

AGENDA

Secured Transactions and Insolvency: Reforms at a Crossroads

Joint EBRD/UNCITRAL/WORLD BANK Conference

Eugene R. Black Auditorium
The World Bank
600 19th Street, N.W., Washington D.C.
May 5-6, 2008

MONDAY, MAY 5, 2008	
8:00 – 8:45 AM	REGISTRATION
8:45 – 9:00 AM	OPENING ADDRESS <i>Scott B. White, Acting Vice President and General Counsel, The World Bank</i>
9:00 – 9:20 AM	INTRODUCTORY REMARKS – OVERVIEW OF THE AGENDA <i>Vijay S. Tata, Chief Counsel, Finance, Private Sector & Infrastructure Practice Group, Legal Vice Presidency, The World Bank</i>
PART I - ARE THE TWO SIDES TALKING TO EACH OTHER?	
9:20 – 11:00 AM	SESSION I: SECURED CREDITORS IN INSOLVENCY: SHARING THE RISK OF INSOLVENCY? <i>Would attempts to spread the risk of insolvency across all stakeholder groups restrict access to credit and drive up the cost of financing? Why do the contractual rights of secured creditors receive different treatment than those of other stakeholders? Is the issue of the “Stay” resolved and is priority ranking a false issue when compared to preservation and protection of collateral?</i> Chair: <i>Mahesh Uttamchandani, Senior Counsel, Task Team Leader, Insolvency Initiative & Creditor Rights ROSC Program, The World Bank</i> Panel: <ul style="list-style-type: none">• <i>Janis Sarra, Professor of Law, University of British Columbia, Canada</i>

	<ul style="list-style-type: none"> • Vikrant Vig, Assistant Professor of Finance, London Business School, UK • Catherine Walsh, Professor of Law, McGill University, Canada
11:00 – 11:20 AM	COFFEE BREAK
11:20 – 1:00 PM	<p>SESSION II: PRIVATE PARTIES IN PUBLIC PROCEDURES</p> <p><i>Secured transactions law should facilitate the contractual freedom of parties to the transaction and ensure a high level of certainty that the terms of the contract will be enforced. Yet, in insolvency, issues of public policy intrude into the otherwise private relationships of parties. What is the role of courts in maintaining this balance? Do current US experiences suggest a need for regulatory protections to proceed hand-in-hand with reforms of legal infrastructure or is that an unnecessary muddling of two distinct issues?</i></p> <p>Chair: <i>Frederique Dahan, Senior Counsel, Legal Transition Team, European Bank for Reconstruction and Development</i></p> <p>Panel:</p> <ul style="list-style-type: none"> • Ronald Harmer, Visiting Professor, University College London, Faculty of Laws, UK • Harry Rajak, Emeritus Professor, Sussex Law School, UK • Edwin E. Smith, Partner, Bingham McCutchen, LLP, US
1:00 – 2:15 PM	CONFERENCE LUNCH (MAIN COMPLEX DINING ROOM EAST)
PART II - FROM THEORY TO PRACTICE	
2:15 – 4:00 PM	<p>SESSION III: WHAT DOES EMPIRICAL RESEARCH HAVE TO SAY ABOUT THE REFORM AGENDA?</p> <p><i>In the last few years, a great deal of research on law and finance has been conducted, emphasizing the importance of secured transactions and insolvency. Has this led to a consensus? How are data collected? What could be improved? How are the findings transferred into the field? What are the respective roles of academia and international organizations?</i></p> <p>Chair: <i>Simeon Djankov, Chief Economist, Indicators Group, Financial and Private Sector Vice Presidency, The World Bank</i></p> <p>Panel:</p> <ul style="list-style-type: none"> • Stijn Claessens, Assistant Director, Financial Studies Division, Research Department, International Monetary

	<p><i>Fund</i></p> <ul style="list-style-type: none"> • <i>Heywood Fleisig, Director of Research, Center for the Economic Analysis of Law, US</i> • <i>Rainer Haselmann, Assistant Professor of Economics, University of Mainz, Germany</i>
4:00 – 4:20 PM	COFFEE BREAK
4:20 – 5:45 PM	<p>SESSION IV: WHAT DOES IT ALL MEAN FOR THOSE DOING REFORM?</p> <p><i>The gap between best practices, policy advice and the reform work conducted on the ground can be big: why? Is the advice not given in the right format? Are advisers focusing on the wrong aspects? Do the recipients have enough of a voice? What can be achieved today and what will have to wait for tomorrow?</i></p> <p>Chair: <i>Frederique Dahan, EBRD</i></p> <p>Panel:</p> <ul style="list-style-type: none"> • <i>Sumant Batra, Vice-President, INSOL International, Member (Insolvency Expert), Dr. J. J. Irani Committee, India</i> • <i>Wade Channell, Senior Commercial Legal Reform Advisor, USAID EGAT/EG</i> • <i>Vesna Gacesa, Director, Bankruptcy Supervisory Agency, Republic of Serbia</i> • <i>Oleg Ivanov, Legal Adviser, Committee on Financial Market, The State Duma, Russian Federation</i>
5:45 – 8:00 PM	CONFERENCE RECEPTION (MAIN COMPLEX DINING ROOM EAST)

TUESDAY, MAY 6, 2008

PART III - EMERGING ISSUES

9:00 – 10:30 AM

SESSION V: INSOLVENCY OF GROUPS

Enterprise groups are ubiquitous in trade and commerce, but when one or more group members become insolvent, insolvency laws generally focus on individual legal entities. What can be done to facilitate the conduct of insolvency in a group context, both domestically and internationally, in a manner that ensures predictability and certainty for secured lenders? This session will identify the issues and explore possible solutions.

Chair: *Jenny Clift, Senior Legal Officer, United Nations (UNCITRAL Secretariat)*

Panel:

- *Robin E. Phelan, Partner, Haynes and Boone, LLP, Member, International Insolvency Institute, US*
- *Adolfo Rouillon, Senior Counsel, The World Bank*
- *Yishay Yafeh, Associate Professor, School of Business Administration, The Hebrew University and Resident Scholar, Research Department, International Monetary Fund*

10:30 – 11:00 AM

COFFEE BREAK

11:00 – 12:30 PM

SESSION VI: WHO'S MINDING THE STORE IN INSOLVENCY? CREDITOR CONTROL VS. DEBTOR IN POSSESSION

Does a debtor-in-possession system really create more efficiencies or is it an invitation to litigation? Is post-commencement financing really worth promoting in countries where: (a) judicial discretion to grant such orders is anathema to the legal system; and (b) such financing products do not exist in the marketplace? What rules, if any, do we need to address the issues associated with the changing nature of actors in insolvency and the changing incentives that result from the use of instruments such as credit default swaps and other derivatives?

Chair: *Mahesh Uttamchandani, The World Bank*

Panel:

	<ul style="list-style-type: none"> • <i>Neil Cooper, Partner, Kroll Restructuring, UK and Past President, INSOL International</i> • <i>Matthew Cumberpatch, Senior Counsel, Banking, Corporate Recovery and Litigation Team, EBRD</i> • <i>Henry Hu, Allan Shivers Chair in the Law of Banking and Finance, University of Texas at Austin, US</i> • <i>Hamid Sharif, Assistant General Counsel, Asian Development Bank</i>
12:30 – 1:00 PM	CONCLUDING REMARKS <ul style="list-style-type: none"> • <i>Mahesh Uttamchandani, The World Bank</i> • <i>Frederique Dahan, EBRD</i> • <i>Jenny Clift, UNCITRAL</i>
1:00 PM	CONFERENCE LUNCH (MAIN COMPLEX DINING ROOM EAST)