



International Insolvency Institute's  
18<sup>th</sup> Annual International Insolvency Conference  
Sept. 24-27, 2018 | New York, NY

# GLOBAL TURNAROUND

## LEHMAN: TEN YEARS AFTER

WELCOME TO THE INTERNATIONAL INSOLVENCY INSTITUTE'S (III) 18TH ANNUAL INTERNATIONAL INSOLVENCY CONFERENCE IN NEW YORK. GLOBAL TURNAROUND IS PROUD, ONCE AGAIN, TO BE A MEDIA SPONSOR FOR THE CONFERENCE.

**W**ith so much economic and political turmoil around the world, New York is a great venue to debate what the next financial crisis might look like, and how we should deal with it.

Marking the tenth anniversary of the 2008 financial crisis, this year's conference activities surround Wall Street.

The opening reception will be held on Sunday, 23rd September, at the historic Alexander Hamilton US Custom House, the current home to the US Bankruptcy Court for the Southern District of New York.

The main conference will be held at New York University Law School on 24th and 25th September. Key note speakers include Steven Rattner, the 'car czar' of the United States during the bail out of the automobile industry, and Justice Sundaresh Menon, Chief Justice of the Supreme Court of Singapore.

The daunting task of organising and chairing the technical programme has been undertaken this year by Jim Bromley of Cleary Gottlieb Steen & Hamilton and Andy Dietderich of Sullivan & Cromwell.

For the  
CONFERENCE  
AGENDA  
- see back  
page

III's Legendary Dinner will be held at Cipriani 25 Broadway, a New York City landmark in lower Manhattan.

In the following pages III's President Alan Bloom presents a summary of the Institute's ambitious initiatives, while Jim Peck warns that the next financial crisis will almost certainly come from a completely unexpected direction.

Both Bloom and Peck point out that III members can play an important role in dealing with the increasingly complicated problems faced both by companies, and by society more generally.

Welcome to New York!

**John Willcock,**  
Editor, Global Turnaround





# Five initiatives for III



As well as putting Nortel Network's European operations to bed, III's current President **Alan Bloom**, a restructuring partner with EY in London, has also been active in helping put together a number of initiatives for the Institute.

The first and most advanced of these five initiatives is a determination for III to achieve stronger regional involvement. To this end, III have created a quartet of regional committees, covering Asia, EMEA, Latin American and USA/Canada, which have been up and running for about six months.

The other four initiatives will be developed by new committees, whose leadership will be announced by Bloom following the New York conference.

These new committees cover programmes and meetings, partnering with other associations, law and practice reform, and projects.

Bloom explained:

"There was a general sense amongst a number of members a few years ago that they felt more remote from III than we would have liked.

"As an association, we had a strategic review at the end of 2016, and a number of things grew from that. We decided we needed to grow from our then membership of about 350, to a maximum of about 450/500 in two to three years.

"We needed to do all this while not significantly increasing the cost of our infrastructure. It's a balancing act," stressed Bloom.

"One issue we need to deal with is that our membership is not sufficiently diverse – by gender, by age, or by geography. We're working on fixing that."

Over the last seventeen years or so, the majority of III members have tended to be men, to be older and to originate from Western Europe and North America, said Bloom. The four regional committees have a specific mandate to redress the balance.

"As to gender, we have increased our female membership but need to do more," he said.

"Regarding geographic diversity, we have to be a little more pragmatic. "Our normal criterion for inviting someone to join is that they have at least 15 years' experience in bankruptcy and restructuring. On the other hand, the new Indian insolvency regime has only been around for two years, so we need to show some flexibility. These sort of factors need to be taken into account."

At the same time, III has to maintain its present good balance of judges, academics and practitioners, said Bloom.

Looking at the kind of events that would be organised by the four regional committees, he added, 'these aren't aimed at making big money. A typical meeting would attract between forty to sixty. The idea is to both educate and create forums for the detailed discussion of the key topics of the day."

Turning to the new committees that Bloom is set to announce, the first is a **programmes and meetings committee**.

"Alongside these ambitious targets to increase the number of events we run, we need to make sure that we are continuously improving both our annual conference and our regional events," said Bloom. "That is the job of this new committee.

