

# Sovereign Debt Restructuring Roundtable: The Model Law Approach – How Singapore could lead the world in providing certainty and fairness in Sovereign Debt Restructuring

NUS Law's Centre for Banking & Finance Law (CBFL) co-organised an event, the Sovereign Debt Restructuring Roundtable with the Center for International Governance Innovation (CIGI) on 12 October 2017. The Roundtable brought together scholars and lawyers from the United States, Canada and Singapore to discuss important issues associated with the adoption of a model law approach to sovereign debt restructuring in order to avoid the hold-out problems that have been seen in that context.

A wide range of issues were explored at the Roundtable, including recent developments in sovereign debt, the justifications for restructuring sovereign debt, obstacles to timely restructuring, U.S and Eurozone' approaches and experiences with collective action clauses, the advantages of model law approach compared with the traditional contract approach, the Singapore bond market and restructuring issues, the benefits of accepting the model law in Singapore, legal and the political feasibility of applying a model law in Singapore.

Participants at the Roundtable included Professor Steven L. Schwartz from Duke University (via videoconference), Professor Odette Lienau from Cornell University and GIGI experts including Ms. Oonagh Fitzgerald, Mr. Hugo Perezcano Díaz, Mr. Mark Jewett and Dr. Maziar Peihani. From the NUS, CBFL Co-Director Professor Hans Tjio and Assistant Professor Christian Hofmann also spoke in the Roundtable.

# SOVEREIGN DEBT RESTRUCTURING ROUNDTABLE: The Model Law Approach – How Singapore could lead the world in providing certainty and fairness in Sovereign Debt Restructuring

12 October 2017· 12 noon to 5.00pm  
Penthouse Conference Room· WANGZ Business Centre

Recent years have highlighted several important challenges in the sovereign debt world. An international sovereign bankruptcy regime remains politically infeasible and the prospects for establishing a comprehensive treaty on sovereign debt seem even more bleak. As illustrated by the Argentinian and Greek debt crises, ‘hold-out creditors’ continue to extract preferential treatment causing disruption for all other stakeholders. The contractual reforms have remained limited and unable to prevent such disruptive litigation. The Sovereign Debt Restructuring Model Law is a novel governance initiative which seeks to address many of the unresolved sovereign debt issues that continue to haunt sovereign debtors and their creditors. It is specifically designed to facilitate a voluntary, timely, and orderly debt restructuring when a sovereign country faces an unsustainable debt burden. This invitation-only roundtable explores the leadership opportunities that the Model Law offers Singapore as the country advances its position as a global restructuring hub.

## Programme

Time	Content	Conveners
11:30 a.m. – 12:00nn	Registration & Lunch	
12:00 - 12:15 p.m.	Welcome & Introduction	Hans Tjio, Oonagh Fitzgerald
12:15 - 1:15 p.m.	Overview of Recent Developments in Sovereign Debt <ul style="list-style-type: none"> <li>• The burden of unsustainable sovereign debt</li> <li>• Obstacles to timely restructuring</li> <li>• Sovereign debt crisis in Argentina and US court rulings on holdout creditors</li> <li>• Sovereign debt crisis and restructuring in the Eurozone</li> </ul>	Odette Lienau Maziar Peihani Christian Hofmann
1:15 - 2:15 p.m.	Sovereign Debt Restructuring Model Law <ul style="list-style-type: none"> <li>• Insufficiency of contractual reform and infeasibility of the treaty approach</li> <li>• How can the Model Law help with existing uncertainty and collective action problems</li> <li>• The Model Law’s promise for Singapore</li> </ul>	Steven Schwarcz Marcus Jewett
2:15 - 2:30 p.m.	<b>Break</b>	
2:30 -3:30 p.m.	Debt Restructuring in Singapore <ul style="list-style-type: none"> <li>• Contours of the bonds market in Singapore</li> <li>• Obstacles to timely restructuring of bonds</li> <li>• Recent corporate restructuring reforms</li> <li>• Advancing Singapore’s position as a global hub for debt restructuring</li> </ul>	Hans Tjio Wee Meng Seng
3:30 - 4:45 p.m.	Roundtable Discussion on Model Law and opportunities for Singaporean Leadership <ul style="list-style-type: none"> <li>• Exploring legal and political feasibility</li> <li>• Advancing Singapore’s position as a global hub for debt restructuring</li> <li>• Synergies between current restructuring reforms and Model Law</li> <li>• Next policy steps</li> </ul>	Steven Schwarcz Oonagh Fitzgerald Hans Tjio Ian Bennett
4:45 -5:00 p.m.	Wrap Up of Roundtable	

*This is an invitation-only event.*

## The Organisers:



Centre for Banking & Finance Law  
Faculty of Law

The Centre for Banking & Finance Law (CBFL) at the Faculty of Law, National University of Singapore, seeks to generate scholarship and promote thinking about the vibrancy, robustness and soundness of the banking sector, capital markets and other financial services. Through the research our scholars undertake and the events we organise, we seek to create and share knowledge, to engage stakeholders in an exchange of ideas, and to enhance the appreciation of legal and regulatory issues. We aim to bring greater theoretical and analytical clarity to these issues, to examine their policy impact, and to be a catalyst for ideas on how to improve banking and financial systems at the national, regional and global levels.

Centre for International  
Governance Innovation

The Centre for International Governance Innovation is a nonpartisan, independent think tank focused on issues of global governance and law, economics and politics, based in Waterloo, Ontario. The International Law Research Program (ILRP) is a ten-year program of international law research and international law capacity building, co-funded by CIGI and the Province of Ontario. The ILRP conducts policy relevant cutting-edge legal research involving academics, public and private sector practitioners, on issues of international economic law, international intellectual property law and innovation, international environmental law and international indigenous law, and intersecting issues of international human rights, development and security.

