbright, UK

Lynn P Harrison III, Curtis Mallet-Prevost Colt & Mosle LLP, USA

Johan Jol, ABN Ambro Bank N.V., The Netherlands

James Katchadurian, Epiq Systems Bankruptcy Solutions, USA

Leonard McCarthy, Henry Davis York, Australia

Friedrich von Kaltenborn-Stachau, RSM Germany – BRL, Germany

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Apologies sent by: -

Zoltán Fabók, DLA Piper Horvath & Partners Law Firm, Hungary

Nicholas Fox, Mourant Ozannes, Cayman Islands

Rachelle Frisby, Deloitte & Touche Ltd, Bermuda

Mariano Hernandez, MM Abogados, Spain

Antonia Menezes, World Bank Group

Daniel Saval, Brown Rudnick LLP, USA

### **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](http://www.globalinsolvency.com).

### **Group of Thirty-Six**

#### **G36 Breakfast Reception, Hong Kong, 25 March 2014**

Jean Eric Salata, Chief Executive & Founding Partner, Baring Private Equity Asia was the guest speaker at the G36 Breakfast held during the INSOL Hong Kong Conference. He spoke about investing in Mainland China, which was a fascinating insight into how Barings work in quite a complicated market. Sixty members of the G36 attended the breakfast and were enthralled by the speaker's candour and experiences.

### **INSOL Board of Directors**

INSOL Welcomed Scott Atkins of Henry Davis York who was appointed to the board of INSOL on the 27 March 2014. Scott represents ARITA. He attended the Board meeting on the 26 March held in Hong Kong as an Observer. He was warmly welcomed to the board. Scott is also a Fellow of INSOL International and Chair of the Fellowship Committee.

### **Obituaries**

It was with great sadness that we announced in INSOL World the passing of Ron Harmer, INSOL Scroll of Honour Holder awarded in 1993. INSOL has named the Global Insolvency Practice Course Bursary for a Judge or Regulator from an emerging market to attend the course in his name.

INSOL also announced the passing of another great friend of INSOL in the same edition of INSOL World. Judge Burton R. Lifland passed away after a short illness in January.