"Our aim is to be the leading edge provider of the appropriate forums for both our members and non members to discuss and advance the thinking on the key issues we face as insolvency judges, academics and practitioners. We want the experience people get to be the best available."

Bloom noted that a challenge for all conferences is to strike a balance that will satisfy everyone, whether from a big practice or small, or from established or emerging insolvency jurisdictions.

## The partnership committee

"III is keen to work with other organisations, and the partnership committee will oversee our existing relationships and consider new ones," said Bloom.

"The Ian Fletcher Moot Competition run in conjunction with INSOL International is a good example of a successful collaboration that has been running for two years now - an event that is likely to gain extra resonance as Professor Fletcher passed away on 21 July 2018.

"We already have plans, agreed with INSOL, to drive this for the next few years, in conjunction with other INSOL or III events."

## The law and practice reform committee

Supporting the development of effective insolvency and rescue regimes in emerging markets lies at the very core of what III is about, said Bloom.

The law and practice reform committee will help with the training of judiciary and the development of bankruptcy codes.

This work will be carried out only with the blessing of the usual cast of key stakeholders such as the World Bank and the IMF, said Bloom. III is already working with the Asian Bankruptcy Law Institute in Singapore on a key initiative they have undertaken to create closer working between a number of key Asian jurisdictions.

## The projects committee

Lastly, the existing projects committee is being rejuvenated. "Every penny III generates needs to be invested into worthwhile projects," said Bloom. "But what should they be?"

"The new committee, working closely with III's academic forum, will not only propose new projects, it will also ensure that we gain the most from the investment made by III.

"This needs serious input from the membership. The aim is to have a good number of projects running concurrently," said Bloom.

"We are about to announce the co-chairs and the makeup of these committees. It's all very exciting."

III has come a long way in just 17 years and its ambition is greater than ever.





# Where will the next crisis come from?

Ten years after the Lehman collapse, former Judge **James Peck** sees plenty of challenges for the global economy – and for the International Insolvency Institute.



The senior lawyer and former judge who supervised the Lehman Brothers bankruptcy for five and a half years thinks it is unlikely the next global financial crisis will come from within the banking sector.

**J**im Peck, global co-chair of Morrison & Foerster's restructuring group and former President of International Insolvency Institute, reckons that the banking sector is significantly stronger than it was ten years ago, when Lehman collapsed.

No, said, Peck. "I do not see a systemic issue similar to the sub prime mortgage problem lurking in the financial undergrowth."

Far more likely, he feared, that the system will be hit from a completely unexpected direction.

"The problem now is figuring out where the next challenge will come from, in a world of political polarization and accelerating technological change," said Peck.

**"I think we're at material risk from something we don't recognize or fully understand yet."**

All this comes as a direct challenge to everything International Insolvency Institute (III) stands for, he said. But it also produces the exciting possibility that III's members could be in the front rank for solving the next crisis.

"Look around you," said Peck. "There is the crisis of the Turkish lira, the US/China trade war, Brexit uncertainty, and extreme political rhetoric coming from both sides of the Atlantic."

"In the internet age, there are very few indications of what's true and what is not. We rely heavily on the integrity of electronic media and there are so many indications of concerted efforts by state and non-state actors to undermine confidence in the data that support establishment institutions. I doubt that global

banks are immune from purposeful attacks.

**"Financial institutions are much sounder than they were ten years ago, but that does not insure against the next panic."**

## Ten years since Lehman

Peck was prompted to these musings by the tenth anniversary of the collapse of Lehman Brothers, which ushered in the global financial crisis, the effects of which are still felt today.

On 15 September, 2008 Lehman filed for Chapter 11 in Peck's bankruptcy court in the Southern District of New York. Peck handled the case through to his retirement from the bench, when he passed the Lehman 'baton' on to Judge Shelley C. Chapman.

"Since joining Morrison & Foerster in 2014 I've been kept busy," said Peck. Lately he's acted as a mediator in several large Chapter 11 cases, including Pacific Drilling and Toisa, Ltd. He has advised Maxus Energy Corp in its Chapter 11, and the creditors' committee in the bankruptcy of Energy Future Holdings Corp., whose own collapse stemmed from the largest private equity buyout on record.