## The Speakers:



**Ian BENNETT** provides advice on international governance issues. His leadership roles have included both domestic and international financial institutions; he was Canada's Deputy Finance Minister (2004-06); Executive Director at the International Monetary Fund, representing Canada, Ireland and ten Caribbean countries (2001-04) and Associate Deputy Minister of Finance and G7/G20 Deputy for Canada (1996-2001). More recently, Ian was President and CEO of the Royal Canadian Mint, a Crown corporation with a commercial mandate and entrepreneurial focus.



**Hugo Perezcano Díaz** is deputy director of international economic law with the International Law Research Program. Prior to joining CIGI, he was an attorney and international trade consultant in his private practice. Hugo worked for the Mexican government for nearly 20 years. Hugo was lead counsel for Mexico in investor-state dispute settlement cases conducted under the rules of the International Centre for Settlement of Investment Disputes and the United Nations Commission on International Trade Law, and in dispute settlement cases between states conducted under trade agreements, including the North American Free Trade Agreement (NAFTA) and the World Trade Organization agreement.



**Oonagh FITZGERALD** is director of CIGI's International Law Research Program and oversees its international economic, environmental, intellectual property law and innovation research agenda. She has extensive experience as a senior executive providing legal policy, advisory and litigation services and strategic leadership in international law, national security, public law, human rights and governance to several federal departments including Justice Canada, National Defence and the Canadian Forces, and Privy Council Office.



**CHRISTIAN HOFMANN** is an Assistant Professor at the National University of Singapore. He received his first law degree from the University of Freiburg. He continued his legal education at the University of Halle-Wittenberg and received a postgraduate degree in international business law and a doctorate degree in law (Dr. iur.) for his thesis on cashless payment instruments (both degrees summa cum laude). This was followed by a two-year clerkship for a German district court and the German bar exam. He received his professorial qualification (Habilitation) from Humboldt-University Berlin for his thesis on the protection of minority shareholders and holds LL.M. degrees from NYU and NUS. Christian has held several faculty and research positions. He was a visiting professor at the University of Cologne (Germany) and Goethe-University Frankfurt (Germany), a visiting scholar and Humboldt Fellow at UC Berkeley and a Global Research Fellow at NYU School of Law. Prior to joining NUS law, he was a senior legal counsel for the German Central Bank ('Bundesbank') and a law professor at the Private University in the Principality of Liechtenstein. Christian specializes in banking law, financial regulation, sovereign debt restructuring and comparative corporate law.



**Mark JEWETT** is a CIGI senior fellow with the International Law Research Program. Mark is counsel to the law firm Bennett Jones, based in the firm's Ottawa offices. His practice focuses on legal and strategic advice to clients in both the domestic and international financial sectors. Prior to joining Bennett Jones he was General Counsel and Corporate Secretary of the Bank of Canada and Senior Assistant Deputy Minister in the federal Finance and Justice Departments. He has been involved in sovereign debt issues for many years and is a member of the International Monetary Law Committee of the International Law Association, and the ILA Sovereign Insolvency Study Group.



**Odette LIÉNAU** is a Professor of Law at Cornell University, where she teaches on sovereign debt, international economic law, international law and international relations, and bankruptcy. Her book, *Rethinking Sovereign Debt: Politics, Reputation, and Legitimacy in Modern Finance* (Harvard University Press, 2014) is the winner of a Book Award from the American Society of International Law, and her articles have been published with the *Harvard International Law Journal*, the *Yale Journal of International Law*, the *Hastings Law Journal*, and Oxford University Press, among others. She has consulted for the United Nations Conference on Trade and Development, is a Term Member of the Council on Foreign Relations, and has practiced with the Financial Restructuring and Insolvency group at Shearman & Sterling in New York City. She received an A.B. from Harvard College, a J.D. from NYU School of Law, and a Ph.D. in political science from Harvard University.



**Maziar PEIHANI** is a post-doctoral fellow with CIGI's International Law Research Program (ILRP), effective September 2016. Maziar's research at CIGI is focused on sovereign debt resolution, contributing to the ILRP's international economic law research. Specifically, he will assess the legal and regulatory dimensions of the reform initiatives that are currently unfolding in international sovereign debt markets. In addition, Maziar works on the legitimacy of the global governance regime of banking and the legal aspects of cross-border crisis management and bank resolution.



**Steven L. SCHWARCZ** is a senior fellow with CIGI's International Law Research Program and also the Stanley A. Star Professor of Law & Business at Duke University. At CIGI, his research examines sovereign and corporate debt restructuring (including cross-border effectiveness of resolution measures), systemic risk in the financial system, and corporate governance. His areas of research and scholarship include insolvency and bankruptcy law; international finance, capital markets and systemic risk; and commercial law.



**Hans TJIO** is a Professor of Law at the Faculty of Law, National University of Singapore and is Co-Director of its Centre for Banking and Finance Law. He has written and edited books on securities regulation and trust law, and is a contributor to Palmer's Company Law (Geoffrey Morse ed). He was previously seconded to the Monetary Authority of Singapore and the Ministry of Law. He is presently serving on the Securities Industry Council, and is a consultant with Linklaters Singapore. He has been a visiting professor at Auckland and Shanghai's ECUP and a visiting scholar at Stanford and Melbourne.



**WEE Meng Seng** is an Associate Professor at the Faculty of Law, National University of Singapore. After graduating from NUS Law, Meng Seng practiced law for a few years before joining NTU as a senior tutor. He was on study leave for a few years where he obtained his BCL (First Class) and D Phil from the University of Oxford. His doctoral thesis is on contracts and corporate insolvency proceedings. In 2004 he served as a consultant to a statutory board on a project involving issues of insolvency law.