Peck is also deeply involved with III. He described III as "a group of world class leaders in the insolvency field who know and respect one another and can communicate across borders with the ability to find solutions to tough problems.

This ability to come up with solutions is needed as never before. Since Lehman

collapsed, the global financial crisis has caused a tremendous amount of lasting damage. With the exception of Lehman, Wall Street was saved and has prospered, prompting the 'occupy Wall Street' backlash.

There is a growing disparity between rich and poor, and a feeling that the recovery from the crisis has disproportionately benefited a small top tier of the population. He concluded,

**"The most frightening aspect of the post-crisis world is the inability of Western democracies to function effectively,"**

The institutions set up after the Second World War, like the United Nations, the IMF and the World Bank, are being challenged by a growing wave of isolationism. "We have the global system unravelling as we speak, and accepted norms being flouted. Collective action is threatened by the roar of self-interest.

**"In this environment, the risk to the global financial system is mostly political,"** said Peck.

"I am encouraged that organisations like International Insolvency Institute continue to promote better understanding among leading insolvency judges, professors and professionals from all over the world."

Peck believes that a good way to mitigate systemic risk is for members of groups like III to maintain their collaborative approach to solving big cross-border insolvency problems.

# 18th Annual International Insolvency Institute Conference

New York, 24-25 September, 2018

## Agenda

Main Sessions held in *Tishman Auditorium*

### MONDAY

08:00 - 09:00	<b>Breakfast and Networking</b> <i>Greenberg Lounge</i>
09:00 - 09:10	<b>Welcome</b> Jim Bromley, Cleary Gottlieb Steen & Hamilton LLP, New York
09:10 - 09:15	<b>Introduction</b> Hon. Shelley Chapman, US Bankruptcy Court, New York
09:15 - 09:45	<b>Keynote Speaker</b> Steven Rattner, Willett Advisors, New York City
09:45 - 11:15	<b>The Global Financial Crisis one decade later: How did we do, and could we have done better?</b>
11:15 - 11:30	<b>BREAK</b> <i>Greenberg Lounge</i>
11:30 - 1:00	<b>Will It Be Different: Are we Prepared for the Next Financial Crisis?</b>
1:00 - 2:30	<b>LUNCH</b> <b>Regional Breakouts</b> <i>Greenberg Lounge</i> – North and South America <i>Lipton Hall</i> – EMEA <i>Faculty Club</i> – Asia
2:45 - 4:15	<b>Government Intervention – A Focus on Nonfinancial Enterprise</b>
4:15 - 4:30	<b>BREAK</b>
4:30 - 6:00	<b>Government and Quasi-Government Issuers</b>
7:00 - 10:30	<b>Legendary Dinner</b> Reception, 7:00-8:00 Legendary Dinner 8:00-10:30 <i>Cipriani 25 Broadway</i>

### TUESDAY

07:30 - 08:45	<b>III Members-Only Meeting</b> <i>Lipton Hall</i>
08:00 - 09:00	<b>Breakfast and Networking</b> <i>Greenberg Lounge</i>
09:00 - 09:05	<b>Welcome and Introduction</b> Andy Dietderich, Sullivan & Cromwell, LLP, New York
09:05 - 09:30	<b>Keynote Speaker</b> Chief Justice Sundaresh Menon, Supreme Court of Singapore
09:30 - 11:00	<b>Mock Forum Shopping Exercise</b>
11:00 - 11:15	<b>BREAK</b>
11:15 - 12:45	<b>Judicial Panel on Recent Cross-Border Cases</b>
12:45 - 1:00	<b>2018 III Prize in International Insolvency Studies</b>
1:00 - 2:15	<b>LUNCH</b>
2:15 - 2:30	<b>Barcelona 2019 Preview!</b>
2:30 - 4:00	<b>Legal Civilizations</b>
4:00 - 4:15	<b>BREAK</b>
4:15 - 5:30	<b>The Proposed EU Pre-Insolvency Restructuring Regime: Is It Fit for Purpose?</b>
5:30 - 5:45	<b>UNCITRAL Developments</b>
5:45 - 6:00	<b>Closing Remarks</b>
6:00 - 7:00	<b>Closing Reception</b> <i>Greenberg Lounge</i>